



Federal Register

10-18-02

Vol. 67 No. 202

Pages 64307-64516

Friday

Oct. 18, 2002



The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see <http://www.nara.gov/fedreg>.

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

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at <http://www.access.gpo.gov/nara>. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type *swais*, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512-1262; or call (202) 512-1530 or 1-888-293-6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday-Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is \$699, or \$764 for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is \$10.00 for each issue, or \$10.00 for each group of pages as actually bound; or \$2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

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

How To Cite This Publication: Use the volume number and the page number. Example: 67 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche 202-512-1800
Assistance with public subscriptions 202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

Paper or fiche 202-512-1800
Assistance with public single copies 1-866-512-1800
(Toll-Free)

FEDERAL AGENCIES

Subscriptions:

Paper or fiche 202-741-6005
Assistance with Federal agency subscriptions 202-741-6005

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to <http://listserv.access.gpo.gov> and select:

Online mailing list archives

FEDREGTOC-L

Join or leave the list

Then follow the instructions.



Contents

Federal Register

Vol. 67, No. 202

Friday, October 18, 2002

Agriculture Department

See Commodity Credit Corporation

See Food and Nutrition Service

See Forest Service

Air Force Department

RULES

Privacy Act; implementation; correction, 64312–64313

NOTICES

Environmental statements; notice of intent:

Martinsburg, WV; C-130 to C-5 aircraft conversion, 64354

Arts and Humanities, National Foundation

See National Foundation on the Arts and the Humanities

Blind or Severely Disabled, Committee for Purchase From People Who Are

See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention

NOTICES

Agency information collection activities:

Proposed collection; comment request, 64373–64374

Submission for OMB review; comment request, 64374

Grant and cooperative agreement awards:

African Medical Research Foundation, 64374–64375

Ghana, University of, Division of International Health/Global Surveillance Project, 64375–64376

Human immunodeficiency virus (HIV)—

Cote d'Ivoire Ministry of Health; Tuberculosis Control Program, 64376–64377

Malawi; National AIDS Commission, 64379

Mali, Groupe Pivot, 64384–64385

National AIDS Coordinating Agency, Total Community Mobilization Project, 64379–64381

Pan American Health Organization; Caribbean Regional Epidemiology Center, 64377–64378

Tanzania Ministry of Health, National AIDS Control Program, 64382–64383

Uganda, National HIV/AIDS Reference Laboratory, 64381–64382

International Union for Health Promotion, Global Health Promotion and Health Education Initiatives Related to Chronic Disease Prevention, 64385–64386

South Africa Health Department; Respiratory and Meningeal Pathogens Laboratory, National Health Laboratory Service, 64386–64387

Uganda, University of, Division of International Health/Global Surveillance Project, 64387

World Health Organization, Tanzania, Division of International Health/Global Surveillance Project, 64387–64388

Grants and cooperative agreements; availability, etc.:

Human immunodeficiency virus (HIV)—

Cote d'Ivoire; HIV/AIDS care services expansion, 64388–64389

Meetings:

Smoking and Health Interagency Committee; correction, 64389

Coast Guard

RULES

Alternate hull examination program for passenger vessels, and underwater surveys for nautical school, offshore supply, passenger, and sailing school vessels, 64315

Vocational rehabilitation and education:

Great Lakes Maritime Academy—

Graduate eligibility for third-mate licenses, 64313–64315

PROPOSED RULES

Ports and waterways safety:

Calvert Cliffs Nuclear Power Plant, MD; security zone, 64345–64346

NOTICES

Committees; establishment, renewal, termination, etc.:

Towing Safety Advisory Committee, 64443–64444

Meetings:

Lower Mississippi River Waterway Safety Advisory Committee, 64444

Commerce Department

See International Trade Administration

See National Oceanic and Atmospheric Administration

NOTICES

Agency information collection activities:

Submission for OMB review; comment request, 64351

Committee for Purchase From People Who Are Blind or Severely Disabled

NOTICES

Procurement list; additions and deletions, 64350–64351

Commodity Credit Corporation

RULES

Loan and purchase programs:

Cooperative marketing associations; cotton, dairy, honey programs, 64453–64481

Consumer Product Safety Commission

NOTICES

All-Terrain Vehicles for use by children under 16 years old; petition requesting ban of sale, 64353–64354

Meetings; Sunshine Act, 64354

Defense Department

See Air Force Department

Drug Enforcement Administration

NOTICES

Applications, hearings, determinations, etc.:

AccuStandard, Inc., 64417–64418

Geiger, Douglas L., M.D., 64418–64419

Guilford Pharmaceuticals, Inc., 64419

Research Triangle Institute, 64419

Employment and Training Administration

NOTICES

Grants and cooperative agreements; availability, etc.:

H-1B Technical Skills Training, 64420

Employment Standards Administration

See Wage and Hour Division

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Meetings:

Biomass Research and Development Technical Advisory Committee, 64354–64355

Environmental Protection Agency**RULES**

Air pollutants, hazardous; national emission standards:

Friction materials manufacturing facilities, 64497–64512

PROPOSED RULES

Air quality implementation plans; approval and promulgation; various States:

New Jersey, 64347

NOTICES

Agency information collection activities:

Submission for OMB review; comment request, 64366–64367

Environmental statements; availability, etc.:

Agency statements—

Weekly receipts, 64367–64368

Meetings:

Agricultural worker risk assessment process, 64368–64369

Water pollution control:

Total maximum daily loads —

Arkansas; statewide waters list, 64369–64370

Executive Office of the President

See Presidential Documents

See Trade Representative, Office of United States

Farm Credit Administration**PROPOSED RULES**

Farm credit system:

Loan policies and operations—

Young, beginning, and small farmers and ranchers; meeting, 64320–64321

Federal Aviation Administration**RULES**

Airworthiness standards:

Special conditions—

Bombardier Aerospace Model CL-600-2D24 (RJ900) series airplanes, 64309–64311

PROPOSED RULES

Air carrier certification and operations:

Incidents involving animals during air transport; reports by carriers, 64330–64331

Airworthiness directives:

Bell Helicopter Textron Canada Limited, 64325–64328

Hartzell Propeller Inc., 64321–64325

Rolls-Royce Corp., 64328–64330

NOTICES

Passenger facility charges; applications, etc.:

Palm Beach International Airport, FL, 64444–64445

Reno/Tahoe International Airport, NV, 64445

Federal Communications Commission**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 64370

Federal Energy Regulatory Commission**NOTICES**

Electric rate and corporate regulation filings:

Dayton Power and Light Co. et al., 64360–64365

Environmental statements; availability, etc.:

Williston Basin Interstate Pipeline Co., 64365

Meetings:

Hydro Licensing Status Workshop, 64365–64366

Applications, hearings, determinations, etc.:

Arizona Public Service Co., 64355

Canyon Creek Compression Co., 64355

Columbia Gas Transmission Corp., 64356–64357

El Paso Natural Gas Co., 64357

Equitrans, L.P., 64357

New England Power Pool et al., 64357

Northeast Utilities Service Co. et al., 64358

PJM Interconnections, L.L.C., 64358

Regional Transmission Organizations et al., 64358

Southern LNG Inc., 64359

Southern Natural Gas Co., 64359

Tampa Electric Co., 64359

Walton County Power, LLC, 64360

Federal Maritime Commission**NOTICES**

Meetings; Sunshine Act, 64370–64371

Federal Railroad Administration**NOTICES**

Exemption petitions, etc.:

Arizona Eastern Railway, Rail America, Inc., 64445–64446

Burlington Northern & Santa Fe Railway Co., 64446

Paducah & Louisville Railway, Inc., 64446–64447

Federal Reserve System**NOTICES**

Banks and bank holding companies:

Change in bank control, 64371

Formations, acquisitions, and mergers, 64371

Formations, acquisitions, and mergers; correction, 64371–64372

Permissible nonbanking activities, 64372

Fish and Wildlife Service**NOTICES**

Reports and guidance documents; availability, etc.:

Information disseminated by Federal agencies; quality, objectivity, utility, and integrity guidelines, 64407

Food and Drug Administration**NOTICES**

Agency information collection activities:

Reporting and recordkeeping requirements, 64389

Submission for OMB review; comment request, 64390–64398

Human drugs:

Drug products withdrawn from sale for reasons other than safety or effectiveness—

Dextroamphetamine sulfate tablets, 64398–64399

Meetings:

Antiviral Drugs Advisory Committee, 64399

Food and security recalls; FDA/industry exchange workshops, 64399–64400

Peripheral and Central Nervous System Drugs Advisory Committee, 64400

Psychopharmacologic Drugs Advisory Committee, 64401

Reports and guidance documents; availability, etc.:

Bioavailability and bioequivalence testing samples; handling and retention, 64401–64402

Human blood and blood components; information for use, 64402

Over-the-counter drugs; industry labeling guide, 64402–64403

Food and Nutrition Service

NOTICES

Agency information collection activities:

Proposed collection; comment request, 64348

Forest Service

NOTICES

Meetings:

Resource Advisory Committees—

Del Norte County, 64348–64349

Santa Rosa and San Jacinto Mountains National

Monument Advisory Committee, 64349–64350

Health and Human Services Department

See Centers for Disease Control and Prevention

See Food and Drug Administration

See Health Resources and Services Administration

NOTICES

Agency information collection activities:

Proposed collection; comment request, 64372

Meetings:

Vital and Health Statistics National Committee, 64372–64373

Health Resources and Services Administration

NOTICES

Meetings:

Health Professions and Nurse Education Special

Emphasis Panels, 64403–64405

Housing and Urban Development Department

RULES

Low income housing:

Housing assistance payments (Section 8)—

Downpayment assistance grants and streamlining amendments, 64483–64495

NOTICES

Agency information collection activities:

Submission for OMB review; comment request, 64405

Grants and cooperative agreements; availability, etc.:

Facilities to assist homeless—

Excess and surplus Federal property, 64405–64407

Interior Department

See Fish and Wildlife Service

See Land Management Bureau

See National Park Service

Internal Revenue Service

PROPOSED RULES

Income taxes:

Foreign corporations; gross income; exclusions

Hearing change and extension of comment period, 64331

Redemptions taxable as dividends, 64331–64345

NOTICES

Agency information collection activities:

Proposed collection; comment request, 64447–64449

International Trade Administration

NOTICES

Antidumping:

Stainless steel plate in coils from—

Belgium, 64352–64353

International Trade Commission

NOTICES

Import investigations:

Display controllers with upscaling functionality and products containing same, 64411

Justice Department

See Drug Enforcement Administration

NOTICES

Agency information collection activities:

Proposed collection; comment request, 64411–64414

Pollution control; consent judgments:

AVX Corp., et al., 64414

Brighton Township, 64414–64415

Brotech Corp., 64415

CyroChem, Inc., et al., 64415

ExxonMobil Oil Corp., 64415–64416

Government of the Virgin Islands, 64416

Manzo, Dominick, et al., 64416–64417

Niagara Frontier Transportation Authority, 64417

Remi Bourdeau, 64417

Labor Department

See Employment and Training Administration

See Wage and Hour Division

NOTICES

Agency information collection activities:

Submission for OMB review; comment request, 64419–64420

Land Management Bureau

NOTICES

Coal leases, exploration licenses, etc.:

Montana, 64407–64408

Environmental statements; availability, etc.:

California Desert Conservation Area Plan, CA, 64408–64409

El Camino Real de Tierra Adentro National Historic Trail,

NM, proposed amendments to Taos, Mimbres, and

White Sands resource management plans, 64409–

64410

Meetings:

Santa Rosa and San Jacinto Mountains National

Monument Advisory Committee, 64349–64350

National Foundation on the Arts and the Humanities

NOTICES

Meetings; Sunshine Act, 64421

National Oceanic and Atmospheric Administration

RULES

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands and Gulf of Alaska groundfish; Steller sea lion protection measures, 64315–64319

Atlantic highly migratory species—

Technical amendments, 64311–64312

NOTICES

Meetings:

New England Fishery Management Council, 64353

National Park Service

PROPOSED RULES

Special regulations:

Fire Island National Seashore Negotiated Rulemaking

Advisory Committee; off-road driving regulations,

meeting, 64347

NOTICES

Concession contract negotiations:

Olympic, Big Bend, etc. National Parks, 64409

Environmental statements; availability, etc.:

El Camino Real de Tierra Adentro National Historic Trail, NM, proposed amendments to the Taos, Mimbres, and White Sands resource management plans, 64409–64410

Meetings:

Chalmette Battlefield Task Force Committee, 64410
Native American Graves Protection and Repatriation Review Committee, 64410

Nuclear Regulatory Commission**NOTICES**

Applications, hearings, determinations, etc.:

Union Electric Co., 64422–64423

Office of United States Trade Representative

See Trade Representative, Office of United States

Presidential Documents**ADMINISTRATIVE ORDERS**

Colombia; continuation of emergency with respect to narcotics traffickers (Notice of October 16, 2002), 64307

Trade:

Trade negotiation status; notification of Congress (Memorandum of October 16, 2002), 64513–64515

Public Health Service

See Centers for Disease Control and Prevention

See Food and Drug Administration

See Health Resources and Services Administration

Research and Special Programs Administration**NOTICES**

Pipeline safety:

Advisory bulletins—
Definition of onshore gas gathering lines, 64447

Securities and Exchange Commission**NOTICES**

Self-regulatory organizations; proposed rule changes:

American Stock Exchange LLC, 64424–64426
International Securities Exchange, Inc., 64426–64429
Municipal Securities Rulemaking Board, 64429–64437
National Association of Securities Dealers, Inc., 64437–64441

Small Business Administration**NOTICES**

Disaster loan areas:

California, 64441
Louisiana, 64441
Virginia, 64441–64442

Trade Representative, Office of United States**NOTICES**

Generalized System of Preferences:

Afganistan; least-developed beneficiary designation, 64442–64443

Transportation Department

See Coast Guard

See Federal Aviation Administration

See Federal Railroad Administration

See Research and Special Programs Administration

Treasury Department

See Internal Revenue Service

Veterans Affairs Department**NOTICES**

Privacy Act:

Systems of records, 64449–64452

Wage and Hour Division**NOTICES**

Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 64420–64421

Separate Parts In This Issue**Part II**

Agriculture Department, Commodity Credit Corporation, 64453–64481

Part III

Housing and Urban Development Department, 64483–64495

Part IV

Environmental Protection Agency, 64497–64512

Part V

The President, 64513–64515

Reader Aids

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

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov> and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Executive Orders:**

12978 (See Notice of
October 16, 2002).....64307

Administrative Orders:

Memorandums:
Memorandum of
October 16, 200264515

Notices:
Notice of October 16,
200264307

7 CFR

142564454
142764454
143064454
143464454

12 CFR**Proposed Rules:**

61464320

14 CFR

2564309

Proposed Rules:

39 (5 documents)64321,
64322, 64325, 64326, 64328
11964330

15 CFR

90264311

24 CFR

98264484

26 CFR**Proposed Rules:**

1 (2 documents)64331

32 CFR

806b64312

33 CFR**Proposed Rules:**

16564345

36 CFR**Proposed Rules:**

Ch. I64347

40 CFR

6364498

Proposed Rules:

5264347

46 CFR

1064313
7164315
11564315
12664315
16764315
16964315
17664315

50 CFR

30064311
60064311
67964315

Presidential Documents

Title 3—

Notice of October 16, 2002

The President**Continuation of the National Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia**

On October 21, 1995, by Executive Order 12978, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions of significant narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm such actions cause in the United States and abroad.

The order blocks all property and interests in property that are in the United States or within the possession or control of United States persons or foreign persons listed in an annex to the order, as well as of foreign persons determined to play a significant role in international narcotics trafficking centered in Colombia. The order similarly blocks all property and interests in property of foreign persons determined to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the order, or persons determined to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the order. The order also prohibits any transaction or dealing by United States persons or within the United States in such property or interests in property.

Because the actions of significant narcotics traffickers centered in Colombia continue to threaten the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad, the national emergency declared on October 21, 1995, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond October 21, 2002. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to significant narcotics traffickers centered in Colombia. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
October 16, 2002.

Rules and Regulations

Federal Register

Vol. 67, No. 202

Friday, October 18, 2002

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM233; Special Conditions No. 25-217-SC]

Special Conditions: Bombardier Aerospace Model CL-600-2D24 (RJ900) Airplane; Sudden Engine Stoppage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Model CL-600-2D24 (RJ900) airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes, associated with engine size and torque load which affects sudden engine stoppage. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is October 4, 2002. Comments must be received on or before November 18, 2002.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM233, 1601 Lind Avenue SW., Renton, Washington 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked:

Docket No. NM233. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: John Piccola, FAA Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-1509; facsimile (425) 227-1149.

SUPPLEMENTARY INFORMATION:

FAA Determination as to Need for Public Process

The FAA has determined that notice and opportunity for prior public comment are unnecessary in accordance with 14 CFR 11.38, because the FAA has provided previous opportunities to comment on substantially identical special conditions and has fully considered and addressed all the substantive comments received. Based on a review of the comment history and the comment resolution, the FAA is satisfied that new comments are unlikely. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Although this action is in the form of final special conditions and, for the reasons stated above, is not preceded by notice and an opportunity for public comment, comments are invited on these special conditions. We invite interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On November 24, 1999, Bombardier Aerospace applied for an amendment to U.S. Type Certificate A21EA to include the Bombardier CL-600-2D24, Regional Jet Series 900 airplane. This airplane is a lengthened version of the previously certified CL-600-2B19 Regional Jet (CRJ) and CL-600-2C10 Regional Jet 700. The CRJ 900 airplane, CL-600-2D24 will have increased gross weight, fuselage length, and engine thrust to accommodate the additional passengers, as compared to the CRJ 700. The airplane will use the General Electric engine model CF34-8CF5 high-bypass turbofan. This engine model is a derivative of the CF34-8C1 engine used on the CRJ-700 airplane, with a nominal maximum takeoff thrust increase of five percent.

Type Certification Basis

Under the provisions of 14 CFR 21.101 [Amendment 21-69, effective September 16, 1991], Bombardier Aerospace must show that the Model CL-600-2D24 meets the applicable provisions of the regulations incorporated by reference in Type Certificate A21EA, or the applicable regulations in effect on the date of application for the change to the type certificate. Subsequent changes have been made to § 21.101 as part of Amendment 21-77, but those changes do not become effective until June 10, 2003. Bombardier, however, has agreed to use the guidelines of the "Changed Product Rule" (14 CFR part 21.101, Amendment 21-77) for the Model CL-600-2D24.

The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate A21EA are as follows: 14

CFR part 25, dated February 1, 1965, including Amendments 25-1 through 25-86, with certain exceptions, exemptions, and special conditions that are not relevant to these special conditions.

In addition, if the regulations incorporated by reference do not provide adequate standards with respect to the change, the applicant must comply with certain regulations in effect on the date of application for the change. The FAA has determined that the Model CL-600-2D24 must also be shown to comply with the following sections of part 25, in addition to certain exemptions and special conditions that are not relevant to these special conditions: 14 CFR part 25, including Amendments 25-1 through 25-86, Amendment 25-88, Amendment 25-90, and Amendments 25-92 through 25-98, with the following exceptions:

(a) Section 25.783(f) at Amendment 25-23 shall replace § 25.783(f) at Amendment 25-88 for the aft cargo compartment and main avionics bay doors only (common doors with CL-600-2C10).

(b) Section 25.807(d)(6) at Amendment 25-72 shall replace § 25.807(h) at Amendment 25-94.

(c) Sections 25.365, 25.831(a), and 25.1447(c), at Amendment 25-87.

Note 1: Amendment 25-91 is not included in the type certification basis.

Section 21.101(b)(3) allows a changed product to comply with an earlier amendment of a regulation for each area, system, component, equipment, or appliance that is affected by the change when compliance with a later amendment would not contribute materially to the level of safety or would be impractical. In accordance with § 21.101(b)(3) the FAA concurs with exclusion of Amendments 25-87, 25-89, and 25-91.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model CL-600-2D24 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model CL-600-2D24 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with

§ 21.101(b)(2) [Amendment 21-69, effective September 16, 1991].

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1) [Amendment 21-69, effective September 16, 1991].

Novel or Unusual Design Features

The Bombardier Aerospace Model CL-600-2D24 will incorporate novel or unusual design features involving engine size and torque load that affect sudden engine stoppage conditions.

Discussion

The limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport category airplanes since 1957. In the past, the design torque loads associated with typical failure scenarios have been estimated by the engine manufacturer and provided to the airframe manufacturer as limit loads. These limit loads were considered simple, pure torque static loads. The size, configuration, and failure modes of jet engines have changed considerably from those envisioned when the engine seizure requirement of § 25.361(b) was first adopted. Current engines are much larger and are now designed with large bypass fans capable of producing much larger torque loads if they become jammed. It is evident from service history that the frequency of occurrence of the most severe sudden engine stoppage events is rare.

Relative to the engine configurations that existed when the rule was developed in 1957, the present generation of engines are sufficiently different and novel to justify issuance of special conditions to establish appropriate design standards. The latest generation of jet engines are capable of producing, during failure, transient loads that are significantly higher and more complex than the generation of engines that were present when the existing standard was developed. Therefore, the FAA has determined that special conditions are needed for the Bombardier Aerospace Model CL-600-2D24 airplane.

In order to maintain the level of safety envisioned in 25.361(b), more comprehensive criteria is needed for the new generation of high bypass engines. The special conditions would distinguish between the more common engine failure events and those rare events resulting from structural failures. For these rarer but more severe seizure events, the criteria could allow some deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing a higher safety factor. The criteria for the more severe events would no longer be a pure static torque load condition, but would account for the full spectrum of transient dynamic loads developed from the engine failure condition.

Applicability

As discussed above, these special conditions are applicable to the Bombardier Aerospace Model CL-600-2D24 airplane. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1) [Amendment 21-69, effective September 16, 1991].

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Aerospace Model CL-600-2D24 airplanes.

1. *Sudden Engine Stoppage.* In lieu of compliance with § 25.361(b), the following special conditions apply:

a. For turbine engine installations, the engine mounts, pylons and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(1) Sudden engine deceleration due to a malfunction which could result in a temporary loss of power or thrust.

(2) The maximum acceleration of the engine.

b. For auxiliary power unit installations, the power unit mounts and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(1) Sudden auxiliary power unit deceleration due to malfunction or structural failure.

(2) The maximum acceleration of the auxiliary power unit.

c. For engine supporting structure, an ultimate loading condition must be considered that combines 1g flight loads with the transient dynamic loads resulting from each of the following:

(1) The loss of any fan, compressor, or turbine blade.

(2) Where applicable to a specific engine design, and separately from the conditions specified in paragraph c(1) above, any other engine structural failure that results in higher loads.

d. The ultimate loads developed from the conditions specified in paragraphs c(1) and c(2) above are to be multiplied by a factor of 1.0 when applied to engine mounts and pylons and multiplied by a factor of 1.25 when applied to adjacent supporting airframe structure.

Issued in Renton, Washington, on October 4, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-26584 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 300 and 600

[Docket No. 020925223-2223-01; I.D. 0910021]

RIN 0648-AP89

Atlantic Highly Migratory Species (HMS); NOAA Information Collection Requirements; Technical Amendment

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

ACTION: ACTION: Final rule; technical amendment.

SUMMARY: This final rule, technical amendment, corrects the cross-references in several parts to regulations

that have since been removed, and it updates the Office of Management and Budget (OMB) table to add new OMB approvals and to correct control number references to the appropriate Code of Federal Regulations (CFR) part or section. The intent is to correct and clarify existing regulations and to comply with the requirement of the Paperwork Reduction Act (PRA) that agencies display current OMB control numbers for each agency information collection requirement and to make this information available to the public.

DATES: Effective October 18, 2002.

ADDRESSES: Any comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Christopher Rogers, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Christopher Rogers, 301-713-2347.

SUPPLEMENTARY INFORMATION:

Cross References

On May 28, 1999, NMFS published a final rule (64 FR 29090) that implemented the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and an Amendment to the Atlantic Billfish FMP, which consolidated regulations for Atlantic HMS into one part of the Code of Federal Regulations (CFR). The final consolidated rule inadvertently left in some cross-references to parts that were removed as part of the consolidation. This final rule, technical amendment, corrects references to removed regulations at 50 CFR part 285 and now references the consolidated regulations at 50 CFR part 635 for the sections on reporting requirements at 50 CFR 300.17, definitions at 50 CFR 600.10, and observer requirements at 50 CFR 600.746.

OMB Control Numbers

NOAA codifies its OMB control numbers for information collection at 15 CFR part 902. Part 902 of title 15 CFR displays control numbers that OMB assigned to NMFS information pursuant to the PRA, for the public's information.

This final rule, technical amendment, brings part 902 up to date and corrects omissions and errors by revising the table in section 1, paragraph (b) under 50 CFR to reflect the most current OMB control numbers associated with NMFS

information collections contained in regulations appearing in title 50. All of the information collections displayed in section 1(b) have previously been submitted to OMB for approval during implementation of regulations appearing in the individual parts of title 50; this final rule, technical amendment, does not involve any new reporting or recordkeeping requirements.

Classification

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

The Assistant Administrator for Fisheries finds, pursuant to 5 U.S.C. 553 (b)(B), that, because this final rule makes only minor, non-substantive changes and does not change operating practices in the fishery, it is unnecessary under 5 U.S.C. 553(b)(B) to provide for prior public comment. Because this final rule, technical amendment, does not constitute a substantive rule, good cause exists to waive the 30-day delay in effective date under 5 U.S.C. 553(d). Under this final rule, the HMS fisheries would continue to operate as they have under existing regulations with no changes or disruptions to fishing practices. This final rule makes no substantive changes to existing regulations, but rather removes potential confusion by eliminating outdated cross-references to regulations that NMFS previously removed. In addition, this final rule updates OMB control numbers associated with NMFS information collections, all of which OMB has previously approved.

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

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 300

Exports, Fish, Fisheries, Fishing, Imports, Labeling, Marine resources, Penalties, Reporting and recordkeeping requirements, Transportation, Treaties, and Wildlife.

50 CFR Part 600

Fisheries, Fishing.

Dated: October 10, 2002.

William T. Hogarth,
*Assistant Administrator for Fisheries,
 National Marine Fisheries Service.*

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapters III and VI are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by removing the entries for part 635 from § 635.4(d) through § 635.69(a), and, in the right hand column in corresponding positions, the control numbers, and by adding in their place the following entries to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
* * * *	*
50 CFR	*
635.4(b)	-0327
635.4(d)	-0327
635.4(g)	-0202 and -0205
635.5(a)	-0371, -0328, and -0452
635.5(b)	-0013 and -0239
635.5(c)	-0328 and -0446
635.5(d)	-0323
635.5(f)	-0380
635.6(c)	-0373
635.7(c)	-0374
635.21(d)	-0202
635.26	-0247
635.31(b)	-0216
635.32	-0309
635.33	-0338
635.42	-0040
635.43	-0040
635.44	-0040
635.46	-0363

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
* * * *	*

50 CFR Chapter III

PART 300—INTERNATIONAL FISHERIES REGULATIONS

3. The authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 951-961 and 971 *et seq.*; 16 U.S.C. 973-973r; 16 U.S.C. 2431 *et seq.*; 16 U.S.C. 3371-3378; 16 U.S.C. 3636(b); 16 U.S.C. 5501 *et seq.*; and 16 U.S.C. 1801 *et seq.*

4. In § 300.17, paragraph (b)(1)(iv) is revised to read as follows:

§ 300.17 Reporting.

* * * * *

(b) * * *

(1) * * *

(iv) Atlantic Purse Seine—Vessel Logbook (50 CFR 635.5);

* * * * *

50 CFR Chapter VI

PART 600—MAGNUSON-STEVENSON ACT PROVISIONS

5. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

6. In § 600.10, the definitions for “Exempted educational activity” and “Exempted or experimental fishing” are revised to read as follows:

§ 600.10 Definitions.

* * * * *

Exempted educational activity means an activity, conducted by an educational institution accredited by a recognized national or international accreditation body, of limited scope and duration, that is otherwise prohibited by part 635 or chapter VI of this title, but that is authorized by the appropriate Director or Regional Administrator for educational purposes.

Exempted or experimental fishing means fishing from a vessel of the United States that involves activities otherwise prohibited by part 635 or chapter VI of this title, but that are authorized under an exempted fishing permit (EFP). These regulations refer exclusively to exempted fishing. References in part 635 of this title and elsewhere in this chapter to

experimental fishing mean exempted fishing under this part.

* * * * *

7. In § 600.746, paragraph (c)(1) introductory text is revised to read as follows:

§ 600.746 Observers.

* * * * *

(c) *Inadequate or unsafe vessels.* (1) A vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions if it does not comply with the applicable regulations regarding observer accommodations (see 50 CFR parts 229, 300, 600, 622, 635, 648, 660, and 679) or if it has not passed a USCG safety examination or inspection. A vessel that has passed a USCG safety examination or inspection must display one of the following:

* * * * *

[FR Doc. 02-26599 Filed 10-17-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Instruction 37-132]

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule; correction.

SUMMARY: On Tuesday, August 20, 2002 (67 FR 53879), a final rule was published to add a Department of the Air Force exemption rule for the system of records F051 AF JA I, entitled ‘Commander Directed Inquiries.’ The (k)(2) exemption increased the value of the system of records for law enforcement purposes. This rule corrects misspellings in paragraph (b)(22)(i)(1).

EFFECTIVE DATE: August 6, 2002.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601-4043 or DSN 329-4043.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, “Regulatory Planning and Review”

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the

environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 806b

Privacy.

1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

Accordingly, 32 CFR part 806b is amended as follows:

2. Paragraph (b)(22)(i)(1) of Appendix C to part 806b is correctly revised to read as follows:

Appendix C to Part 806b—General and specific exemptions

* * * * *

(b) *Specific exemptions.* * * *
(22) System identifier and name: F051 AF JA I, Commander Directed Inquiries.

(i) Exemption: (1) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

Note: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

* * * * *

Dated: October 9, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02-26347 Filed 10-17-02; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 10

[USCG-2002-13213]

RIN 2115-AG43

Great Lakes Maritime Academy—Eligibility of Certain Graduates for Unrestricted Third-Mate Licenses

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: The Coast Guard is amending minimum service or training requirements for ocean or near coastal steam or motor vessel third mate licenses. Graduation from the Great Lakes Maritime Academy (GLMA) deck curriculum ocean option will qualify an applicant for licensing on both ocean and near coastal vessels. GLMA graduates who do not complete the ocean option or one of the other approved service or training routes will continue to be eligible for licensing only on near coastal vessels.

DATES: This rule is effective January 16, 2003, unless an adverse comment or notice of intent to submit an adverse comment reaches the Docket Management Facility on or before December 17, 2002. If an adverse comment or notice of intent to submit an adverse comment is received, we will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

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

(1) By mail to the Docket Management Facility (USCG-2002-13213), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

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

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and related 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, 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 rule, call Mr. Donald Kerlin, National Maritime Center, U.S. Coast Guard, telephone 202-493-1001. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-2002-13213), 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, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments by only one means. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

Regulatory Information

We are publishing a direct final rule under 33 CFR 1.05–55 because we do not expect an adverse comment. If no adverse comment or notice of intent to submit an adverse comment is received by December 17, 2002, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, we will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if we receive an adverse comment or notice of intent to submit an adverse comment, we will publish a document in the **Federal Register** announcing the withdrawal of all or part of this direct final rule. If an adverse comment applies only to part of this rule (e.g., to an amendment, a paragraph, or a section) and it is possible to remove that part without defeating the purpose of this rule, we may adopt, as final, those parts of this rule on which no adverse comment was received. We will withdraw the part of this rule that was the subject of an adverse comment. If we decide to proceed with a rulemaking following receipt of an adverse comment, we will publish a separate notice of proposed rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered “adverse” if the comment explains why this rule or a part of this rule would be inappropriate, including a challenge to its underlying premise or approach, or would be ineffective or unacceptable without a change.

Background and Purpose

Section 10.407 of Title 46, Code of Federal Regulations provides several routes by which an applicant can demonstrate sufficient “service or training” to qualify for licensing as a third mate of ocean or near coastal steam or motor vessels of any gross tons. The applicant can demonstrate actual

sea service (paragraphs (a)(1) and (c)), completion of an apprentice mate training program (paragraph (a)(3)), or graduation from one of several maritime academies (paragraphs (a)(2) and (b)). Each of the maritime academies offers “sea service” training as part of its curriculum. Until recently, sea service training at the Great Lakes Maritime Academy (GLMA) was available exclusively on Great Lakes waters. In recognition of that limitation, 46 CFR 10.407(a)(2) and (b) provide that GLMA graduation qualifies an applicant for “near coastal vessel” licensing but not for “ocean or near coastal vessel” licensing.

Beginning with the Class of 2003, GLMA now offers its deck curriculum cadets an “ocean option program.” The Coast Guard considers the “ocean option” to provide the same level of sea service training offered by maritime academies that are not subject to the “near coastal vessel” restriction. Therefore, we will accept graduation from the ocean option in GLMA’s deck curriculum as qualifying an applicant for “ocean or near coastal vessel” licensing. GLMA deck class graduates who have not completed the ocean option, and who have not satisfied one of the other “service or training” routes mentioned above, will continue to be eligible only for near coastal vessel licensing.

Discussion of Rule

Minimum service or training requirements for applicants for third mate licenses on “ocean or near coastal” steam or motor vessels of any gross tons are contained in 46 CFR 10.407. Paragraph (a)(2)(iv) of that rule excludes GLMA from a list of maritime academies whose graduates meet the training requirements for “ocean or near coastal” licensing, while paragraph (b) provides that GLMA deck curriculum graduates are eligible only for “near coastal” licensing. We are revising (a)(2)(iv) to include the GLMA ocean option program, and we are revising (b) so that the “near coastal”-only restriction is retained only for GLMA graduates who have no “ocean sea service.”

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We

expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This rule will have no environmental consequences, impose no collection of information, and impose no other costs while addressing needs expressed by the regulated industry.

Small Entities

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

This rule has no small entity impact because it has no cost. 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. Comments submitted in response to this finding will be evaluated under the criteria in the “Regulatory Information” section of this preamble.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

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 impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(c) of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. The changes in this rule concern the training, qualifying and licensing of maritime personnel. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 10

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 10 as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

1. The authority citation for part 10 continues to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, and 7701; 49 CFR 1.45 and 1.46. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

§ 10.407 [Amended]

2. In § 10.407, paragraph (a)(2)(iv), remove the word "except" and in its place add the words "including the ocean option program in", and in paragraph (b), after the word "Academy" add the words "with no ocean sea service".

Dated: October 7, 2002.

Paul J. Pluta,

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

[FR Doc. 02-26463 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-15-P

ACTION: Interim rule; announcement of effective date; correction.

SUMMARY: This document contains a correction to the interim rule; announcement of effective date published in the **Federal Register** on August 28, 2002, which announced the approval of a collection-of-information requirement for vessel owners or operators to send applications, hull exam reports, hull condition assessments, and preventative maintenance plans to the Coast Guard in order to participate in the Alternative Hull Exam and UWILD Programs.

DATES: This correction to the interim rule is effective on October 18, 2002.

FOR FURTHER INFORMATION CONTACT: Don Darcy, Office of Standards Evaluation and Development (G-MSR), Coast Guard, 202-267-1200.

SUPPLEMENTARY INFORMATION:

Need for the Correction

As published, the interim rule; announcement of effective date contains typographical errors and omissions that may prove to be misleading and therefore needs correction.

Correction

In rule FR Doc. 02-21983 published on August 28, 2002, (67 FR 55162) make the following corrections:

On page 55162, in the second column, in the **DATES** section, following "126.140(g)(3);", remove the first "176.615(c)," and, in its place, add, in numerical order, "167.15-33(b) and 167.15-33(c); 169.230(b) and 169.230(c); 176.615(b);".

Dated: October 3, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security & Environmental Protection.

[FR Doc. 02-26461 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 71, 115, 126, 167, 169 and 176

[USCG-2000-6858]

RIN 2115-AF95

Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels; Correction

AGENCY: Coast Guard, DOT.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 121701A]

RIN 0648-AQ02

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Steller Sea Lion Protection Measures and Recordkeeping and Reporting Requirements; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This action corrects the Steller sea lion emergency interim rule, as amended, corrected, and extended, which contains regulations relating to Fisheries of the Exclusive Economic Zone off Alaska. This action also corrects the recordkeeping and reporting final rule and its correction. This action is necessary to re-instate appropriate applicability dates and correct other errors and omissions that occurred.

DATES: Section 679.32(a) is suspended from January 1, 2002, through December 31, 2002.

The amendments to §§ 679.2, 679.4, 679.5, 679.7, 679.20, 679.22, 679.23, 679.28, 679.31, and 679.50 are effective October 18, 2002 through December 31, 2002.

The amendment to § 679.43(a) and the revised Table 11 to Part 679 are effective October 18, 2002.

FOR FURTHER INFORMATION CONTACT:

Patsy A. Bearden, 907-586-7008, or e-mail Patsy.Bearden@noaa.gov.

SUPPLEMENTARY INFORMATION: Since January 2002, several rules were published in the *Federal Register* by NMFS, Alaska Region, that require further correction by this action. These are the emergency interim rule published January 8, 2002 (67 FR 956), which implemented Steller sea lion protection measures (SSL rule), subsequently amended and corrected May 1, 2002 (67 FR 21600 (SSL correction)), and extended May 16, 2002 (67 FR 34860) (SSL extension); and the final rule published January 28, 2002 (67 FR 4100), which amended regulations implementing recordkeeping and reporting requirements (R&R rule), corrected May 2, 2002 (67 FR 22008) (R&R correction).

The SSL rule, SSL correction, the R&R rule and R&R correction often address the same regulatory text. Despite NMFS' effort to ascertain errors common or shared by these rules, errors still exist in the regulatory text and are corrected by this action.

Need for Corrections

This rule re-establishes appropriate applicability dates for the regulations associated with the SSL rule and its subsequent amendment, correction, and extension. The SSL rule intended to specify that the provisions contained in it were to be suspended or effective from January 1, 2002, through July 8, 2002, with some exceptions. The SSL extension published May 16, 2002, extended the effective date of the rule,

as amended and corrected by the May 1, 2002, SSL correction, through December 31, 2002. However, the SSL extension did not specify that the exception language contained in the **DATES** section of the preamble to the SSL correction was similarly extended and did not revise the codified text to identify SSL protection measures as applicable through December 31, 2002.

A separate rule published April 15, 2002 (67 FR 18129), implemented measures regarding the License Limitation Program (LLP) for the Bering Sea and Aleutian Islands Area and addressed §§ 679.7 and 679.20 for the Community Development Quota Program under Amendment 67 (LLP rule). The LLP-rule revision of paragraph § 679.7(d)(16) supersedes the suspension of this paragraph published in the SSL rule. No changes were made to the language in paragraph (d)(16); the LLP rule merely replaced the suspended paragraph (d)(16) with an effective paragraph (d)(16).

The LLP rule removed paragraph § 679.7(d)(26). This paragraph was added by the SSL rule to replace the suspended paragraph (d)(16). However, with the revision of paragraph § 679.7(d)(16) in the LLP rule, paragraph (d)(26) is no longer necessary.

The LLP rule revised paragraph § 679.20(f)(2), which supersedes the suspension of this paragraph published in the SSL rule. No changes were made to the language in paragraph (f)(2). The LLP rule merely replaced the suspended paragraph (f)(2) with an effective paragraph (f)(2).

The LLP rule revised the language in paragraph § 679.7(f)(8), which supersedes the suspension of this paragraph published in the SSL rule.

The R&R correction redesignated paragraphs § 679.4(b)(5)(v), (vi), and (vii) for consistency between the SSL rule and the R&R rule. The renumbering of these paragraphs affected cross references in several paragraphs, which are corrected by this action.

Table 11 to part 679 was printed incorrectly in the R&R correction. Formatting errors prior to submission to the Office of the Federal Register resulted in the last four columns being omitted. This error is corrected by republishing Table 11.

Paragraph § 679.43(a) in the CFR describes the applicability of the Office of Administrative Appeals. This paragraph was revised in the R&R rule by adding sections regulating the appeals process. However, a separate rule published on December 14, 2000 (65 FR 78110), had revised paragraph § 679.43(a) to include all sections of 50 CFR part 679 in the appeals process and

the revision to this paragraph should not have been included in the R&R rule. Thus, the language in this paragraph is returned to its original text.

Classification

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment under the authority set forth at 5 U.S.C. 553(b)(B). Prior notice and comment are unnecessary because the terms this action changes will have no substantive effect on the regulated public. The changes are minor technical amendments correcting typographical errors and requiring no agency discretion. NMFS is not changing the regulations to the extent the corrections would affect participants or participation in the fisheries.

NMFS determines that there is no public interest affected by waiving prior notice and opportunity to comment. NMFS also determines that the public interest would be prejudiced more by prior notice and comment because it would prolong the inaccurate language that currently exists in the regulations. Therefore, the Assistant Administrator for Fisheries, NOAA, waives the 30-day delay in the effective date under 5 U.S.C. 553(d).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: September 18, 2002.

Rebecca Lent,

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

Accordingly, 50 CFR part 679 is amended by making correcting amendments to the following publications of January 8, 2002, January 28, 2002, May 1, 2002, May 2, 2002, and May 16, 2002:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105-277; Sec 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106-554.

§ 679.2 [Corrected]

2. In § 679.2, make the following amendments:

a. Remove the definitions for "Inshore component in the GOA" and "Offshore component in the GOA" whose

applicability date reads: “(applicable through December 31, 2001)”;

b. In the definitions for “Harvest limit area for platoon managed Atka mackerel directed fishing”, “Inshore component in the GOA”, and “Offshore component in the GOA” remove the parenthetical date of applicability “(applicable through July 8, 2002)” and add in its place the parenthetical date of applicability “(applicable through December 31, 2002)”;

c. In the definition for “Harvest limit area for platoon managed Atka mackerel directed fishing”, the paragraph designation “§ 679.4(b)(5)(iv),” is revised to read “§ 679.4(b)(5)(vii),”.

§ 679.4 [Corrected]

3. In § 679.4(b)(5)(vi) and (b)(5)(vii), remove the parenthetical date of applicability “(Applicable through July 8, 2002)” and add in its place the parenthetical date of applicability “(Applicable through December 31, 2002)”.

§ 679.5 [Corrected]

4. In § 679.5(n)(2)(iii)(B)(4), remove the parenthetical date of applicability “(Applicable through July 8, 2002)” and add in its place the parenthetical date of applicability “(Applicable through December 31, 2002)”.

§ 679.7 [Corrected]

5. In § 679.7, make the following amendments:

a. In paragraphs (a)(7)(iii), (a)(7)(iv), (a)(7)(v), and (a)(7)(vii), (a)(17), (a)(19), (f)(16), (j), and (k), remove the parenthetical date of applicability “(applicable through July 8, 2002)” and add in its place the parenthetical date of applicability “(applicable through December 31, 2002)”;

b. In paragraph (a)(18), remove “(applicable 1200 hours, A.l.t., June 10, 2002, through July 8, 2002).” and add in its place “(applicable 1200 hours, A.l.t., June 10, 2002, through December 31, 2002).”; and

c. In paragraph (a)(18), revise the reference “§ 679.4(b)(5)(v)” to read “§ 679.4(b)(5)(vi)”.

§ 679.20 [Corrected]

6. In § 679.20, in paragraphs (a)(5)(i)(B), (a)(5)(i)(F), (a)(5)(ii)(C), (a)(6)(ii), (a)(6)(iii), (a)(7)(i)(C)(4), (a)(7)(i)(C)(5), (a)(7)(ii)(D) and (a)(7)(ii)(E), (a)(7)(iii)(D), (a)(8)(ii)(C), (a)(8)(iii), (a)(11), (b)(2)(i), (b)(2)(ii), and (d)(4), remove the parenthetical date of applicability “(applicable through July 8, 2002)” and add in its place the parenthetical date of applicability “(applicable through December 31, 2002)”.

§ 679.22 [Corrected]

7. In § 679.22, in paragraphs (a)(5)(iv), (a)(11), (a)(12), (b)(3), and (b)(6), remove the parenthetical date of applicability “(applicable through July 8, 2002)” and add in its place the parenthetical date of applicability “(applicable through December 31, 2002)”.

§ 679.23 [Corrected]

8. In § 679.23, in paragraphs (d)(3), (d)(4), (e)(4)(iv), (e)(4)(v), (e)(5), (e)(6), (e)(7), and (i) remove the parenthetical date of applicability “(applicable through July 8, 2002)” and add in its place the parenthetical date of applicability “(applicable through December 31, 2002)”.

§ 679.28 [Corrected]

9. In § 679.28(f)(3), make the following amendments:

a. In paragraph (f)(3)(viii), revise the parenthetical date of applicability “(Applicable 1200 hours A.l.t. June 10, 2002, through July 8, 2002)” to read “(Applicable 1200 hours A.l.t. June 10, 2002, through December 31, 2002)”;

b. In paragraph (f)(3)(ix), revise the parenthetical date of effectiveness “(Effective May 1, 2002, through July 8, 2002)” to read “(Applicable May 1, 2002, through December 21, 2002)”;

c. In paragraphs (f)(3)(viii), introductory text, and (f)(3)(viii)(B),

revise the reference “§ 679.4(b)(5)(v)” to read “§ 679.4(b)(5)(vi)”.

§ 679.31 [Corrected]

10. In § 679.31, in paragraph (g), remove the parenthetical date of applicability “(applicable through July 8, 2002)” and add in its place the parenthetical date of applicability “(applicable through December 31, 2002)”.

§ 679.32 [Corrected]

11. In § 679.32, suspend paragraph (a) from January 1, 2002, through December 31, 2002.

§ 679.43 [Corrected]

12. In § 679.43, amend paragraph (a), the last part of the sentence, which reads “under this subpart D as well as portions of subpart C of this part” to read “under this part 679”.

§ 679.50 [Corrected]

13. In § 679.50, amend as follows:

a. In paragraph (c)(1)(x), revise the parenthetical date of applicability “(Applicable through July 8, 2002)” to read “(Applicable through December 31, 2002)”;

b. In paragraph (c)(4)(vi), introductory text, remove the parenthetical date of applicability “(applicable January 15, 2002, through July 8, 2002).”;

c. At the beginning of paragraph (c)(4)(vi)(A), add the text “(Applicable January 15, 2002, through December 31, 2002)”;

d. In paragraph (c)(6), revise the parenthetical date of applicability “(applicable January 15, 2002, through July 8, 2002).” to read “(applicable January 15, 2002, through December 31, 2002).”; and

e. In paragraph (c)(4)(vi)(C), revise the parenthetical date of effectiveness “(Effective May 1, 2002, through July 8, 2002)” to read “(Effective May 1, 2002, through December 31, 2002)”.

14. Revise Table 11 to part 679 to read as follows:

BILLING CODE 3510-22-S

Table 11 to Part 679 – BSAI Retainable Percentages

BASIS SPECIES	INCIDENTAL CATCH SPECIES ⁸															
	Pollock	Pacific cod	Atka mackerel	Alaska plaice	Arrowtooth	Yellow fin sole	Other flatfish ²	Rock sole	Flathead sole	Greenland turbot	Sablefish ¹	Short-raker/roughguy	Aggregated rockfish ⁶	Squid	Aggregated forage fish ⁷	Other species ⁴
110 Pacific cod	20	na ⁵	20	20	35	20	20	20	20	1	1	2	5	20	2	20
121 Arrowtooth	0	0	0	0	na ⁵	0	0	0	0	0	0	0	0	0	2	0
122 Flathead sole	20	20	20	35	35	35	35	na ⁵	na ⁵	35	15	7	15	20	2	20
123 Rock sole	20	20	20	35	35	35	na ⁵	na ⁵	35	1	1	2	15	20	2	20
127 Yellowfin sole	20	20	20	35	35	na ⁵	35	35	35	1	1	2	5	20	2	20
133 Alaska Plaice	20	20	20	na ⁵	35	35	35	35	35	1	1	2	5	20	2	20
134 Greenland turbot	20	20	20	20	35	20	20	20	20	na ⁵	15	7	15	20	2	20
136 Northern	20	20	20	20	35	20	20	20	20	35	15	7	15	20	2	20
141 Pacific Ocean perch	20	20	20	20	35	20	20	20	20	35	15	7	15	20	2	20
152/151 Shortraker/Roughguy	20	20	20	20	35	20	20	20	20	35	15	na ⁵	5	20	2	20
193 Atka mackerel	20	20	na ⁵	20	35	20	20	20	20	1	1	2	5	20	2	20
270 Pollock	na ⁵	20	20	20	35	20	20	20	20	1	1	2	5	20	2	20
710 Sablefish ¹	20	20	20	20	35	20	20	20	20	35	na ⁵	7	15	20	2	20
875 Squid	20	20	20	20	35	20	20	20	20	1	1	2	5	na ⁵	2	20
Other flatfish ²	20	20	20	35	35	35	na ⁵	35	35	1	1	2	5	20	2	20
Other rockfish ³	20	20	20	20	35	20	20	20	20	35	15	7	15	20	2	20
Other species ⁴	20	20	20	20	35	20	20	20	20	1	1	2	5	20	2	na ⁵
Aggregated amount non-groundfish species	20	20	20	20	35	20	20	20	20	1	1	2	5	20	2	20

NOTES to Table 11	
1	Sablefish: for fixed gear restrictions, see 50 CFR 679.7(f)(3)(ii) and 679.7(f)(11).
2	Other flatfish includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Alaska plaice, and arrowtooth flounder.
3	Other rockfish includes all <i>Sebastes</i> and <i>Sebastolobus</i> species except for Pacific ocean perch; and northern, shortraker, and rougheye rockfish. The CDQ reserves for shortraker, rougheye, and northern rockfish will continue to be managed as the "other red rockfish" complex for the BS.
4	Other species includes sculpins, sharks, skates and octopus. Forage fish, as defined at Table 2 to this part are not included in the "other species" category.
5	na = not applicable
6	Aggregated rockfish includes all of the genera <i>Sebastes</i> and <i>Sebastolobus</i> , except shortraker and rougheye rockfish.
7	Forage fish are defined at Table 2 to this part.

Proposed Rules

Federal Register

Vol. 67, No. 202

Friday, October 18, 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.

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Programs for the Needs of Young, Beginning and Small Farmers and Ranchers

AGENCY: Farm Credit Administration (FCA or agency).

ACTION: Notice of public meeting.

SUMMARY: The Farm Credit Administration (FCA or agency) announces a forthcoming public meeting to consider whether regulatory changes are needed to enhance the Farm Credit System's (System) service to young, beginning, and small farmers, ranchers, and producers or harvesters of aquatic products (YBS farmers and ranchers).

DATES: The public meeting will be held on Wednesday, November 13, 2002, in Kansas City, Missouri. Anyone wishing to present testimony in person may notify us by November 6, 2002, or register to speak on the day of the meeting. Requests to provide testimony in person will be honored in order of receipt. Parties who register to speak on the day of the meeting may be invited to provide their testimony if time permits. If more people wish to testify than time permits, we will accept written statements for the record for 30 calendar days following the date of the public meeting. Requests for sign language interpretation or other auxiliary aids should be received by FCA's Office of Congressional and Public Affairs at (703) 883-4056, (TTY) (703) 883-4056) by November 6, 2002.

ADDRESSES: The FCA will hold the public meeting at the Hyatt Regency Crown Center, 2345 McGee Street, Kansas City, Missouri, 64108 (816) 421-1234 on November 13, 2002, at 10 a.m. local time. You may submit requests to appear and present testimony for the public meeting by electronic mail to reg-comm@fca.gov or through the Pending Regulations section of our Web site at www.fca.gov. You may also submit your

request in writing to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, or by facsimile transmission to (703) 734-5784.

FOR FURTHER INFORMATION CONTACT:

Samuel R. Coleman, CFA, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TTY (703) 883-4434, or Wendy R. Laguarda, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TTY (703) 883-2020.

I. Background

This public meeting is another step in the agency's efforts to obtain public input, which will help us ensure that the System accommodates the current and evolving needs of YBS farmers and ranchers for credit and related services. The FCA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on September 23, 2002 (67 FR 59479). Although anyone in the general public can comment on the ANPRM, generally we expect to hear from System institutions, System related entities or individuals, and the banking community in written comments responding to the questions in our ANPRM. The public meeting will be held to help us ensure that we hear the end-users' perspectives, that is, farmers and ranchers. The public meeting will give these individuals an opportunity to express their views face-to-face with the agency on ways the System can enhance its lending to and programs for YBS farmers and ranchers.

II. Objective

The objective of the FCA's focus on providing greater access to credit and related services to YBS farmers and ranchers is to generate ideas on ways to:

1. Develop clear, meaningful, and results-oriented guidelines for System YBS policies and programs;
2. Effectively measure the System's YBS performance to ensure that the System is fulfilling its YBS statutory mission; and
3. Provide adequate reporting and disclosure to the public on the System's compliance with its statutory YBS mission.

As noted above, the public meeting is an opportunity for the agency to get the perspectives of farmers and ranchers on how to accomplish this objective.

III. Questions

The agency posed numerous questions in its ANPRM on YBS farmers and ranchers credit and related services (67 FR 59479, Sept. 23, 2002). We encourage you to respond to all ANPRM questions in writing as instructed in the ANPRM. However, in the public meeting, we ask commenters to provide their perspectives on whether:

1. FCA should require System YBS programs to include special credit treatment for YBS farmer and rancher loans (including guarantees, concessionary underwriting standards, loan fees, interest rates, and differential loan covenants);
 2. The System currently offers appropriate related services, such as farm business consulting, recordkeeping, insurance, and tax planning and preparation services to YBS farmers and ranchers;
 3. Certain types of marketing and outreach activities best help promote YBS programs;
 4. Certain types of System partnerships, alliances, or other joint efforts best help promote YBS programs; and
 5. Non-System lenders offer programs or services to YBS farmers and ranchers that the System could offer as well.
- Please limit verbal testimony at the meeting to 10 minutes per person and allow 5 minutes for follow-up questions. At the public meeting, we will also accept for the record written comments on questions and issues raised in the ANPRM or any other comments that attendees may have on the subject of YBS farmers and ranchers.

IV. Request To Present Testimony

Anyone wishing to present testimony in person may notify us by November 6, 2002, or register to speak on the day of the meeting. A request to speak should provide the name, address, and telephone number of the person wishing to testify and the general nature of the testimony. Requests to provide testimony in person will be honored in order of receipt.

Parties who register to speak on the day of the meeting may be invited to provide their testimony if time permits. If more people wish to testify than time

permits, we will accept written statements for the record for 30 calendar days following the date of the public meeting.

You may also wish to submit written statements or detailed summaries of the text of your testimony. Written comments that you wish to submit to supplement your testimony should be presented to us by the close of the public meeting.

Written copies of the testimony along with a recorded transcript of the proceedings will be included in our official public record. A transcript of the public meeting and any written statements submitted to the agency will be available for public inspection at the FCA's Office of Policy and Analysis in McLean, Virginia.

V. Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be received by FCA's Office of Congressional and Public Affairs at (703) 883-4056, (TTY) (703) 883-4056 by November 6, 2002.

Dated: October 11, 2002.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 02-26470 Filed 10-17-02; 8:45 am]

BILLING CODE 6705-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NE-44-AD]

RIN 2120-AA64

Airworthiness Directives; Hartzell Propeller Inc. Model HC-B3TN-5() Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Hartzell Propeller Inc. model HC-B3TN-5() propellers, with blades part number (P/N) T10176H(B,K)-5 or T10178H(B)-11(R) that are installed on Mitsubishi Heavy Industries, Ltd, MU-2 series airplanes. This proposal would require replacement of those blades with blades of the latest design. This proposal is prompted by a report of in-flight propeller blade separation that caused a

severe out-of-balance condition, damage to the airplane, and resulted in engine shutdown and a safe landing. The actions specified by the proposed AD are intended to prevent propeller blade separation, damage to the airplane, and possible loss of the airplane.

DATES: Comments must be received by December 17, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001-NE-44-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line. The service information referenced in the proposed rule may be obtained from Hartzell Propeller Inc. Technical Publications Department, One Propeller Place, Piqua, OH 45356; telephone (937) 778-4200, fax (937) 778-4391. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

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

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, 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.

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 2001-NE-44-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001-NE-44-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

The FAA has received a report of an in-flight blade separation that caused a severe out-of-balance condition, damage to the airplane, and resulted in engine shutdown and a safe landing, on a Mitsubishi MU-2 series airplane. Analysis revealed that the blade, made of (hard alloy) 7076 aluminum alloy, separated due to fatigue failure caused by intergranular corrosion. The service difficulty history to date indicates that this condition is limited to Hartzell propellers installed on Mitsubishi MU-2 series airplanes. This condition, if not corrected, could result in propeller blade separation, damage to the airplane, and possible loss of the airplane.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of Hartzell Propeller Inc. Service Bulletin (SB) HC-SB-61-250, Revision 1, dated April 8, 2002, that describes procedures for replacing (hard alloy) 7076 aluminum alloy propeller blades, part number T10176H(B,K)-5 or T10178H(B)-11(R), with (non-hard alloy) 2025 aluminum alloy blades, part number T10176(N)(S)(B,K)-5 or T10178(N)(S)(B)-11(R), respectively. Hard alloy blades are identified by the letter "H" immediately following the blade design number, such as in T10176H.

Differences Between This AD and the Manufacturer's Service Information

Although Hartzell Propeller Inc. SB HC-SB-61-250, Revision 1, dated April 8, 2002, requires propeller blade replacement within 400 flight hours or 2 years from the date of the bulletin, whichever occurs first, this proposal

would require propeller blade replacement within 200 flight hours or 1 year from the effective date of the proposed AD, whichever occurs first. The reduction in blade replacement time from the SB has been made to prevent blade failure during the compliance period of this AD. The times are based on an engineering evaluation of the failure rate of hard alloy blades due to intergranular corrosion induced fatigue.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Hartzell Propeller Inc. model HC-B3TN-5() propellers of the same type design, the proposed AD would require replacement of propeller blades, part number T10176H(B,K)-5 or T10178H(B)-11(R), with propeller blades part number T10176(N)(S)(B,K)-5 or T10178(N)(S)(B)-11(R), respectively, within 200 flight hours or 1 year from the effective date of this AD, whichever occurs first. The actions would be required to be done in accordance with the service bulletin described previously.

Economic Analysis

There are approximately 250 Hartzell Propeller Inc. model HC-B3TN-5() propellers of the affected design in the worldwide fleet. The FAA estimates that 200 propellers installed on airplanes of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 10 work hours per propeller to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$10,000 per propeller. Based on these figures, the total cost of the proposed AD on U.S. operators is estimated to be \$2,120,000.

Regulatory Analysis

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

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:

Hartzell Propeller Inc.: Docket No. 2001-NE-44-AD.

Applicability: This airworthiness directive (AD) is applicable to Hartzell Propeller Inc. model HC-B3TN-5() propellers, with T10176H(B)-5, T10176H(K)-5, T10176H-5, T10178H-11, T10178H-11R, T10178H(B)-11, and T10178H(B)-11R, blades that are installed on Mitsubishi Heavy Industries, Ltd, MU-2 series airplanes.

Note 1: The parentheses indicate the presence or absence of an additional letter(s) which vary the basic propeller blade model designation. This AD still applies regardless of whether these letters are present or absent on the propeller blade model designation.

Note 2: This AD applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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: Compliance with this AD is required within 200 flight hours or 1 year

from the effective date of this AD, whichever occurs first, unless already done.

To prevent propeller blade separation, damage to the airplane, and possible loss of the airplane, do the following:

(a) Remove and replace propeller blades in accordance with paragraphs 3.A. through 3.C.(3) of the Accomplishment Instructions of Hartzell Propeller Inc. Service Bulletin (SB) HC-SB-61-250, Revision 1, dated April 8, 2002.

(b) After the effective date of this AD, do not install any propeller blade removed in accordance with paragraph (a) of this AD, 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, Chicago Aircraft Certification Office (ACO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago ACO.

Special Flight Permits

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

Issued in Burlington, Massachusetts, on October 10, 2002.

Mark C. Fulmer,

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

[FR Doc. 02-26588 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NE-60-AD]

RIN 2120-AA64

Airworthiness Directives; Hartzell Propeller Inc. Model HD-E6C-3B/E13890K Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Hartzell Propeller Inc. model HD-E6C-3B/E13890K propellers with certain serial numbers of model D-1199-2 propeller control units (PCU's)

installed. This proposal would require initial and repetitive inspections for below-limit propeller flight idle blade angles, and, as a terminating action, removal of the affected PCU's from service and performance of a complete Major Periodic Inspection (overhaul) when the applicable time-since-new or time-since-overhaul limit is reached, or when any flight idle blade angle is below limits. This proposal is prompted by a review by Hartzell Propeller Inc. of the model D-1199-2 PCU overhaul procedures, that revealed several dimensional checks and a nondestructive evaluation were not performed on certain serial number PCU's during a Major Periodic Inspection (overhaul). The overhaul procedures are required to comply with the Airworthiness Limitation PCU Major Periodic Inspection (overhaul) directive. The actions specified by the proposed AD are intended to prevent below-limit flight idle propeller blade angles that, if not corrected, could result in degraded aircraft performance and control.

DATES: Comments must be received by December 17, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-NE-60-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from Hartzell Propeller Inc. Technical Publications Department, One Propeller Place, Piqua, OH 45356; telephone (937) 778-4200, fax (937) 778-4391. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

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

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, 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.

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 2000-NE-60-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-NE-60-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

The FAA was notified by Hartzell Propeller Inc. that model HD-E6C-3B/E13890K propellers with certain serial numbers of model D-1199-2 PCU's installed, could be potentially out of compliance with the Airworthiness Limitations Chapter of Hartzell Manual 162, by having higher than allowable wear dimensions. This condition is due to improperly performed Major Periodic Inspections (overhauls) by Hartzell Propeller Inc., on 78 PCU's, identified by serial number. This proposal would require initial and repetitive inspections of flight idle blade angles, and performance of a complete Major Periodic Inspection (overhaul) of the affected PCU's or replacement with a serviceable part as terminating action. This proposal is prompted by a review by Hartzell Propeller Inc. of the model D-1199-2 PCU overhaul procedures, that revealed several dimensional checks and a nondestructive evaluation

were not performed on certain serial number PCU's. The actions specified in the proposed AD are intended to prevent below-limit flight idle propeller blade angles that, if not corrected, could result in degraded aircraft performance and control.

Manufacturer's Service Information

Hartzell Propeller Inc. has issued Service Bulletins (SB's) No. HD-SB-61-025, dated November 17, 2000, and No. HD-SB-61-025, Revision 1, dated December 20, 2000, that specify initial and repetitive inspections for below-limit propeller flight idle blade angles, and, as terminating action, removal of the affected PCU's from service and performance of a complete Major Periodic Inspection (overhaul) when the applicable time-since-new or time-since-overhaul limit is reached, or when any flight idle blade angle is below limits. The Major Periodic Inspection (overhaul) constitutes completion of paragraphs 2B. and 2C. of the Accomplishment Instructions of Hartzell Service Bulletin (SB) No. HD-SB-61-025, dated November 17, 2000, or SB No. HD-SB-61-025, Revision 1, dated December 20, 2000. Revision 1 was issued to correct the table of affected serial numbers.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of the same type design, the proposed AD would require:

- Initial and repetitive inspections for below-limit propeller flight idle blade angles; and
- As a terminating action of the flight idle blade angle repetitive inspections, removal of the affected PCU's from service and performance of a complete Major Periodic Inspection (overhaul) when the applicable time-since-new or time-since-overhaul limit is reached; or when any flight idle blade angle is below limits.

The proposed actions are required to be done in accordance with the service bulletins described previously.

Economic Analysis

There are approximately 78 Hartzell Propeller Inc. model D-1199-2 PCU's of the affected design in the worldwide fleet. The FAA estimates that 50 PCU's installed on airplanes of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 1.5 work hours per propeller to perform the proposed initial inspections, 25 work hours per propeller to perform the proposed PCU

replacements, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$7,321 per propeller. Based on these figures, the total cost of initial inspections of the proposed AD to U.S. operators is estimated to be \$4,500, and the total cost of replacement of the PCU's of the proposed AD to U.S. operators is estimated to be \$441,050.

Regulatory Analysis

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

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:

Hartzell Propeller Inc.: Docket No. 2000–NE–60–AD.

Applicability: This airworthiness directive (AD) is applicable to Hartzell Propeller Inc. model HD–E6C–3B/E13890K propellers with certain serial numbers of model D–1199–2 Propeller Control Units (PCU's) installed, as listed in Table 1 of this AD. These propellers

are installed on, but not limited to Fairchild Dornier GmbH 328–100 series airplanes.

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

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent below-limit flight idle propeller blade angles that, if not corrected, could result in degraded aircraft performance and control, do the following:

Initial and Repetitive Inspection Requirements

(a) On PCU's listed by serial number in the following Table 1 of this AD, at the next "2A" maintenance check, but no later than 600 hours time-in-service from the effective date of this AD, perform an initial flight idle blade angle inspection, in accordance with paragraph 2A. of the Accomplishment Instructions of Hartzell Service Bulletin (SB) No. HD–SB–61–025, Revision 1, dated December 20, 2000. Table 1 follows:

TABLE 1.—AFFECTED SERIAL NUMBERS, MODEL D–1199–2 PCU'S

PCU–A–29	PCU–A–EFS140	PCU–A–EFS194	PCU–A–EFS234	PCU–A–EFS284
PCU–A–31	PCU–A–EFS141	PCU–A–EFS204	PCU–A–EFS236	PCU–A–EFS290
PCU–A–44	PCU–A–EFS144	PCU–A–EFS207	PCU–A–EFS239	PCU–A–EFS292
PCU–A–46	PCU–A–EFS152	PCU–A–EFS208	PCU–A–EFS242	PCU–A–EFS293
PCU–A–53	PCU–A–EFS155	PCU–A–EFS210	PCU–A–EFS244	PCU–A–EFS294
PCU–A–54	PCU–A–EFS158	PCU–A–EFS212	PCU–A–EFS245	PCU–A–EFS302
PCU–A–57	PCU–A–EFS160	PCU–A–EFS213	PCU–A–EFS246	PCU–A–EFS307
PCU–A–58	PCU–A–EFS162	PCU–A–EFS214	PCU–A–EFS249	PCU–A–EFS319
PCU–A–59	PCU–A–EFS165	PCU–A–EFS218	PCU–A–EFS250	PCU–A–EFS320
PCU–A–EFS101	PCU–A–EFS182	PCU–A–EFS220	PCU–A–EFS257	PCU–A–EFS326
PCU–A–EFS106	PCU–A–EFS184	PCU–A–EFS223	PCU–A–EFS261	PCU–A–EFS328
PCU–A–EFS109	PCU–A–EFS185	PCU–A–EFS224	PCU–A–EFS266	PCU–A–EFS330
PCU–A–EFS110	PCU–A–EFS187	PCU–A–EFS225	PCU–A–EFS268	PCU–A–EFS340
PCU–A–EFS111	PCU–A–EFS188	PCU–A–EFS226	PCU–A–EFS269	PCU–A–EFS347
PCU–A–EFS120	PCU–A–EFS192	PCU–A–EFS228	PCU–A–EFS271	
PCU–A–EFS122	PCU–A–EFS193	PCU–A–EFS233	PCU–A–EFS279	

(b) Remove PCU's that fail the inspection in paragraph (a) of this AD and perform a Major Periodic Inspection (overhaul), in accordance with paragraphs 2.B. and 2.C. of the Accomplishment Instructions of Hartzell Service Bulletin (SB) No. HD–SB–61–025, Revision 1, dated December 20, 2000, or replace with a serviceable PCU.

(c) Thereafter, at each successive "4A" maintenance check, but not to exceed 1,200 hours time-in-service, perform the flight idle blade angle inspection until the limiting time-since-overhaul or time-since-new is reached, as specified in Hartzell SB HD–SB–

61–025, Revision 1, dated December 20, 2000.

(d) Remove PCU's that fail the inspection in paragraph (c) of this AD and perform a Major Periodic Inspection (overhaul), in accordance with paragraphs 2.B. and 2.C. of Hartzell SB No. HD–SB–61–025, Revision 1, dated December 20, 2000, or replace with a serviceable PCU.

(e) Once the limiting time-since-overhaul or time-since-new specified in Hartzell SB HD–SB–61–025, Revision 1, dated December 20, 2000 is reached, remove the PCU from service and perform a Major Periodic

Inspection (overhaul), in accordance with paragraphs 2.B. and 2.C. of Hartzell SB HD–SB–61–025, Revision 1, dated December 20, 2000.

Optional Terminating Action

(f) Replacement with a serviceable PCU is terminating action for the repetitive inspections specified in paragraph (c) of this AD. For the purpose of this AD, a serviceable PCU is one that is not listed in Table 1 of this AD, or is one listed in Table 1 of this AD that has undergone a Major Periodic Inspection (overhaul) after November 17, 2000, in

accordance with paragraphs 2.B. and 2.C. of Hartzell SB HD-SB-61-025, Revision 1, dated December 20, 2000.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office (ACO). An alternative method of compliance to Hartzell SB HD-SB-61-025, Revision 1, dated December 20, 2000, is compliance with Hartzell SB HD-SB-61-025, dated November 17, 2000. Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ACO.

Special Flight Permits

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

Issued in Burlington, Massachusetts, on October 11, 2002.

Mark C. Fulmer,

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

[FR Doc. 02-26591 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002-SW-19-AD]

RIN 2120-AA64

Airworthiness Directives; Bell Helicopter Textron Canada Limited Model 427 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Bell Helicopter Textron Canada Limited (Bell) Model 427 helicopters. This proposal would require replacing the hydraulic solenoid tee fitting (tee fitting) and tubes. This proposal is prompted by the manufacturer's discovery that tee fittings may be installed improperly and restrict hydraulic fluid flow. The actions specified by this proposed AD are intended to prevent restricted flow of hydraulic fluid to the flight control

hydraulic actuators resulting in loss of hydraulic control, excessive stiffness in the flight controls, and a subsequent forced landing of the helicopter.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002-SW-19-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:

Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0110, telephone (817) 222-5123, 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. 2002-SW-19-AD." The postcard will be date stamped and returned to the commenter.

Discussion

Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on Bell Model 427 helicopters. Transport Canada advises that there is a possibility of installing the existing tee fitting in such a way that the hydraulic fluid flow will be significantly restricted. To preclude this possibility, Bell has designed a new tee fitting installation.

Bell has issued Bell Helicopter Textron Alert Service Bulletin No. 427-01-02, dated August 20, 2001, which specifies replacing the tee fitting. Transport Canada classified this alert service bulletin as mandatory and issued AD No. CF-2002-11, dated January 31, 2002, to ensure the continued airworthiness of these helicopters in Canada.

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

This unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, the proposed AD would require replacing certain tee fitting and tubes with an improved-designed tee fitting and tubes. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 31 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per helicopter to replace the tee fitting and tubes, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$527 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$18,197 to replace the tee fitting and tubes in the entire fleet.

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:

Bell Helicopter Textron Canada Limited:
Docket No. 2002-SW-19-AD.

Applicability: Model 427 helicopters, serial numbers 56001 through 56031, with hydraulic solenoid tee fitting, part number (P/N) AS1003W060404, 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 (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 at the next hydraulic filter and fluid replacement or within 30 days, whichever occurs first, unless accomplished previously.

To prevent restricted flow of hydraulic fluid to the flight control hydraulic actuators resulting in loss of hydraulic control, excessive stiffness in the flight controls, and a subsequent forced landing of the helicopter, accomplish the following:

(a) Replace the hydraulic solenoid tee fitting (tee fitting), P/N AS1003W060404, and tubes, P/Ns 427-080-058-101 and 427-080-003-101, with union, P/N AS5230W0606, tee fitting, P/N NAS1763W060404, and tubes, P/Ns 427-080-069-101 and 427-080-068-101, in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin No. 427-01-02, dated August 20, 2001.

(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, 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.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF-2002-11, dated January 31, 2002.

Issued in Fort Worth, Texas, on October 10, 2002.

Mark R. Schilling,

*Acting Manager, Rotorcraft Directorate,
Aircraft Certification Service.*

[FR Doc. 02-26592 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-SW-43-AD]

RIN 2120-AA64

Airworthiness Directives; Bell Helicopter Textron Canada Limited Model 427 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD) for Bell Helicopter Textron Canada Limited (Bell) Model 427 helicopters that would have required modifying each auxiliary fin (fin) by relocating the upper tuning weights to a lower

position. That proposal was prompted by several incidents of main rotor blades contacting the top of the fin that have resulted in an upper tuning weight (weight) becoming loose. This action revises the proposed rule by requiring a different modification of the auxiliary fin and revising the Limitations section of the Rotorcraft Flight Manual (RFM) to reduce the never-exceed speed (Vne) for a tail rotor pedal stop failure. The actions specified by this proposed AD are intended to prevent a main rotor blade from striking a fin, loss of a tuning weight, impact with a tail or main rotor blade, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before December 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-43-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.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437-2862 or (800) 363-8023, fax (450) 433-0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5122, 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, specified above, 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-43-AD." The postcard will be date stamped and returned to the commenter.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an AD for Bell Model 427 helicopters was published in the **Federal Register** on November 28, 2001 (66 FR 59377). That NPRM would have required modifying the fins, part number (P/N) 427-035-836-101 and 427-035-836-102, to relocate the weights, P/N 407-023-003-145. That NPRM was prompted by several incidents of main rotor blades contacting the top of the fin. The weights are located where a main rotor contact with the fin may result in a weight becoming loose. That condition, if not corrected, could result in loss of a weight, impact with a tail or main rotor blade, and subsequent loss of control of the helicopter.

Since the issuance of that NPRM, Transport Canada, which is the airworthiness authority for Canada, has issued a revised AD CF-2001-05R1, dated February 13, 2002, that requires, within 300 hours time-in-service or no later than May 30, 2002, modifying the auxiliary fins to reduce the height and revising the Limitations section of the RFM to reduce the Vne for a tail rotor pedal stop system failure from 80 knots indicated airspeed (KIAS) to 60 KIAS. The published NPRM recognized that relocating the tuning weights was an interim action and anticipated that contact between the main rotor blades and the top portion of the fins would be addressed in a separate AD. However, reducing the height of the fins as proposed in this document makes the relocation of the tuning weights unnecessary.

Therefore, the FAA agrees with the changes mandated by Transport Canada and is proposing those same actions as

well as adding additional serial numbers and part numbers to the applicability. Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA estimates that 30 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$1,685 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$72,150 to perform the modifications and revisions for the entire fleet.

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:

Bell Helicopter Textron Canada Textron Canada Limited: Docket No. 2001-SW-43-AD.

Applicability: Model 427 helicopters, serial numbers 56001 through 56030 with auxiliary fin assemblies, part numbers 427-035-836-101, -102, -105, or -106, 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 (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 loss of an upper tuning weight (weight), impact with a tail or main rotor blade, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 60 days, modify auxiliary fin assemblies, part numbers (P/N) 427-035-836-101, -102, -105, or -106, in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin No. 427-01-07, dated November 16, 2001.

(b) After accomplishing paragraph (a) of this AD, reduce the never-exceed speed (Vne) limitation for a pedal stop failure from 80 knots indicated airspeed (KIAS) to 60 KIAS.

Note 2: Revision 3 of Bell Helicopter Textron Rotorcraft Flight Manual BHT-427-Fm-2, dated October 31, 2001, incorporates the reduced airspeed limitation for a pedal stop failure.

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

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

Note 4: The subject of this AD is addressed in Transport Canada (Canada) AD CF-2001-05R1 dated February 13, 2002.

Issued in Fort Worth, Texas, on October 4, 2002.

Eric Bries,

*Acting Manager, Rotorcraft Directorate,
Aircraft Certification Service.*

[FR Doc. 02-26593 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NE-01-AD]

RIN 2120-AA64

Airworthiness Directives; Rolls-Royce Corporation (formerly Allison Engine Company) 501-D Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) 501-D series turboprop engines. This proposal would require removal from service of certain turbine rotor components at reduced life limits. This proposal is prompted by the result of recalculated material properties by the manufacturer. The actions specified by the proposed AD are intended to prevent uncontained turbine rotor failure resulting in in-flight engine shutdown and possible damage to the airplane.

DATES: Comments must be received by December 17, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001-NE-01-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: 9-ane-adcomment@faa.gov. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206-0420; telephone (317) 230-6400; fax (317) 230-4243. This information may be examined, by

appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT:

Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294-7870, fax (847) 294-7834.

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, 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.

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 2001-NE-01-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001-NE-01-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

Before the merger of Allison Engine Company and Rolls-Royce Corporation, Allison Engine Company obtained additional material properties data to enhance their materials database. The additional data showed much higher material property scatter compared to the data originally used to calculate the turbine rotor component life limits.

Comparison of the data with other similar alloys showed the manufacturer that the new data, with increased scatter, was indeed representative. As a result, the manufacturer has reduced the life limits of certain second-stage, third-stage, and fourth-stage turbine wheel assemblies, and certain 1st-2nd stage, 2nd-3rd stage, and 3rd-4th stage turbine spacer assemblies.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Rolls-Royce Corporation (formerly Allison Engine Company) 501-D series turboprop engines of the same type design, the proposed AD would require removal from service, and replacement with a serviceable part for:

- Second-stage turbine wheel assemblies part numbers (P/N's) 6847142 and 6876892, before or upon accumulating 12,000 cycles-in-service (CIS), or 16,000 CIS if Allison Engine Company Commercial Overhaul Information Letter (COIL) 401, dated May 1978 has been complied with.
- Third-stage turbine wheel assemblies P/N's 6845883 and 6849743, before or upon accumulating 10,000 CIS, or 13,000 CIS if COIL 401, dated May 1978 has been complied with.
- Third-stage turbine wheel assembly P/N 6855083, before or upon accumulating 10,000 CIS.
- Fourth-stage turbine wheel assembly P/N 6876468, before or upon accumulating 18,000, or 24,000 CIS if COIL 401, dated May 1978 has been complied with.
- 1st-2nd stage spacer assemblies P/N's 6844632 and 23033463, before or upon accumulating 4,700 CIS.
- 1st-2nd stage spacer assembly P/N 23056966, before or upon accumulating 8,000 CIS.
- 2nd-3rd stage spacer assembly P/N 23033456, before or upon accumulating 4,000 CIS.
- 3rd-4th stage spacer assembly P/N 6844794 with serial number (SN) less than and including KK22951, except KK21556, KK21910, KK22814, KK22820, KK22868, and all SN's with an MM prefix, before or upon accumulating 5,100 CIS.

Economic Analysis

There are approximately 930 Rolls-Royce 501-D series turboprop engines of the affected design in the worldwide fleet. The FAA estimates that 684 engines installed on aircraft of U.S. registry would be affected by this proposed AD. The proposed action does not impose any additional labor costs if

performed at the time of scheduled engine overhaul. Required parts would cost approximately \$45,000 per engine. Based on these figures, the total cost of the proposed AD to U.S. operators is estimated to be \$30,780,000.

Regulatory Analysis

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

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:

Rolls-Royce Corporation: Docket No. 2001-NE-01-AD.

Applicability: This airworthiness directive (AD) is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) 501-D series turboprop engines. These engines are installed on, but not limited to Lockheed 188

series and 382 series turboprop airplanes, and Convair Models 340 and 440 airplanes which have had Rolls-Royce Corporation 501-D series turboprop engines installed under a Supplemental Type Certificate. These models are commonly referred to as Convair 580/580A or 5800 models.

Note 1: This airworthiness directive (AD) applies to each engine 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 engines 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent uncontained turbine rotor failure, resulting in in-flight engine shutdown and possible damage to the airplane, do the following:

501-D13 Series Engines

(a) For 501-D13 series engines, remove turbine wheels and spacers from service as specified in the following Table 1:

TABLE 1.—501-D13 SERIES LIFE LIMITS

Part name	Part number	Life limit for wheels that have complied with commercial overhaul information letter (COIL) 401, dated May 1978	Life limit for wheels that have not complied with COIL 401, dated May 1978
(1) Second-stage turbine wheel assembly.	6847142 and 6876892	Remove from service before or upon accumulating 16,000 cycles-in-service (CIS).	Remove from service before or upon accumulating 12,000 CIS.
(2) Third-stage turbine wheel assembly.	6845883 and 6849743	Remove from service before or upon accumulating 13,000 CIS.	Remove from service before or upon accumulating 10,000 CIS.
(3) Fourth-stage turbine wheel assembly.	6876468	Remove from service before or upon accumulating 24,000 CIS.	Remove from service before or upon accumulating 18,000 CIS.

(b) Information on 501-D13 series engine turbine life limits can be found in Rolls-Royce Commercial Service Letter (CSL) No.

CSL-120, Revision No. 52, dated July 22, 2002.

501-D22 Series Engines

(c) For 501-D22 series engines, remove turbine wheels and spacers from service as specified in the following Table 2:

TABLE 2.—501-D22 SERIES LIFE LIMITS

Part name	Part number	Remove from service
(1) Third-stage turbine wheel assembly	6855083	Before or upon accumulating 10,000 cycles-in-service (CIS).
(2) 1st-2nd-stage spacer assembly	6844632 and 23033463	Before or upon accumulating 4,700 CIS.
(3) 1st-2nd-stage spacer assembly	23056966	Before or upon accumulating 8,000 CIS.
(4) 2nd-3rd-stage spacer assembly	23033456	Before or upon accumulating 4,000 CIS.

TABLE 2.—501–D22 SERIES LIFE LIMITS—Continued

Part name	Part number	Remove from service
(5) 3rd-4th-stage spacer assembly	6844794	Before or upon accumulating 5,100 CIS, with SN less than and including KK22951, except KK21556, KK21910, KK22814, KK22820 and KK22868, and all SN's with an MM prefix.

(d) Information on 501–D22 series engine turbine life limits can be found in Rolls-Royce Commercial Service Letter (CSL) No. CSL–1001, Revision No. 19, dated July 22, 2002.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office (ACO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ACO.

Special Flight Permits

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

Issued in Burlington, Massachusetts, on October 11, 2002.

Mark C. Fulmer,

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

[FR Doc. 02–26587 Filed 10–17–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 119

[Docket No. FAA–2002–13378; Notice No. 02–14]

RIN 2120–AH55

Reports by Carriers on Incidents Involving Animals During Air Transport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for an NPRM that was published on September 27, 2002. In that document, the FAA proposed to amend its regulations to implement the requirement established by Congress that air carriers providing scheduled

passenger air transportation submit reports to the Secretary of Transportation on any incidents involving the loss, injury or death of an animal during air transport provided by the air carrier. This extension is a result of requests received during the comment period for the NPRM.

DATES: Comments must be received on or before December 27, 2002.

ADDRESSES: Comments on this document should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–2002–13378, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may be filed and examined in Room Plaza 401 between 9 a.m. and 5 p.m. weekdays, except Federal holidays.

Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: <http://dms.dot.gov> at any time. Commenters who wish to file comments electronically should follow the instructions on the DMS Web site.

FOR FURTHER INFORMATION CONTACT: James W. Whitlow, Office of the Chief Counsel, AGC–2, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3222; facsimile (202) 267–3227.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in the NPRM, Notice No. 02–14. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public

inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address **ADDRESSES** section.

Before acting on the proposals in the NPRM, Notice No. 02–14, we will consider all comments we receive on or before the closing date. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change the proposals in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

Background

The FAA published a notice (67 FR 61238, September 27, 2002) proposing to amend 14 CFR part 119 to implement the requirement established by Section 710(a) of Public Law 106–181, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) that air carriers must submit reports on the loss, injury or death of an animal during air transport. This information would be submitted to the Secretary of Transportation for each month in which an incident or incidents occur, through the Animal and Plant

Health Inspection Service (APHIS), United States Department of Agriculture (USDA). The notice also proposed the type and manner of information that air carriers would be required to submit to APHIS.

Extension of Comment Period

In accordance with § 11.47 of Title 14, Code of Federal Regulations, the FAA has reviewed the petitions submitted to the docket by several commenters requesting an extension of the comment period to Notice No. 02-14 (67 FR 61238). These petitioners requested an extension of time to adequately respond to the notice of proposed rulemaking. To allow additional time for a more thorough review of applicable issues and drafting of responsive comments, the FAA finds that there is good cause and it is in the public interest to extend the comment period for an additional 60 days beyond the 30 days already provided. Accordingly, the comment period for Notice No. 02-14 is extended until December 27, 2002.

Issued in Washington, DC, on October 10, 2002.

James W. Whitlow,

Deputy Chief Counsel.

[FR Doc. 02-26465 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-208280-86; REG-136311-01]

RIN 1545-AJ57; 1545-BA07

Exclusions From Gross Income of Foreign Corporations; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of date of public hearing, extension of time for submitting public comments and outlines of oral comments.

SUMMARY: This document changes the date of a public hearing on proposed regulations relating to exclusions from gross income of foreign corporations under section 883 of the Internal Revenue Code, and extends the time for submitting public comments and outlines of oral comments.

DATES: The public hearing originally scheduled for Tuesday, November 12, 2002, at 10 a.m. is rescheduled for Monday, November 25, 2002, at 10 a.m. The due date for written or electronic public comments and outlines of topics to be discussed, is November 5, 2002.

ADDRESSES: The public hearing is being held in room 4718, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. Send submissions to: CC:ITA:RU (REG-208280-86; REG-136311-01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-208280-86; REG-136311-01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, comments may be transmitted electronically via the Internet by submitting comments directly to the IRS Internet site at: <http://www.irs.gov/regs>.

FOR FURTHER INFORMATION CONTACT: Guy Traynor of the Regulations Unit, Associate Chief Counsel (Income Tax & Accounting), at (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Friday, August 2, 2002 (67 FR 50510), announced that a public hearing on proposed regulations relating to exclusions from gross income of foreign corporations under section 883 of the Internal Revenue Code would be held on Tuesday, November 12, 2002, beginning at 10 a.m. in room 4718 of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The deadline for submitting public comments and outlines of topics to be discussed, was October 22, 2002.

The date of the hearing and deadline for submitting public comments has changed. The hearing is scheduled for Monday, November 25, 2002, beginning at 10 a.m. in room 4718, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. We must receive written and electronic public comments and outlines of topics to be discussed, by November 5, 2002. Because of the controlled access restrictions, attendants will not be admitted beyond the lobby area of the Internal Revenue Building until 9:30 a.m. The IRS will prepare an agenda showing the scheduling of the speakers after the outlines are received from the persons testifying and make copies available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Income Tax & Accounting).

[FR Doc. 02-26450 Filed 10-17-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-150313-01]

RIN 1545-BA80

Redemptions Taxable as Dividends

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that provide guidance regarding the treatment of the basis of redeemed stock when a distribution in redemption of such stock is treated as a dividend, as well as guidance regarding certain acquisitions of stock by related corporations that are treated as distributions in redemption of stock. The proposed regulations affect shareholders whose stock in a corporation is redeemed or is acquired by a corporation related to the issuer of the stock, and are necessary to provide such shareholders with guidance regarding the treatment of the basis of such stock. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received January 16, 2003. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for February 20, 2003, at 10 a.m. must be received by January 30, 2003.

ADDRESSES: Send submissions to CC:ITA:RU (REG-150313-01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-150313-01), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at www.irs.gov/regs. The public hearing will be held in Room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations generally, Lisa K. Leong, (202) 622-7530; concerning issues under sections 367, 861 and 864 of the Internal Revenue Code, Aaron A. Farmer, (202) 622-3860; concerning submissions of comments, the hearing, and/or to be

placed on the building access list to attend the hearing, Treena V. Garrett, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). 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 December 17, 2002. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed 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 proposed 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 services to provide information.

The collection of information in these proposed regulations is in § 1.302-5(e) and § 1.1502-19(b)(5)(v). This collection of information is required by the IRS to verify compliance with section 302. This information will be used to determine whether the amount of tax has been calculated correctly. The collection of information is required to properly determine the amount permitted to be taken into account as a loss. The respondents are shareholders (including individuals, corporations and pass-through entities) whose stock in a corporation is redeemed or is treated as redeemed.

Estimated total annual reporting burden: 1,500 hours.

Estimated average annual burden per respondent: 30 minutes.

Estimated number of respondents: 3,000.

Estimated annual frequency of responses: On occasion.

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.

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 proposed revisions and amendments to the Income Tax Regulations (26 CFR part 1) under sections 302, 304, 704, 861, 1371, 1374, and 1502 of the Internal Revenue Code (Code). The proposed regulations would amend the temporary and final regulations under sections 302, 304, 704, 861, 1371, 1374, and 1502 to provide guidance concerning the treatment of the basis of stock redeemed or treated as redeemed where the redemption proceeds are treated as a dividend distribution. These proposed regulations would also amend the final regulations under section 304 to conform them to certain of the amendments made to section 304 by legislation, including section 226 of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248 (96 Stat. 325, 490) (September 3, 1982), section 712(l) of the Deficit Reduction Act of 1984, Public Law 98-369 (98 Stat. 494, 953-55) (July 18, 1984), section 1875(b) of the Tax Reform Act of 1986, Public Law 99-514 (100 Stat. 2085, 2894) (October 22, 1986), and section 1013 of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788, 918) (August 5, 1997).

A. The Character of Property Received in Redemption of Stock

Section 302 of the Code governs the tax treatment of distributions in redemption of stock. The rules of section 302 attempt to distinguish between distributions that "may have capital-gain characteristics because they are not made pro rata among the various shareholders" and distributions "characterized by what happens solely at the corporate level by reason of the assets distributed." S. Rep. No. 1622, 83d Cong., 2d Sess. 49 (1954). Section 302(a) provides that a corporation's redemption of its stock is treated as a distribution in part or full payment in exchange for the stock if the redemption satisfies any one of the following

criteria: (1) The redemption is not essentially equivalent to a dividend (section 302(b)(1)); (2) the redemption is substantially disproportionate (section 302(b)(2)); (3) the redemption completely terminates the redeemed shareholder's interest (section 302(b)(3)); or (4) the redemption is in connection with a qualifying partial liquidation (section 302(b)(4)). If a redemption satisfies none of these criteria, pursuant to section 302(d), the redemption is treated as a distribution of property to which section 301 applies.

Under sections 301(c)(1) and 316(a), a distribution is treated as a dividend to the extent of the redeeming corporation's earnings and profits. Any portion of the distribution that is not treated as a dividend is first applied against the adjusted basis of the redeemed stock to the extent of such basis under section 301(c)(2), and then treated as gain from the sale or exchange of property under section 301(c)(3).

B. The Character of Property Received in Certain Stock Acquisitions

The redemption rules of section 302 are implicated not only when an issuing corporation acquires its own stock, but also in the case of certain stock acquisitions by corporations related to the issuer of the acquired stock. Pursuant to section 304(a)(1), an acquisition of stock by a corporation from one or more persons that are in control of both the acquiring and issuing corporations is treated as if the property received in respect of the acquired stock were a distribution in redemption of the stock of the acquiring corporation. Prior to the amendments made by the Taxpayer Relief Act of 1997, section 304 provided that, to the extent that the deemed distribution was treated as a distribution to which section 301 applies, the stock acquired was treated as having been transferred by the person from whom acquired and as having been received by the corporation acquiring it, as a contribution to the capital of such corporation. The Taxpayer Relief Act of 1997 amended section 304(a)(1) to provide that, to the extent that this deemed distribution is treated as a distribution to which section 301 applies, the shareholder and the acquiring corporation are treated as if the shareholder had transferred the stock of the issuing corporation to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and then the acquiring corporation had redeemed the stock it was treated as issuing in that transaction. Pursuant to section

304(a)(2), an acquisition of stock by a corporation controlled by the issuer of the acquired stock is treated as if the property received in respect of the acquired stock was a distribution in redemption of the stock of the issuing corporation.

For purposes of section 304, control means the ownership of stock possessing at least 50 percent of either the total combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock. The determination of the amount and source of the distribution that is treated as a dividend is made as if the property received in respect of the redeemed stock were distributed by the acquiring corporation to the extent of its earnings and profits and then by the issuing corporation to the extent of its earnings and profits. Because section 304 recharacterizes certain stock acquisition transactions as redemptions of stock, transactions to which section 304 applies implicate the redemption rules of section 302.

C. The Unutilized Basis of Stock Redeemed in Certain Transactions

While sections 301 and 302 clearly set forth the character of property received in a redemption (whether actual or deemed) of stock, they do not prescribe the tax treatment of the unutilized basis of the redeemed stock or the stock treated as redeemed. In 1955, the IRS and Treasury promulgated regulations under section 302 that provide guidance in this regard in the case of an actual redemption of stock. Section 1.302-2(c) of the Income Tax Regulations states that “[i]n any case in which an amount received in redemption of stock is treated as a distribution of a dividend, proper adjustment of the basis of the remaining stock will be made with respect to the stock redeemed.” The regulation contains examples illustrating what constitutes a proper adjustment. In *Example 1* and *Example 3*, the redeemed shareholder actually owns stock of the redeeming corporation immediately after a redemption that is treated as a distribution of a dividend. In those cases, the basis of the shares of the redeeming corporation that the shareholder owns after the redemption is increased by the basis of the redeemed shares. See also *United States v. Davis*, 397 U.S. 301 (1970) (interpreting § 1.302-2(c) to shift the basis of redeemed stock to other shares held by the redeemed shareholder, even where those other shares are of a different class of stock than those redeemed); Rev. Rul. 66-37, 1966-1 C.B. 209 (same). In *Example 2*, although the

redeemed shareholder actually owns no stock of the redeeming corporation immediately after a redemption that is treated as a distribution of a dividend, he does constructively own stock of the redeeming corporation immediately after the redemption by reason of his wife’s continuing ownership of stock of the redeeming corporation. The example concludes that the redeemed shareholder’s basis in the redeemed shares shifts to his wife’s basis in her shares of stock of the redeeming corporation.

In addition, on December 2, 1955, the IRS and Treasury promulgated §§ 1.304-2(a) and 1.304-3(a). With respect to an acquisition of stock by a related corporation (other than a subsidiary), § 1.304-2(a) provides that the transferor’s basis for his stock in the acquiring corporation is increased by the basis of the stock of the issuing corporation surrendered by him. Similarly, with respect to an acquisition of stock by a subsidiary, § 1.304-3(a) provides that the transferor’s basis in his remaining stock in the parent corporation is increased by the basis of the stock deemed redeemed by the parent corporation. The treatment of the transferor’s unutilized basis in stock of the issuing corporation as a result of transactions subject to section 304(a) is the subject of Revenue Ruling 70-496 (1970-2 C.B. 74), and Revenue Ruling 71-563 (1971-2 C.B. 175).

In Revenue Ruling 70-496, a first-tier subsidiary (Y) of a parent corporation (X) sold all of its stock in a second-tier subsidiary of X (S) to another first-tier subsidiary of X (Z). The ruling concludes that the transaction is governed by sections 304(a)(1) and 302(d). Accordingly, the ruling holds that the sales proceeds constitute dividends to the extent of Z’s earnings and profits and, to the extent in excess of such amount, constitute gain under section 301(c)(3). With respect to Y’s basis in the sold S stock, the ruling holds that because Y had no direct stock ownership in Z before or after the sale, Y’s basis in the S stock surrendered disappears and cannot be used to increase the basis of any asset of Y.

In Revenue Ruling 71-563, A, an individual, owned all the stock of X. C. A’s son, owned all of the outstanding stock of Y. A sold 25 percent of its stock in X to Y for cash. The ruling states that, under section 304(a)(1), the sale is treated as a contribution by A of the stock of X to the capital of Y and a distribution to A by Y in redemption of its stock. Because the deemed redemption is governed by section 302(d), the cash received is taxable as a dividend to A under section 301(c)(1).

Furthermore, the ruling reasons that, because A owns no stock in Y directly after the transaction, the basis of the X stock should be added to the basis of the remaining stock of X that A continues to own after the transaction.

The current regulatory regime preserves, and prevents the elimination of, basis in transactions subject to section 302 where a proper adjustment may be made to the basis of the remaining stock of the redeeming corporation and in transactions subject to section 304 where, immediately after the transaction, the seller owns stock of the acquiring corporation. In certain transactions, however, taxpayers have taken the position that certain adjustments are proper, even if they shift basis from a person that is not subject to U.S. tax to a person that is subject to U.S. tax or to stock other than stock of the redeeming corporation. Notice 2001-45 (2001-2 C.B. 129), describes a type of transaction with respect to which taxpayers have taken the position that, under § 1.302-2(c), all or a portion of the basis of stock redeemed from a person that is not subject to U.S. tax or is otherwise indifferent to the Federal income tax consequences of the redemption of the stock is added to the basis of other stock in the redeeming corporation owned by a taxpayer that is subject to U.S. tax to create a loss on the disposition of the other stock. Although the IRS intends to challenge the adjustments claimed in such transactions, the IRS and Treasury believe it is desirable to revise the rules that govern accounting for unutilized basis attributable to redeemed stock to better reflect the purposes of the relevant Code provisions.

Explanation of Provisions

A. Rules Under Section 302

This notice of proposed rulemaking proposes a replacement for the “proper adjustment” regime of current § 1.302-2(c) for taking into account the unutilized basis attributable to redeemed stock in any case in which a redemption of stock is treated as a distribution of property to which section 301 applies. The rules are proposed to apply both where the redeemed shareholder actually owns no stock of the redeeming corporation immediately after the redemption (a complete redemption) and where the redeemed shareholder actually owns stock of the redeeming corporation immediately after the redemption (a partial redemption). While consideration was given to retaining the “proper adjustment” rule of current § 1.302-2(c) where only a portion of the

shareholder's interest in the redeeming corporation is redeemed, the IRS and Treasury believe the two situations are similar enough to warrant the same rules, and that the rules proposed herein best carry out the purposes of section 302 even where the redeemed shareholder continues directly to own stock in the redeeming corporation because, even in that case, dividend treatment under section 302 may have resulted from shares owned by attribution rather than directly. The following paragraphs describe the proposed rules.

1. General Description of the Proposed Rules

Certain transactions that, in form, involve the redemption of shares are economically identical or similar to distributions to shareholders that do not involve any redemption of shares. For example, if a single shareholder owns all of the stock of the redeeming corporation, the redemption of some shares from that shareholder for cash is economically indistinguishable from the mere distribution of corporate cash to the shareholder. In recognition of this, section 302 taxes these transactions as corporate distributions notwithstanding their form as redemptions. The underlying premise of section 302 is that distribution treatment is called for in these cases because, in effect, the redeemed shareholder still owns (or is treated as owning) its stock in the corporation, even if it may have turned in some physical shares.

Although section 302 does not provide any explicit guidance regarding the shareholder's basis of the shares redeemed, in deriving a regulatory regime to address the treatment of the unutilized basis of redeemed stock, it is appropriate to consider what happens when a shareholder receives a distribution and keeps its shares, because that analogy underlies distribution treatment under section 302. Because the Code does not permit basis to offset any portion of the redemption distribution that is treated as a dividend, and because such an offset is not available when a corporation distributes a dividend and the shareholder retains its shares, the redemption date is not the appropriate time to recover the unutilized basis of the redeemed stock. However, if the shareholder receives a distribution and retains its shares, it also retains its basis, which it can recover later in situations other than dividends, such as the sale of the shares. Accordingly, the unutilized basis of the redeemed stock should not disappear and should be taken into account for Federal income tax purposes

at some time. In addition, any tax benefit associated with the unutilized basis of redeemed stock should remain with the taxpayer that made, or succeeded to, the investment that gave rise to the unutilized basis. Accordingly, these regulations propose that, in any case where a redemption of stock is treated as a distribution of a dividend, an amount equal to the adjusted basis of the redeemed stock is treated as a loss recognized on the disposition of the redeemed stock on the date of the redemption. That loss is taken into account as described below.

Once the facts and circumstances that caused the redemption distribution to be treated as a distribution subject to section 301 no longer exist (*i.e.*, the redeemed shareholder has sufficiently reduced its actual and constructive ownership interest in the redeeming corporation), these regulations permit the loss attributable to the unutilized basis of redeemed stock that has not previously been taken into account to be taken into account. The first date on which the redeemed shareholder would satisfy the criteria of section 302(b)(1), (2) or (3) if the facts and circumstances that exist on such date had existed immediately after the redemption is referred to as the "final inclusion date." In addition, a date is the final inclusion date if there is no later date on which the redeemed shareholder could take the loss into account. For example, if the redeemed shareholder is an individual, the final inclusion date includes the date of death of such individual. If the redeemed shareholder is a corporation, the final inclusion date includes the date such corporation transfers its assets in a liquidation described in section 331. If the redeemed shareholder is a foreign corporation, the final inclusion date includes the date such corporation transfers its assets to a domestic corporation in either a liquidation described in section 332 or a reorganization described in section 368(a)(1) to which section 381 applies. If the redeemed shareholder is a foreign corporation that is not a controlled foreign corporation, within the meaning of section 957(a), on the date of the redemption, the term final inclusion date includes the date such corporation transfers its assets to a controlled foreign corporation in a liquidation described in section 332 or a reorganization described in section 368(a)(1) to which section 381 applies.

These proposed regulations also provide that the redeemed shareholder is permitted to take into account the loss attributable to the unutilized basis of redeemed stock when the redeemed

shareholder recognizes a gain on stock of the redeeming corporation to the extent of the gain recognized. Any date on which the redeemed shareholder must take into account gain recognized pursuant to section 301(c)(3) or gain recognized on a disposition of stock of the redeeming corporation is referred to as an "accelerated loss inclusion date." Although there can be only one final inclusion date, there can be several accelerated loss inclusion dates.

Because the loss attributable to the basis of the redeemed stock is treated as recognized on a disposition of the redeemed stock on the redemption date, the attributes (*e.g.*, character and source) of that loss are fixed on the redemption date, even if such loss is not taken into account until after the redemption date. For example, if a corporation redeems its stock from a shareholder within one year after the shareholder's acquisition of such stock and the proceeds of the redemption are treated as a dividend distribution, the character of any amount of the loss that is taken into account is treated as short-term capital loss (assuming the redeemed shareholder held the redeemed stock as a capital asset), even if such loss is taken into account more than one year after the redeemed shareholder's acquisition of the redeemed stock. Nonetheless, for purposes of the carryforward and carryback provisions of sections 172 and 1212, such loss is treated as a loss for the taxable year in which it is taken into account rather than for the taxable year of the stock redemption that gave rise to such loss.

Because a redemption of stock may give rise to, or increase, an excess loss account in redeemed stock where the redeemed shareholder and the redeeming corporation are members of the same consolidated group, these regulations propose rules similar to those described above where the redeemed shareholder has an excess loss account in the redeemed stock.

These proposed regulations do not apply on the redemption of stock described in section 306(c). Pursuant to section 306(a)(2), a redemption of stock described in section 306(c) is treated as a distribution of property to which section 301 applies. *Example 2* of § 1.306-1 suggests that the unutilized basis of redeemed section 306 stock is added back to the basis of the stock with respect to which the section 306 stock was distributed. The IRS and Treasury request comments on whether such treatment of the unutilized basis of redeemed section 306 stock is appropriate or whether an alternative regime should apply when such a

redemption is treated as a distribution to which section 301 applies.

2. Special Issues Related to Certain Pass-Through Entities

Where stock is redeemed from a partnership and all or a portion of the distribution in redemption of such stock is treated as a dividend, any loss attributable to the basis of redeemed stock is treated as a current loss to the partnership on the date of the redemption. To the extent of the lesser of the amount of such distribution that is treated as a dividend and such loss that is not allocated pursuant to section 704(c) and the regulations thereunder, the dividend and the loss must be allocated in equal amounts. Such amounts must be allocated in accordance with the partners' interests in the partnership. An allocation will be deemed to be in accordance with a partner's interest in the partnership if the allocation is in the same proportion as the allocation of (i) the excess of the dividend income over the loss attributable to the basis of the redeemed stock, if any, (ii) the excess of the loss attributable to the basis of the redeemed stock over the dividend income, if any, or, (iii) if neither, in the same proportion as the partnership's net taxable income or loss for the year is allocated. This rule ensures that the benefit of the loss may be realized by the person to whom the dividend income was allocated. The excess dividend or loss attributable to the basis of redeemed stock must be allocated in a manner that takes into account the requirements of section 704.

The loss attributable to the basis of redeemed stock allocated to a partner under the rules of this section is not taken into account at the partner level until the final inclusion date or an accelerated loss inclusion date, as applicable. For purposes of determining whether a particular date is the final inclusion date with respect to such a loss, if the partner is a partner of the partnership on such date, the partnership is treated as the redeemed shareholder. Otherwise, the former partner is treated as the redeemed shareholder and the determination of whether a particular date is the final inclusion date is made by comparing such former partner's actual and constructive ownership of the redeeming corporation immediately prior to the redemption to such former partner's actual and constructive ownership of the redeeming corporation at the end of such particular date. For purposes of determining whether a particular date is an accelerated loss inclusion date with respect to a loss

attributable to the basis of redeemed stock that is allocated to a partner from a partnership, the partner is treated as the redeemed shareholder. Similar rules are proposed to apply where stock is redeemed from an S corporation.

The proposed regulations provide that where stock is redeemed from a C corporation, and the C corporation subsequently elects to be taxed as an S corporation, any loss attributable to the basis of redeemed stock that has not been taken into account at the time of the election is treated as a carryforward arising in a taxable year for which the corporation was a C corporation. Such loss is allowed as a deduction against net recognized built-in gain under section 1374 in the year of the final inclusion date or an accelerated loss inclusion date.

To the extent that a trust from which stock is redeemed is wholly or partially a grantor trust, the proposed rules treat the redeemed stock as having been owned directly by the grantor. When stock is redeemed from an estate or from a trust that is not a wholly grantor trust, and all or a portion of a distribution in redemption of such stock is treated as a dividend, any loss attributable to the basis of redeemed stock that is not attributable to the basis of redeemed stock treated as owned by the grantor is not taken into account by such estate or trust until the final inclusion date or an accelerated loss inclusion date. In that case, whether a particular date is the final inclusion date or an accelerated loss inclusion date is determined by treating such estate or trust, not its beneficiaries, as the redeemed shareholder. In the event that the trust or estate terminates before it has been permitted to take into account all of the loss attributable to the basis of redeemed stock, any remaining loss is treated as a loss under section 172 or section 1212 for purposes of section 642(h) (regarding the availability to beneficiaries of unused loss carryovers and excess deductions of an estate or trust upon termination). Each beneficiary's interest in the loss distributed under section 642(h), however, shall be limited to the proportion of that loss that is equal to the proportion of the total amount of the distribution treated as a dividend that is represented by that beneficiary's beneficial interest in that dividend. Once all or a portion of such a loss is distributed to a beneficiary, whether a particular date is the final inclusion date or an accelerated loss inclusion date with respect to such a loss is determined by treating such beneficiary as the redeemed shareholder.

3. Special Rules Related to Apportionment of Interest and Other Expenses

Under section 864(e), taxpayers apportion interest expense between U.S. and foreign source income on the basis of the relative values of their U.S. and foreign assets. For this purpose, taxpayers may choose to value their assets using either fair market value or tax book value (adjusted basis). If the taxpayer apportions interest expense using tax book value, the adjusted basis of stock in any nonaffiliated 10 percent owned corporation (as defined in section 864(e)(4)(B)) is increased by the amount of earnings and profits (and reduced by any deficits in earnings and profits) attributable to such stock that accumulated during the period the taxpayer held such stock. The proposed regulations provide that for purposes of apportioning expenses on the basis of the tax book value of assets, the adjusted basis in any remaining shares of the redeeming corporation that are owned by the redeemed shareholder or certain affiliated corporations will be increased by the amount of the unutilized basis of redeemed stock. This adjustment is intended to provide consistent interest allocation consequences in the case of dividends and redemptions treated as dividends by nonaffiliated 10 percent owned corporations.

B. Revisions to Regulations Under Section 304

The current regulations under section 304 do not reflect all of the legislative amendments that have been made to section 304. This notice of proposed rulemaking proposes certain revisions to the current regulations under section 304 to incorporate these legislative amendments to the extent that those legislative amendments are relevant to the issues that are subject to the proposed regulations under section 302. In particular, these revisions reflect the amendments to section 304 made by section 1013 of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788, 918) (August 5, 1997), that provide that, to the extent that a stock acquisition to which section 304(a)(1) applies is treated as a distribution to which section 301 applies, the transferor and the acquiring corporation are treated as if (1) The transferor transferred the stock of the target corporation to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and (2) the acquiring corporation then redeemed the stock it is treated as having issued. The same rules that govern an actual

redemption govern a deemed redemption.

In transactions under section 304 that involve one or more foreign corporations, further consequences may apply under the international provisions of the Code. For example, where target corporation stock is transferred to a foreign corporation in the deemed section 351 transaction, section 367 and the regulations promulgated thereunder apply to the transfer. See Rev. Rul. 91-5 (1991-1 C.B. 114) (holding that section 367 applied to the deemed contribution to capital of the target corporation stock under prior law because section 367(c)(2) resulted in the stock transfer constituting a section 351 transaction). The IRS intends to issue guidance on the application of the international provisions to section 304 transactions and requests comments on such transactions, including what changes, if any, to existing published guidance may be appropriate in light of the 1997 amendments to section 304.

Proposed Effective Date

These regulations are proposed to apply to transactions occurring after the date these regulations are published as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It is hereby certified that the collection of information in this Notice of Proposed Rule Making will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the IRS and Treasury estimate that at most 3,000 taxpayers will be subject to these requirements and most of those taxpayers will be individuals or large businesses. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f), this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be

available for public inspection and copying.

A public hearing has been scheduled for February 20, 2003, beginning at 10 a.m. in Room 4718 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** portion of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by January 30, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Lisa K. Leong of the Office of the Associate Chief Counsel (Corporate), IRS. However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

§ 1.302-2 [Amended]

2. In § 1.302-2, paragraph (c) is removed.

3. Section 1.302-5 is added to read as follows:

§ 1.302-5 Redemptions taxable as dividends.

(a) *In general.* In any case in which an amount received in redemption of stock

is treated as a distribution of a dividend, an amount equal to the basis of the redeemed stock, after adjusting such basis to reflect the application of section 301(c)(2), 961(b), 1059, § 1.1502-32, or any other applicable provision of the Internal Revenue Code or regulations thereunder, is treated as a loss recognized on a disposition of the redeemed stock on the date of the redemption. The redeemed shareholder (as defined in paragraph (b)(1) of this section) shall be permitted to take such loss into account pursuant to the provisions of this section. Although such loss may be taken into account on a date later than the date of the redemption, the attributes (*e.g.*, character and source) of such loss are determined on the date of the redemption of the stock that gave rise to such loss. See § 1.1502-19(b)(5) for rules that apply where an amount received in redemption of stock is treated as a dividend and such amount either increases or creates an excess loss account in the redeemed stock.

(b) *Definitions*—(1) *Redeemed shareholder.* Except as provided in paragraphs (d)(6), (7), and (8) of this section, the redeemed shareholder is the person whose stock is redeemed in a transaction in which a portion or all of the redemption proceeds are treated as a dividend. If the assets of the redeemed shareholder are acquired in a transaction described in section 381(a), the acquiring corporation (within the meaning of section 381) thereafter is treated as the redeemed shareholder. For rules concerning the person that is treated as the redeemed shareholder where the redeemed stock is held by a partnership or an S corporation at the time of the redemption, see paragraphs (d)(6) and (7) of this section. For rules concerning the person that is treated as the redeemed shareholder where the redeemed stock is held by an estate or a trust not treated as wholly owned by the grantor or another person at the time of the redemption and a loss attributable to the basis of such redeemed stock is distributed to a beneficiary of such estate or trust, see paragraph (d)(8) of this section.

(2) *Redeeming corporation.* Except as provided in paragraph (d)(5) of this section, the redeeming corporation is the corporation that issued the stock that is redeemed. For rules concerning the entity that is treated as the redeeming corporation where the redeeming corporation ceases to exist in a transaction described in section 381(a) or where the redeeming corporation distributes to its shareholders stock of one or more controlled corporations in a distribution described in section

355(a), see paragraph (d)(5) of this section.

(3) *Final inclusion date.* Except as otherwise provided in paragraphs (d)(5), (6), (7), and (8) of this section, the final inclusion date is the first date on which the redeemed shareholder would satisfy the criteria of section 302(b)(1), (2), or (3) if the facts and circumstances that exist at the end of such day had existed immediately after the redemption. In addition, a date is the final inclusion date if there is no later date on which the redeemed shareholder could take the loss into account. For purposes of the preceding sentence, the existence or creation of a limitation under section 382 is not treated as preventing the loss from being taken into account. For example, if the redeemed shareholder is an individual, the final inclusion date includes the date of death of such individual. If the redeemed shareholder is a corporation, the final inclusion date includes the date such corporation transfers its assets in a liquidation described in section 331. If the redeemed shareholder is a foreign corporation, the final inclusion date includes the date such corporation transfers its assets to a domestic corporation in either a liquidation described in section 332 or a reorganization described in section 368(a)(1) to which section 381 applies. If the redeemed shareholder is a foreign corporation that is not a controlled foreign corporation, within the meaning of section 957(a), on the date of the redemption, the term final inclusion date includes the date such corporation transfers its assets to a controlled foreign corporation in a liquidation described in section 332 or a reorganization described in section 368(a)(1) to which section 381 applies.

(4) *Accelerated loss inclusion date.* An accelerated loss inclusion date is a date other than the final inclusion date on which the redeemed shareholder must take into account gain from an actual or deemed sale or exchange of stock of the redeeming corporation. For example, the redeemed shareholder must take into account gain from an actual or deemed sale or exchange of stock of the redeeming corporation when such shareholder receives a distribution with respect to stock of the redeeming corporation to which section 301(c)(3) applies, recognizes gain on stock of the redeeming corporation as a result of the application of section 475, recognizes gain on a sale or exchange of stock of the redeeming corporation (even if such gain is characterized as a dividend under section 1248), recognizes gain in connection with a constructive sale of stock of the

redeeming corporation within the meaning of section 1259, or is a partner of a partnership or a shareholder of an S corporation that is allocated, and must take into account, gain recognized on the partnership's or S corporation's sale or exchange of stock of the redeeming corporation.

(c) *Inclusion of loss attributable to basis of redeemed stock*—(1) *Amount taken into account on final inclusion date.* On the final inclusion date, the redeemed shareholder is permitted to take into account the loss attributable to the basis of redeemed stock, reduced by the amount of such loss that was previously taken into account pursuant to paragraph (c)(2) of this section.

(2) *Amount taken into account on accelerated loss inclusion date.* On an accelerated loss inclusion date, the redeemed shareholder is permitted to take into account the loss attributable to the basis of redeemed stock in the amount of the lesser of—

(i) The amount of such loss reduced by the amount of such loss previously taken into account pursuant to this paragraph (c)(2); and

(ii) The amount of gain recognized with respect to stock of the redeeming corporation that must be taken into account by the redeemed shareholder on such accelerated loss inclusion date.

(d) *Special rules*—(1) *Treatment of loss attributable to basis of redeemed stock.* Except as otherwise provided in this section, for purposes of applying the provisions of the Internal Revenue Code and the regulations thereunder, any loss attributable to the basis of redeemed stock that has not been permitted to be taken into account shall be treated as a net operating loss carryforward or a capital loss carryforward, as applicable. For example, for purposes of determining under sections 382 and 383 whether the redeemed shareholder is a loss corporation that has an ownership change and whether the loss attributable to the basis of redeemed stock is a pre-change loss, any loss attributable to the basis of redeemed stock that the redeemed shareholder is not permitted to take into account before a testing date shall be treated as a net operating loss carryforward or a capital loss carryforward, as applicable, that arose in the taxable year in which the redemption that gave rise to such loss occurred and that can be carried forward to the taxable year that includes the testing date. If such loss is treated as a pre-change loss because of an ownership change on the testing date, it is subject to the section 382 limitation (and the other rules of section 382 or 383) for any post-change year in which

it is taken into account under paragraph (c) of this section and any other post-change year to which it is carried pursuant to section 172 or 1212, as applicable, and paragraph (d)(2) of this section. The order in which the loss is absorbed (and in which it absorbs the section 382 limitation (see § 1.383-1(d)(2)), however, is determined in a manner consistent with the principles of section 172 or section 1212, as applicable, and paragraph (d)(2) of this section.

(2) *Net operating loss deduction and capital loss carrybacks and carryovers.* For purposes of sections 172 and 1212, any portion of a loss attributable to the basis of redeemed stock shall be treated as occurring in the taxable year in which the redeemed shareholder is permitted to take such loss into account, not the taxable year of the redemption that gave rise to such loss. If an estate or trust terminates before it is permitted to take into account all of the loss attributable to the basis of redeemed stock, such loss that it has not been permitted to take into account is treated as a loss under section 172 or 1212 for purposes of section 642(h), provided, however, that the identification of carryover years of the beneficiaries will be determined in accordance with the preceding sentence. Notwithstanding the preceding sentence, each beneficiary's interest in the loss distributed under section 642(h) shall be limited to the proportion of that loss that is equal to the proportion of the total amount of the distribution treated as a dividend that is represented by that beneficiary's beneficial interest in that dividend. If a deduction for any portion of such loss is disallowed by section 382 or 383 for the taxable year in which the redeemed shareholder is permitted to take such loss into account, such portion shall be carried forward to subsequent taxable years under rules similar to the rules for the carrying forward of net operating losses or capital losses, as applicable, but shall be subject to the section 382 limitation (and the other rules of sections 382 and 383) for any post-change year to which it is carried.

(3) *Expenses apportioned on the basis of assets.* For special rules regarding adjustments in the case of taxpayers apportioning expenses on the basis of the tax book value of assets, see § 1.861-12(c)(2)(vi).

(4) *Effect of loss attributable to basis of redeemed stock on earnings and profits.* If the redeemed shareholder is a corporation, any loss attributable to the basis of redeemed stock is not reflected in such corporation's earnings and profits before it is taken into account

pursuant to the rules of paragraph (c) of this section. See, for example, §§ 1.312-6(a), 1.312-7, and 1.1502-33(c)(2).

(5) *Successors to the redeeming corporation*—(i) *Acquisitive transactions*. If the assets of the redeeming corporation are acquired by another corporation in a transaction described in section 381(a), the determination of whether a particular date is the final inclusion date or an accelerated loss inclusion date is made by treating the facts and circumstances that exist at the end of such day (including the acquisition of the assets of the redeeming corporation) as existing immediately after the redemption and treating the acquiring corporation (within the meaning of section 381) as the redeeming corporation.

(ii) *Divisive transactions*. In general, if the redeeming corporation distributes to its shareholders the stock of one or more controlled corporations in a distribution to which section 355 (or so much of section 356 as relates to section 355) applies, the loss attributable to the basis of redeemed stock is allocated among the stock of the distributing and any controlled corporations that the redeemed shareholder owns, actually and constructively pursuant to the rules of section 318, immediately after the distribution in proportion to the fair market value of the stock of the distributing corporation that the redeemed shareholder is treated as so owning and the distributed stock of the controlled corporation that the redeemed shareholder is treated as so owning. To the extent that such loss is allocated to the stock of the distributing corporation, the distributing corporation will be treated as the redeeming corporation for purposes of determining whether a particular date is the final inclusion date or an accelerated loss inclusion date with respect to such loss. To the extent that such loss is allocated to the stock of a controlled corporation, such controlled corporation will be treated as the redeeming corporation for purposes of determining whether a particular date is the final inclusion date or an accelerated loss inclusion date with respect to such loss. Where the controlled corporation was wholly owned by the distributing corporation and all of the stock of the controlled corporation was distributed to the shareholders of the distributing corporation in a distribution to which section 355 (or so much of section 356 as relates to section 355) applies, the determination of whether a particular date is the final inclusion date with respect to a loss that is allocated to a controlled corporation is made by

treating the redeemed shareholder as owning a percentage of stock of the controlled corporation immediately prior to the redemption equal to the percentage of stock of the distributing corporation the redeemed shareholder actually and constructively owned immediately prior to the redemption. In all other cases, appropriate calculations shall apply to determine whether a particular date is the final inclusion date.

(6) *Redeemed shareholder is a partnership*—(i) *Treatment and allocation of loss attributable to basis of redeemed stock*. Where stock is redeemed from a partnership and all or a portion of the distribution in redemption of such stock is treated as a dividend, any loss attributable to the basis of redeemed stock is treated as a current loss to the partnership on the date of the redemption. To the extent of the lesser of the amount of such distribution that is treated as a dividend and such loss that is not allocated pursuant to section 704(c) and the regulations thereunder, the dividend and the loss must be allocated in equal amounts. Such amounts must be allocated in accordance with the partners' interests in the partnership. An allocation will be deemed to be in accordance with a partner's interest in the partnership if the allocation is in the same proportion as the allocation of the excess of the dividend income over the loss attributable to the basis of the redeemed stock, if any, the excess of the loss attributable to the basis of the redeemed stock over the dividend income, if any, or, if neither, in the same proportion as the partnership's net taxable income or loss for the year is allocated. The excess dividend or loss attributable to the basis of redeemed stock must be allocated to the partners in a manner that takes into account the requirements of section 704. The loss attributable to the basis of redeemed stock allocated to a partner under the rules of this section is not taken into account until the final inclusion date or an accelerated loss inclusion date, as provided in this section.

(ii) *Identification of redeemed shareholder*. For purposes of determining whether a particular date is the final inclusion date with respect to a loss that is allocated to a partner, if the partner is a partner of the partnership at the end of such day, the partnership is treated as the redeemed shareholder. If the partner is not a partner of the partnership at the end of such day, the former partner is treated as the redeemed shareholder and the determination of whether such date is the final inclusion date is made by

comparing such former partner's actual and constructive ownership of the redeeming corporation immediately prior to the redemption to such former partner's actual and constructive ownership of the redeeming corporation at the end of such particular day. For purposes of determining whether a particular date is an accelerated loss inclusion date with respect to a loss attributable to the basis of redeemed stock that is allocated to a partner from a partnership, the partner is treated as the redeemed shareholder.

(7) *Redeemed shareholder is an S corporation*—(i) *Treatment and allocation of loss attributable to basis of redeemed stock*. Where stock is redeemed from an S corporation and all or a portion of the distribution in redemption of such stock is treated as a dividend, any loss attributable to the basis of redeemed stock is treated as a current loss to the S corporation on the date of the redemption and is allocated to the S corporation's shareholders under section 1366(a). The portion of such loss that is allocated to an S corporation shareholder from the S corporation is not permitted to be taken into account by such shareholder until the final inclusion date or an accelerated loss inclusion date, as provided in this section.

(ii) *Identification of redeemed shareholder*. For purposes of determining whether a particular date is the final inclusion date with respect to a loss attributable to the basis of redeemed stock that is allocated to a shareholder of an S corporation from an S corporation, if the S corporation shareholder is a shareholder of the S corporation at the end of such day, the S corporation is treated as the redeemed shareholder. If the S corporation shareholder is not a shareholder of the S corporation at the end of such day, the former S corporation shareholder is treated as the redeemed shareholder and the determination of whether such date is the final inclusion date is made by comparing such former S corporation shareholder's actual and constructive ownership of the redeeming corporation immediately prior to the redemption to such former S corporation shareholder's actual and constructive ownership of the redeeming corporation at the end of such particular day; provided, however, that for purposes of computing such former S corporation shareholder's ownership of the redeeming corporation immediately prior to the redemption, section 318(a)(2)(C) shall be applied without regard to the 50 percent limitation contained therein. For purposes of determining whether a particular date is an accelerated loss

inclusion date with respect to a loss attributable to the basis of redeemed stock that is allocated to an S corporation shareholder from an S corporation, the S corporation shareholder is treated as the redeemed shareholder.

(8) *Redeemed shareholder is an estate or trust.* To the extent that a trust from which stock is redeemed is treated as owned (in part or in whole) by the grantor or another person under subpart E of part I of subchapter J of the Internal Revenue Code, the rules of this section are applied as though the redeemed stock were owned directly by such grantor or other person. Where stock is redeemed from an estate or from a trust not treated as wholly owned by the grantor or another person under subpart E of part I of subchapter J of the Internal Revenue Code, and all or a portion of the distribution in redemption of such stock is treated as a dividend, any loss attributable to the basis of redeemed stock, except any loss attributable to the basis of redeemed stock treated as owned by the grantor or another person, is not taken into account by such estate or trust until the final inclusion date or an accelerated loss inclusion date, and whether a particular date is the final inclusion date or an accelerated loss inclusion date is determined by treating such estate or trust, not its beneficiaries, as the redeemed shareholder. However, if all or a portion of such loss is distributed to a beneficiary of such estate or trust pursuant to section 642(h) and paragraph (d)(2) of this section, the determination of whether a particular date is the final inclusion date or an accelerated inclusion date shall be made by treating each such beneficiary as the redeemed shareholder with respect to the loss distributed to such beneficiary.

(9) *Redeemed shareholder is a C corporation that converts to an S corporation.* For rules regarding the treatment of a loss attributable to the basis of redeemed stock when the redeemed shareholder is a C corporation on the date of the redemption and elects to be taxed as an S corporation prior to the final inclusion date or an accelerated loss inclusion date, see §§ 1.1371-1(a)(1) and 1.1374-5(b)(2).

(e) *Statement to be filed with returns.* With or as part of the income tax return for the year in which a redeemed shareholder takes into account any loss pursuant to this section, the redeemed shareholder shall provide a statement entitled "Claim of Loss Attributable to Basis of Redeemed Stock." The statement shall specify the amount of the loss that is taken into account on such return pursuant to this section and

shall identify the shares to which such amounts relate.

(f) *Examples.* For purposes of the examples in this section, each of corporation X, corporation Y, corporation Z, corporation D, and corporation C is a domestic corporation that files U.S. tax returns on a calendar-year basis. The principles of this section are illustrated by the following examples:

Example 1. (i) *Facts.* A and B, husband and wife, each own 100 shares (50 percent) of the stock of corporation X and hold the corporation X stock as a capital asset. A purchased his corporation X shares on February 1, Year 1, for \$200. On December 31, Year 1, corporation X redeems all of A's 100 shares of its stock for \$300. At the end of Year 1, corporation X has current and accumulated earnings and profits of \$200. In connection with the redemption transaction, A does not file an agreement described in section 302(c)(2) waiving the application of the family attribution rules. The redemption proceeds, therefore, are treated under section 301(c)(1) as a dividend to the extent of corporation X's earnings and profits of \$200, and under section 301(c)(2) as a recovery of basis in the amount of \$100. On July 1, Year 2, B sells all of her shares of corporation X stock to G, her mother.

(ii) *Analysis.* Under this section, an amount equal to A's basis in the corporation X stock (\$100 after application of section 301(c)(2)) is treated as a loss recognized on a disposition of the redeemed stock on December 31, Year 1, the date of the redemption. When B sells her shares to G, A no longer owns, actually or constructively, any shares of corporation X stock. Thus, if the facts that existed at the end of July 1, Year 2, had existed immediately after the redemption, A would have been treated as having received a distribution in part or full payment in exchange for the redeemed stock pursuant to section 302(a). Under this section, therefore, July 1, Year 2, is the final inclusion date and, on that date, A is permitted to take into account the loss of \$100 attributable to his basis in the redeemed stock. Because that loss is treated as having been recognized on a disposition of the redeemed stock on the date of the redemption, December 31 of Year 1, such loss is treated as a short-term capital loss.

Example 2. (i) *Facts.* The facts are the same as in *Example 1*, except that, instead of selling all of her 100 shares of corporation X stock to G on July 1, Year 2, B sells only 75 shares of corporation X stock to G on that date.

(ii) *Analysis.* As in *Example 1*, an amount equal to A's basis in the redeemed stock (\$100 after application of section 301(c)(2)) is treated as a loss recognized on a disposition of the redeemed stock on December 31, Year 1, the date of the redemption. Immediately after B's sale of 75 shares of corporation X stock to G, A constructively owns 25 percent of the shares of corporation X stock. Thus, if the facts that existed at the end of July 1, Year 2, had existed immediately after the redemption, A would have been treated as receiving a distribution in part or full

payment in exchange for the redeemed stock pursuant to section 302(a). Under this section, therefore, July 1, Year 2, is the final inclusion date and, on that date, A is permitted to take into account the loss of \$100 attributable to his basis in the redeemed stock. Because that loss is treated as having been recognized on a disposition of the redeemed stock on the redemption date, December 31 of Year 1, such loss is treated as a short-term capital loss.

Example 3. (i) *Facts.* Corporation Y has 200 shares of common stock outstanding. L, an individual, owns 150 shares of common stock in corporation Y and has owned these shares for several years. The remaining 50 shares are owned by K, L's father. In Year 1, corporation Y redeems 50 shares of L's corporation Y stock, which have a basis of \$75, for \$200. At the end of Year 1, corporation Y's current and accumulated earnings and profits exceed \$200. The redemption of L's stock is treated as a distribution to which section 301 applies. L recognizes dividend income in the amount of \$200. In Year 4, L sells 25 of his remaining shares of corporation Y stock, which have a basis of \$50, to K for \$100 and recognizes \$50 of long-term capital gain.

(ii) *Analysis.* Under this section, an amount equal to L's basis in the corporation Y stock that is redeemed, \$75, is treated as a loss recognized on a disposition of the redeemed stock on the date of the redemption. The date on which L sells 25 shares of corporation Y stock to K is not the final inclusion date under paragraph (b)(3) of this section because L does not satisfy the criteria of section 302(b)(1), (2), or (3) at the end of such day. Under paragraph (b)(4) of this section, however, that date is an accelerated loss inclusion date because, on that date, L recognizes gain of \$50 on a disposition of stock of corporation Y, the redeeming corporation. Thus, on that date, L is permitted to take into account \$50 of the loss attributable to his basis in the redeemed stock. The remaining \$25 of such loss is taken into account on the earlier of the final inclusion date or the next accelerated loss inclusion date (to the extent of gain recognized).

Example 4. (i) *Facts.* The facts are the same as in *Example 3*, except that L does not sell any shares of corporation Y to K in Year 4. Instead, in Year 4, corporation Y distributes \$75 to L with respect to his remaining 100 shares of corporation Y stock. L's basis in these shares is only \$30, and at the end of Year 4, corporation Y's current and accumulated earnings and profits are \$20, instead of \$200. Under section 301(c)(1), \$20 of the distribution is treated as a dividend, under section 301(c)(2), \$30 of the distribution is treated as a recovery of basis, and, under section 301(c)(3), \$25 of the distribution is treated as gain from the sale or exchange of stock.

(ii) *Analysis.* As in *Example 3*, an amount equal to L's basis in the corporation Y stock redeemed in Year 1, \$75, is treated as a loss recognized on a disposition of the redeemed stock on the date of the redemption. Because L recognizes gain under section 301(c)(3) upon the receipt of the Year 4 distribution, the date of that distribution is an accelerated

loss inclusion date. Accordingly, on that date, L is permitted to take into account \$25 of the loss attributable to the basis of the redeemed stock. The remaining \$50 of such loss is taken into account on the earlier of the final inclusion date or the next accelerated loss inclusion date (to the extent of gain recognized).

Example 5. (i) Facts. Corporation Z has 100 shares of stock outstanding, 50 shares of which are owned by each of A and his son, B. A's basis in each of his shares of corporation Z stock is \$1. During Year 1, corporation Z redeems from A 25 shares of corporation Z stock for \$200. At the end of Year 1, corporation Z has current and accumulated earnings and profits in excess of \$200. The redemption is treated as a distribution to which section 301 applies. Accordingly, A recognizes dividend income of \$200. In Year 2, corporation Y acquires all of corporation Z's assets in exchange solely for voting stock in a reorganization described in section 368(a)(1)(C). In the reorganization, A and B surrender their shares of corporation Z stock. A receives 2,500 shares of common stock of corporation Y and B receives 5,000 shares of common stock of corporation Y. Immediately after the reorganization, corporation Y has outstanding one million shares of common stock.

(ii) Analysis. Under this section, an amount equal to A's basis in the redeemed stock after the Year 1 redemption, \$25, is treated as a loss recognized on a disposition of the redeemed stock on the date of the redemption. Under paragraph (d)(5) of this section, for purposes of determining whether a particular date on or after the date of the reorganization is the final inclusion date or an accelerated loss inclusion date, corporation Y, the acquiring corporation, is treated as the redeeming corporation. If the facts and circumstances that exist at the end of the day of the reorganization had existed on the date of the redemption, the redemption would have been treated as a distribution in part or full payment in exchange for the redeemed stock pursuant to section 302(a). Therefore, the date of the reorganization is the final inclusion date and A is permitted to take into account the loss of \$25 attributable to his basis in the redeemed stock.

Example 6. (i) Facts. Corporation D has 300 shares of stock outstanding. J and her two daughters, M and N, each own 100 shares of corporation D stock. J's basis in her corporation D shares is \$400. In Year 1, corporation D redeems all of J's shares for \$1,000. At the end of Year 1, corporation D has current earnings and profits exceeding \$1,000. The redemption is treated as a distribution to which section 301 applies. Accordingly, J recognizes dividend income in the amount of \$1,000. Subsequently, M and N decide to separate corporation D's business. Accordingly, they cause corporation D to contribute one-half of its assets to corporation C, a newly formed corporation, in exchange for all of corporation C's stock and to distribute all of the corporation C stock to N in exchange for all of her corporation D stock. Immediately after the distribution, the value of corporation D is equal to the value of

corporation C. In Year 6, M sells her shares in corporation D to an unrelated person.

(ii) Analysis. Under this section, an amount equal to J's basis in the corporation D stock redeemed, \$400, is treated as a loss recognized on a disposition of the redeemed stock on the date of the redemption. Upon corporation D's distribution of the stock of corporation C in Year 2, J's loss attributable to the basis of the redeemed corporation D stock is allocated among the stock of corporation D and corporation C that J owns, actually and constructively, immediately after the distribution in proportion to the fair market value of the stock of each such corporation. Although J does not actually own any stock of corporation D or corporation C, because J constructively owns all of the stock of both corporation D and corporation C and each of the stock of corporation D and the stock of corporation C have the same value immediately after the distribution, \$200 of the loss is allocated to each of the stock of corporation D and the stock of corporation C that J is treated as so owning. Accordingly, each of corporation D and corporation C is treated as the redeeming corporation for purposes of determining whether a particular date after the date of the distribution is an accelerated loss inclusion date or the final inclusion date with respect to \$200 of the loss. In this case, the date in Year 6 on which M sells her corporation D stock to an unrelated person is the final inclusion date with respect to J's loss allocated to J's constructively owned corporation D stock, because had corporation D's distribution of corporation C stock occurred immediately after the redemption of J's stock and M's Year 6 sale of corporation D stock occurred immediately thereafter in Year 1, the redemption of J's corporation D stock would have been treated as a distribution in part or full payment in exchange for the redeemed stock pursuant to section 302(a). Accordingly, on that date in Year 6, J is permitted to take into account the \$200 loss allocated to the corporation D stock. The \$200 loss allocated to the corporation C stock is taken into account on the earlier of the final inclusion date or the next accelerated loss inclusion date (to the extent of gain recognized) with respect to the corporation C stock.

Example 7. (i) Facts. In Year 1, A and B, two unrelated individuals, each contribute \$100 to form a 50–50 general partnership, PS. A and B share in the income of PS equally. PS buys 100 shares of corporation Z stock for \$200. A owns the remaining 400 outstanding shares of corporation Z stock directly. In Year 2, corporation Z redeems all of PS's shares for \$300. At that time, the basis of A's interest in PS is \$100 and the basis of B's interest in PS is \$100. At the end of Year 2, corporation Z has current and accumulated earnings and profits of \$150. Because A's ownership of the Z stock is attributed to PS under section 318(a)(3)(A), the redemption is treated as a distribution to which section 301 applies. The redemption proceeds, therefore, are treated as a dividend to the extent of corporation Z's earnings and profits, \$150, and as a recovery of basis in the amount of \$150. Assume that PS's only items of income, gain, loss, deduction, and credit for Year 2

arise from the redemption of the corporation Z stock. On January 1 of Year 4, A sells his entire interest in PS to C, an unrelated individual.

(ii) Analysis. Under this section, an amount equal to PS's basis in the corporation Z stock, (\$50 after application of section 301(c)(2)), is treated as a current loss recognized by the partnership on a disposition of the redeemed stock on the date of the redemption. Under this section, \$50 of the dividend and \$50 of the loss must be allocated in equal amounts in accordance with A's and B's interests in PS. Accordingly, if the remaining \$100 of the dividend is allocated \$50 to A and \$50 to B under section 704 and the regulations thereunder, \$25 of each of the dividend and the loss is allocated to each of A and B. A's and B's basis in their PS interests are increased by their shares of the dividend and decreased by their shares of the loss attributable to the basis of the redeemed stock. A and B will not be able to take that loss into account until the final inclusion date or an accelerated loss inclusion date. When A sells his PS interest to C, an unrelated individual, PS and A are no longer related. Therefore, PS no longer owns, actually or constructively, any shares of corporation Z stock. Because B remains a partner in PS after January 1, Year 4, PS is treated as the redeemed shareholder for purposes of determining if January 1, Year 4, is the final inclusion date for B. If the facts that exist at the end of the day of A's sale of his PS interest to C had existed immediately after the redemption, PS would have been treated as receiving a distribution in part or full payment in exchange for the redeemed stock pursuant to section 302(a). Therefore, B is permitted to take into account the \$25 loss attributable to the basis of the redeemed stock that was allocated to him. Because A is no longer a partner in PS after January 1, Year 4, A is treated as the redeemed shareholder for purposes of determining if January 1, Year 4, is the final inclusion date for A. Immediately prior to the redemption, A actually and constructively owns 90 percent of the corporation Z stock. After the sale of the PS interest, A actually owns 100 percent of the corporation Z stock. If these facts had existed immediately after the redemption, A would not have been treated as receiving a distribution in part or full payment in exchange for the redeemed stock pursuant to section 302(a). Therefore, January 1, Year 4, is not the final inclusion date for A.

Example 8. (i) Facts. H, I, and J are shareholders in corporation S, a corporation that has made a valid election to be taxed as an S corporation. H, I, and J respectively hold 60 percent, 20 percent, and 20 percent of the stock in corporation S. H, I, and J have no relation to each other apart from their ownership interests in corporation S. Corporation S owns 20 percent of the outstanding shares of corporation X with a \$100 adjusted basis. H owns the remaining outstanding shares of corporation X. In Year 1, all of corporation S's shares of corporation X stock are redeemed for their fair market value, \$200. Corporation X has current and accumulated earnings and profits of \$300 at the end of Year 1. Because H's ownership of

X stock is attributed to corporation S under section 318(a)(2)(C), the redemption is treated as a distribution to which section 301 applies and is treated as a dividend. H, I, and J will be allocated \$120, \$40, and \$40 of dividend income, respectively. In Year 2, J sells his stock of corporation S to K, an unrelated person. In Year 3, H sells his stock of corporation X to L, an unrelated person.

(ii) *Analysis.* Under this section, an amount equal to corporation S's basis in the redeemed stock (\$100) is treated as a loss recognized on a disposition of the redeemed stock on the date of the disposition. H, I, and J will be allocated \$60, \$20, and \$20 of the loss, respectively, in the year of the redemption. Both the allocation of dividend income and the allocation of the loss give rise to adjustments to each shareholder's basis in corporation S. H, I, and J, however, will not be able to take into account this loss until the final inclusion date or an accelerated loss inclusion date. In Year 2, when J sells his stock of corporation S to K, J is no longer a shareholder in corporation S and will be treated as the redeemed shareholder for purposes of determining whether a particular date is the final inclusion date or an accelerated loss inclusion date. In addition, the determination of whether the date of the Year 2 sale is the final inclusion date for J is made by comparing J's actual and constructive ownership of corporation S stock immediately prior to the redemption to J's actual and constructive ownership of corporation S stock at the end of the date of the Year 2 sale. However, for purposes of computing J's ownership of the redeeming corporation immediately prior to the redemption, section 318(a)(2)(C) is applied without regard to the 50 percent limitation contained therein. Immediately prior to the redemption, therefore, J is treated as owning actually and constructively 4 percent of the stock of corporation X and, at the end of the day of J's sale of corporation S stock, J owns, actually and constructively, no corporation X stock. Therefore, if the facts that existed on the date of the Year 2 sale had existed immediately after the redemption, J would have been treated as having received a distribution in part or full payment in exchange for the redeemed stock pursuant to section 302(a). Therefore, the date of J's sale of corporation S stock to K is the final inclusion date. J is permitted to take into account J's share of the loss attributable to the basis of the redeemed stock as of that date. While H and I remain shareholders of corporation S, whether a particular date is the final inclusion date will be determined by treating corporation S as the redeemed shareholder. Thus, in Year 3 when H disposes of his shares of corporation X, corporation S actually and constructively owns no stock of corporation X. As of that date, therefore, H and I will be permitted to take into account their respective shares of the loss attributable to the basis of the redeemed stock.

(g) *Effective date.* This section applies to transactions occurring after the date these regulations are published as final regulations in the **Federal Register**.

4. Section 1.304-1 is revised to read as follows:

§ 1.304-1 In general.

(a) *In general.* Section 304 is applicable where a shareholder sells stock of one corporation to a related corporation as defined in section 304. Sales to which section 304 is applicable shall be treated as redemptions subject to sections 302 and 303.

(b) *Effective date.* This section applies to transactions occurring after the date these regulations are published as final regulations in the **Federal Register**.

5. Section 1.304-2 is amended as follows:

1. Paragraphs (a) and (c) are revised.
2. Paragraph (d) is added.

The revisions and addition read as follows:

§ 1.304-2 Acquisition by related corporation (other than subsidiary).

(a) *In general.* (1) If a corporation (the acquiring corporation), in return for property, acquires stock of another corporation (the issuing corporation) from one or more persons, and the person or persons from whom the stock was acquired were in control of both such corporations, then such property shall be treated as received in redemption of stock of the acquiring corporation. As to each person transferring stock, the amount received shall be treated as a distribution to which section 301 applies if section 302(a) or 303 does not apply. For rules regarding the amount constituting a dividend in such cases, see § 1.304-6.

(2) In applying section 302(b), reference shall be had to the shareholder's ownership of stock in the issuing corporation and not to its ownership of stock in the acquiring corporation (except for purposes of applying section 318(a)), section 318(a) (relating to the constructive ownership of stock) shall be applied without regard to the 50 percent limitation contained in section 318(a)(2)(C) and (3)(C), and a series of redemptions referred to in section 302(b)(2)(D) shall include acquisitions by either of the corporations of stock of the other and stock redemptions by both corporations.

(3) If, pursuant to section 302(d), section 301 applies to the property treated as received in redemption of stock of the acquiring corporation pursuant to paragraph (a)(1) of this section, the transferor and the acquiring corporation shall be treated, for all Federal income tax purposes, in the same manner as if the transferor had transferred the stock of the issuing corporation to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and then the acquiring corporation had redeemed the

stock it was treated as issuing in the transaction in exchange for the property. Accordingly, under section 362, the acquiring corporation's basis in the stock of the issuing corporation is equal to the basis the transferor had in that stock and, under section 358, the transferor's basis in the stock of the acquiring corporation deemed issued to the transferor in the deemed transaction to which section 351(a) applies is equal to the transferor's basis in the stock of the issuing corporation it surrendered. Section 1.302-5 applies to the transferor's unutilized basis, if any, in the stock of the acquiring corporation treated as redeemed in connection with an acquisition described in paragraph (a)(1) of this section by treating the acquiring corporation as the redeeming corporation and the transferor as the redeemed shareholder.

(4) If section 301 does not apply to the property treated as received in redemption of stock of the acquiring corporation pursuant to paragraph (a)(1) of this section, the property received by the transferor shall be treated as received in a distribution in full payment in exchange for stock of the acquiring corporation under section 302(a). The basis and holding period of the stock of the acquiring corporation that is treated as having been redeemed shall be the same as the basis and holding period of the stock of the issuing corporation actually surrendered. The acquiring corporation shall take a cost basis in the stock of the issuing corporation that it acquires. See section 1012.

* * * * *

(c) *Examples.* For purposes of the examples in this section, each of corporation X and corporation Y is a domestic corporation that files U.S. tax returns on a calendar-year basis. The principles of this section are illustrated by the following examples:

Example 1. (i) *Facts.* Corporation X and corporation Y each have outstanding 100 shares of common stock. A, an individual, owns one-half of the stock of each corporation, B owns one-half of the stock of corporation X, and C owns one-half of the stock of corporation Y. A, B, and C are unrelated. A sells 30 shares of the stock of corporation X, which have an adjusted basis of \$10,000, to corporation Y for \$50,000.

(ii) *Analysis.* Because before the sale A owns 50 percent of the stock of corporation X and after the sale A owns only 35 percent of such stock (20 shares directly and 15 constructively because one-half of the 30 shares owned by corporation Y are attributed to A), the redemption is substantially disproportionate as to A pursuant to the provisions of section 302(b)(2). A, therefore, realizes a gain of \$40,000 (\$50,000 minus \$10,000). If the stock surrendered is a capital

asset, such gain is long-term or short-term capital gain depending on the period of time that such stock was held. The basis to A for the stock of corporation Y is not changed as a result of the sale. Under section 1012, the basis that corporation Y takes in the acquired stock of corporation X is its cost of \$50,000.

Example 2. (i) *Facts.* Corporation X and corporation Y each have outstanding 200 shares of common stock, all of which are owned by H, an individual. H has a basis in his corporation X stock of \$60 and in his corporation Y stock of \$30. Corporation X has \$80 of current and accumulated earnings and profits and corporation Y has \$80 of current and accumulated earnings and profits. H sells his 200 shares of corporation X stock to corporation Y for \$150.

(ii) *Analysis.* Because H is in control of both corporation X and corporation Y and receives property from corporation Y in exchange for the corporation X stock, H's sale of 200 shares of corporation X stock to corporation Y is subject to section 304(a)(1). Accordingly, H is treated as receiving \$150 as a distribution in redemption of corporation Y stock. Because H actually owns 100 percent of corporation X before the sale and is treated as owning 100 percent of corporation X after the sale, pursuant to section 302(d), section 302(a) does not apply to the deemed redemption distribution and the proceeds of the deemed redemption are treated as a distribution to which section 301 applies. Therefore, H is treated as transferring the corporation X stock to corporation Y in exchange for corporation Y stock in a transaction to which section 351(a) applies. Corporation Y's basis in the corporation X stock acquired is \$60, the same basis that H had in the corporation X stock surrendered. H takes a basis of \$60 in the corporation Y stock he is treated as receiving in the deemed section 351 exchange. That corporation Y stock is then treated as redeemed by corporation Y for \$150. Under section 302, that redemption is treated as a distribution to which section 301 applies because H owns directly 100 percent of corporation Y both before and after the redemption of the corporation Y stock that was deemed issued. Thus, the deemed redemption proceeds are treated as a distribution to which section 301 applies. Pursuant to § 1.304-6(a), H is treated as receiving a dividend of \$150 (\$80 from the current and accumulated earnings and profits of corporation Y and then \$70 from the current and accumulated earnings and profits of corporation X). An amount equal to the basis in the corporation Y stock that H is deemed to receive and that is deemed redeemed, \$60 is treated as a loss recognized on a disposition of the stock deemed redeemed on the date of the deemed redemption and is taken into account under rules set forth in § 1.302-5. H's basis in the 200 shares of corporation Y stock that H owned before the sale and continues to own immediately after the sale remains \$30.

Example 3. (i) *Facts.* The facts are the same as in Example 2, except that corporation X has \$5 of current and accumulated earnings and profits and corporation Y has \$25 of current and accumulated earnings and profits.

(ii) *Analysis.* As in Example 2, H takes a basis of \$60 in the corporation Y stock he is

treated as receiving and \$150 is treated as a distribution to which section 301 applies. Pursuant to § 1.304-6(a), H is treated as receiving a dividend of \$30 (\$25 from the current and accumulated earnings and profits of corporation Y and \$5 from the current and accumulated earnings and profits of corporation X). In addition, \$60 of the distribution is treated as a return of basis and \$60 of the distribution is treated as gain from the sale or exchange of corporation Y stock. H's basis in the 200 shares of corporation Y stock that he owned before and continues to own immediately after the sale remains \$30. Corporation Y's basis in the corporation X stock acquired is \$60, the same basis that H had in the corporation X stock surrendered.

Example 4. (i) *Facts.* A, an individual, owns 100 shares of corporation X stock, which is all of the outstanding stock of corporation X. A has a basis of \$1 in each share of his corporation X stock. B, the son of A, owns all the outstanding stock of corporation Y. A sells 25 shares of the stock of corporation X to corporation Y for \$50. For that year, the current and accumulated earnings and profits of corporation Y exceed \$50.

(ii) *Analysis.* Because A is in control of both corporation X and corporation Y (corporation X directly and corporation Y through attribution from B) and receives property in exchange for the corporation X stock, A's sale of corporation X stock to corporation Y is subject to section 304(a)(1). Consequently, A is treated as transferring the corporation X stock to corporation Y in exchange for corporation Y stock in a transaction to which section 351(a) applies. That corporation Y stock is then treated as redeemed by corporation Y for \$50. Before the deemed redemption of the corporation Y stock, A owned 100 percent of corporation Y directly and constructively. After the deemed redemption, A owns 100 percent of corporation Y constructively by attribution from B. Accordingly, the redemption distribution is treated as a distribution to which section 301 applies. Because the earnings and profits of corporation Y exceed the amount of cash paid by corporation Y to A for the corporation X stock, pursuant to § 1.304-6(a), the entire amount is a dividend. An amount equal to the basis in the corporation Y stock that A was deemed to receive and that was then deemed redeemed, \$25, is treated as a loss recognized on a disposition of the stock deemed redeemed on the date of the deemed redemption and is taken into account under rules set forth in § 1.302-5. A's basis in the 75 shares that he continues to hold remains \$1 per share for an aggregate basis of \$75.

(d) *Effective date.* This section, except for paragraph (b) of this section, applies to transactions occurring after the date these regulations are published as final regulations in the **Federal Register**. Paragraph (b) of this section applies on and after December 2, 1955.

6. Section 1.304-3 is amended as follows:

1. Paragraph (a) is revised.
2. Paragraph (c) is added.

The revision and addition read as follows:

§ 1.304-3 Acquisition by a subsidiary.

(a) *In general.* If a subsidiary, in return for property, acquires stock of its parent corporation from a shareholder of the parent corporation, the acquisition of such stock shall be treated as if the parent corporation had redeemed its own stock in exchange for the property. For purposes of this section, a corporation is a parent corporation if it meets the 50 percent ownership requirements of section 304(c). The determination of whether the amount received shall be treated as an amount received in payment in exchange for the stock shall be made by applying section 303, or by applying section 302(b) with reference to the stock of the issuing parent corporation. For rules regarding the amount that constitutes a dividend in a redemption treated as a distribution subject to section 301, see § 1.304-6. For the treatment of the redeemed shareholder's basis in the redeemed stock in such cases, see § 1.302-5. Section 1.302-5 applies to the shareholder's unutilized basis, if any, in the stock of the parent corporation treated as redeemed in connection with an acquisition described in this paragraph (a) by treating the parent corporation as the redeeming corporation and the shareholder as the redeemed shareholder.

* * * * *

(c) *Effective date.* This section applies on and after December 2, 1955, except for paragraph (a) of this section, which applies to transactions occurring after the date these regulations are published as final regulations in the **Federal Register**.

7. Section 1.304-5 is amended as follows:

1. Paragraph (a) is amended by adding a sentence at the end of the paragraph.
2. Paragraph (c) is revised.

The revision and addition read as follows:

§ 1.304-5 Control.

(a) * * * Specifically, section 318(a) shall be applied by using the language "5 percent" instead of "50 percent" in section 318(a)(2)(C) and by using the language "5 percent" instead of "50 percent" in section 318(a)(3)(C), except that if section 318(a)(3)(C) would not have applied but for this substitution, by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owned in such

corporation bears to the value of all stock in such corporation.

* * * * *

(c) *Effective date.* This section applies on and after January 20, 1994, except the last sentence of paragraph (a) of this section applies to transactions occurring after the date these regulations are published as final regulations in the **Federal Register**.

8. Section 1.304-6 is added to read as follows:

§ 1.304-6 Amount constituting a dividend.

(a) *In general.* The determination of the amount of the property that is a dividend is made as if the property were distributed by the acquiring corporation to the extent of its earnings and profits and then by the issuing corporation to the extent of its earnings and profits. Where, however, the acquiring corporation is a foreign corporation, for purposes of the preceding sentence, the earnings and profits of the acquiring corporation are taken into account only to the extent that they—

(1) Are attributable to stock of the acquiring corporation owned (within the meaning of section 958(a)) by a corporation or individual that is—

(i) A United States shareholder (within the meaning of section 951(b)) of the acquiring corporation; and

(ii) The transferor or a person who bears a relationship to the transferor described in section 267(b) or 707(b); and

(2) Were accumulated during the period or periods such stock was owned by such person while the acquiring corporation was a controlled foreign corporation.

(b) *Effective date.* This section applies to transactions occurring after the date these regulations are published as final regulations in the **Federal Register**.

9. Section 1.704-1 is amended by adding paragraph (b)(4)(viii) to read as follows:

§ 1.704-1 Partner's distributive share.

* * * * *

(b) * * *

(4) * * *

(viii) *Loss attributable to basis of redeemed stock under § 1.302-5.* For rules regarding allocations on a redemption of stock all or a portion of which is treated as a dividend, see § 1.302-5(d)(6)(i).

* * * * *

10. Section 1.861-12 is added to read as follows:

§ 1.861-12 Characterization rules and adjustments for certain assets.

(a) through (c)(2)(v) [Reserved]. For further guidance, see § 1.861-12T(a) through (c)(2)(v).

(c)(2)(vi) *Adjustments in respect of redeemed stock for taxpayers using the tax book value method.* Solely for purposes of apportioning expenses on the basis of the tax book value of assets, the adjusted basis of any stock in a 10 percent owned corporation owned directly by a taxpayer that is a redeemed shareholder (as defined in § 1.302-5(b)(1)) with respect to such corporation shall be increased by the amount of any loss that has not been taken into account under § 1.302-5(c) as of the close of the redeemed shareholder's taxable year (unrecovered loss). If the redeemed shareholder does not own directly any shares in the 10 percent owned corporation as of the end of the taxable year, but is treated for purposes of section 302(b) as owning shares actually owned by another member of the redeemed shareholder's affiliated group, as defined in section 1504(a), or by a corporation that is either an affiliate described in § 1.904(i)-1(b)(1) or an affiliated corporation described in § 1.861-11T(d)(6) with respect to the redeemed shareholder, then the adjusted basis of the shares in the 10 percent owned corporation, if any, that are owned by such other corporation or corporations shall be increased by the amount of the redeemed shareholder's unrecovered loss (and allocated among such corporations, if applicable, in proportion to their relative adjusted bases (as adjusted pursuant to this paragraph and § 1.861-12T(c)(2)) in the stock of the redeeming corporation). These adjustments are to be made annually and are noncumulative.

(vii) *Examples.* Certain of the rules of this paragraph (c)(2) may be illustrated by the following examples:

Examples 1 and 2. [Reserved]. For further guidance, see § 1.861-12T(c)(2)(vii), *Examples 1 and 2.*

Example 3. The facts are the same as in § 1.861-12T(c)(2)(vii) *Example 2*, except that the taxable year is 2003, and during the taxable year Y redeems some of the shares of its stock held by X for \$100,000. X's adjusted basis in the redeemed shares is \$50,000. Because X still owns all of the outstanding stock of Y, the redemption is treated as a distribution with respect to the stock of Y under section 301. Under § 1.302-5, X's \$50,000 adjusted basis in the redeemed shares is treated as a loss recognized on the date of the redemption, none of which is taken into account in 2003. X invests the \$100,000 of redemption proceeds in assets that generate foreign source general limitation income. Under paragraph (c)(2)(vi) of this section, X's adjusted basis in its remaining Y stock is considered to be \$2,000,000 (\$1,950,000 adjusted basis in the Y stock plus \$50,000 unrecovered loss in the redeemed shares). X's adjusted basis of assets that generate foreign source general limitation income is considered to be

\$2,500,000 (\$2,000,000 adjusted basis in the Y stock plus \$500,000 other assets), and the resulting apportionment of interest expense is the same as in § 1.861-12T(c)(2)(vii) *Example 2.*

(c)(3) through (j) [Reserved]. For further guidance, see § 1.861-12T(c)(3) through (j).

11. Section 1.861-12T is amended as follows:

1. Paragraph (c)(2)(vi) is redesignated as paragraph (c)(2)(vii).

2. New paragraph (c)(2)(vi) is added. The addition reads as follows:

§ 1.861-12T Characterization rules and adjustments for certain assets (temporary regulations.)

* * * * *

(c) * * *

(2) * * *

(vi) [Reserved]. For further guidance, see § 1.861-12T(c)(2)(vi).

* * * * *

12. Section 1.1371-1 is added to read as follows:

§ 1.1371-1 Coordination with subchapter C.

(a) *No carryover between C and S years—*(1) *Loss attributable to basis of redeemed stock.* A loss described in § 1.302-5(a) is treated as a carryforward arising in a taxable year for which a corporation is a C corporation. Therefore, it may not be carried to a taxable year for which such corporation is an S corporation.

(2) [Reserved].

(b) *Effective date.* This section applies to transactions occurring after the date these regulations are published as final regulations in the **Federal Register**.

13. In § 1.1374-5, paragraph (a) is amended by adding a sentence at the end of the paragraph.

§ 1.1374-5 Loss carryforwards.

(a) *In general.* * * * However, for redemptions of stock occurring after the date these regulations are published as final regulations in the **Federal Register**, a loss attributable to the basis of redeemed stock that is taken into account pursuant to the rules of § 1.302-5 is allowed for purposes of section 1374(b)(2) as a deduction against net recognized built-in gain of the S corporation for the taxable year, provided that the loss arose in a year in which the corporation was a C corporation.

* * * * *

14. In § 1.1374-10, paragraph (a) is revised to read as follows:

§ 1.1374-10 Effective date and additional rules.

(a) *In general.* Except as provided in § 1.1374-5(a), §§ 1.1374-1 through

1.1374–9 apply for taxable years ending on or after December 27, 1994, but only in cases where the S corporation's return for the taxable year is filed pursuant to an S election or a section 1374(d)(8) transaction occurring on or after December 27, 1994.

* * * * *

15. In § 1.1502–13, paragraph (f)(7) *Example 3*(b) is revised to read as follows:

§ 1.1502–13 Intercompany transactions.

* * * * *

(f) * * *

(7) * * *

Example 3. * * *

(b) *Treatment as a section 301 distribution.* The merger of S into B is a transaction to which paragraph (f)(3) of this section applies. P is treated as receiving additional B stock with a fair market value of \$500 and, under section 358, a basis of \$250. Immediately after the merger, \$150 of the stock received is treated as redeemed, and the redemption is treated under section 302(d) as a distribution to which section 301 applies. Because the \$150 distribution is treated as not received as part of the merger, section 356 does not apply and no basis adjustments are required under section 358(a)(1)(A) and (B). Because B is treated under section 381(c)(2) as receiving S's earnings and profits and the redemption is treated as occurring after the merger, \$100 of the distribution is treated as a dividend under section 301 and P's basis in the B stock is reduced correspondingly under § 1.1502–32. Under paragraph (f)(2)(ii) of this section, P's \$100 of dividend income is not included in gross income. Accordingly, P has a \$75 excess loss account in the redeemed stock. That excess loss account is treated as income recognized on a disposition of the redeemed stock on the date of the redemption and is taken into account under the rules of § 1.1502–19(b)(5).

* * * * *

16. Section 1.1502–19 is amended as follows:

1. Paragraph (b)(2)(i) is amended by adding a sentence at the end of the paragraph.

2. Paragraph (b)(5) is added.

3. Paragraph (g) *Example 7* is added.

4. The heading for paragraph (h) is revised.

5. The first sentence of paragraph (h)(1) is removed and two new sentences are added in its place.

The revisions and additions read as follows:

§ 1.1502–19 Excess loss accounts.

* * * * *

(b) * * *

(2) * * * (i) * * * As another

example, if S redeems (or is treated as redeeming) P's S stock and, as a result, an excess loss account is either increased or created in such redeemed stock, P takes into account such excess

loss account under the rules of paragraph (b)(5) of this section.

* * * * *

(5) *Redemptions of member stock; treatment of excess loss account in redeemed stock*—(i) *In general.* In any case in which an amount received in redemption of S stock is treated as a distribution to P to which section 301 applies and such amount either increases or creates an excess loss account in the redeemed S stock, after adjusting such basis or excess loss account to reflect the application of section 301(c)(2), section 1059, § 1.1502–32, or any other applicable provision of the Internal Revenue Code or the regulations thereunder, such excess loss account is treated as income (ordinary income or gain) recognized on a disposition of the redeemed stock on the date of the redemption. Such income shall be taken into account by P under the provisions of this paragraph (b)(5).

(ii) *Inclusion of gain attributable to excess loss account in redeemed stock*—(A) *Amount taken into account on final inclusion date.* On the final inclusion date (as defined in § 1.302–5(b)(3)), P must include in income as ordinary income or gain the excess loss account in the redeemed stock, reduced by any amounts of such excess loss account that are taken into account pursuant to the provisions of paragraph (b)(5)(ii)(B) of this section.

(B) *Amount taken into account on accelerated income inclusion date.* (1) On an accelerated income inclusion date (as defined in paragraph (b)(5)(ii)(B)(2) of this section), P must include in income as ordinary income or gain the excess loss account of the redeemed stock to the extent of the lesser of—

(i) The amount of such excess loss account reduced by the amount of such excess loss account previously taken into account pursuant to this paragraph (b)(5)(ii); and

(ii) The amount of loss recognized on the disposition of stock of S that the group of which P is a member is permitted to take into account on such accelerated income inclusion date without regard to the application of § 1.337(d)–2T.

(2) An accelerated income inclusion date is a date on which P is permitted to take into account a loss recognized on a disposition of S stock without regard to the application of § 1.337(d)–2T.

(iii) *Application of other rules.* In addition to the rules set forth in this paragraph (b)(5), the rules of § 1.302–5(d) apply for purposes of determining the appropriate time to take into

account any portion of an excess loss account in redeemed stock by treating P as the redeeming shareholder and S as the redeeming corporation. However, the rules of § 1.302–5(d) shall be applied by using the language “accelerated income inclusion date” instead of “accelerated loss inclusion date” each time that term appears.

(iv) *Statement to be filed with returns.* With or as part of the income tax return for the year in which P takes into account any income attributable to an excess loss account in redeemed stock, P shall provide a statement entitled “Inclusion of Income Attributable to Excess Loss Account in Redeemed Stock.” The statement shall specify the amount of the income that is taken into account on such return pursuant to this paragraph (b)(5) and shall identify the shares to which such amounts relate.

* * * * *

(g) * * *

Example 7. Redemption of member stock. (a) *Facts.* P directly owns all of the outstanding stock of S1 and S2. S1 and S2 each own 50 shares of S3's outstanding 100 shares of stock. P is the common parent of the consolidated group. S1's adjusted basis in the S3 stock is \$50. In Year 1, S3 redeems all of its stock from S1 for \$100. In Year 2, P sells all of its shares of S1 stock to an unrelated party.

(b) *Analysis.* In Year 1, because S1 actually and constructively owns 100 percent of stock of S3 immediately before and immediately after the redemption, the redemption is treated as a distribution to which section 301 applies. S3's distribution is an intercompany distribution under § 1.1502–13(f)(2)(ii) and excluded from S1's gross income. Under § 1.1502–32, S1's basis in S3's stock is reduced by the amount of the distribution, creating an excess loss account of \$50. Pursuant to paragraph (b)(5)(i) of this section, that excess loss account is treated as income recognized on a disposition of the redeemed stock on the date of the redemption. That income, however, is not taken into account on such date. Instead, it is taken into account on the date on which S1 departs from the consolidated group as that date is the final inclusion date because, if the facts that exist at the end of that day had existed immediately after the redemption, the redemption would have been treated as a distribution in part or full payment in exchange for the redeemed stock pursuant to section 302(b)(3). Accordingly, S1 must include in its income as gain an amount equal to the excess loss account in the redeemed S3 stock.

(h) *Effective dates*—(1) *Application.* This section, except for the last sentence of paragraph (b)(2)(i), and paragraphs (b)(5) and (g) *Example 7* of this section, applies with respect to determinations of the basis of (including an excess loss account in) the stock of a member in consolidated return years beginning on or after January 1, 1995. The last

sentence of paragraph (b)(2)(i), and paragraphs (b)(5) and (g) *Example 7* of this section apply to transactions occurring after the date these regulations are published as final regulations in the **Federal Register**.

* * *

* * * * *

David A. Mader,

Acting Deputy Commissioner of Internal Revenue.

[FR Doc. 02-26449 Filed 10-17-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD05-02-080]

RIN 2115-AA97

Security Zone; Calvert Cliffs Nuclear Power Plant, Chesapeake Bay, Calvert County, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a security zone in the waters of the Chesapeake Bay near the Calvert Cliffs Nuclear Power Plant, Chesapeake Bay, Calvert County, Maryland. This security zone is necessary to help ensure public safety and security. The security zone will prohibit vessels and persons from entering a well-defined area around Calvert Cliffs Nuclear Power Plant.

DATES: Comments and related material must reach the Coast Guard on or before January 16, 2003.

ADDRESSES: You may mail comments and related material to Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Building 70, Port Safety, Security and Waterways Management Branch, Baltimore, Maryland, 21226-1791. The Port Safety, Security and Waterways Management Branch of Coast Guard Activities Baltimore maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Building 70, Port Safety, Security and Waterways Management Branch, Baltimore, Maryland, 21226-1791 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Dulani Woods, at Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576-2513.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD05-02-080, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission has reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, U.S. Coast Guard Activities Baltimore 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 separate notice in the **Federal Register**.

Background and Purpose

Based on the September 11, 2001 terrorist attacks on the World Trade Center buildings in New York and the Pentagon building in Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Calvert Cliffs Nuclear Power Plant. On February 28, 2002, the Coast Guard published a temporary rule entitled "Security Zone; Calvert Cliffs Nuclear Power Plant, Chesapeake Bay, Calvert County, MD," in the **Federal Register** (67 FR 9203). The temporary rule established a security zone around the Calvert Cliffs Nuclear Power Plant. Based on a continuing need for the protection of the plant, the effective date of the rule establishing a temporary security zone surrounding the plant was recently extended until March 31, 2003 (67 FR 61494, October 1, 2002). There is no indication that the present rule has been burdensome on the maritime public; users of the areas surrounding the plant are able to pass safely outside the zone.

No letters commenting on the present rule have been received by the public.

Discussion of Proposed Rule

The Coast Guard proposes to establish a permanent security zone on specified waters of the Chesapeake Bay near the Calvert Cliffs Nuclear Power Plant to reduce the potential threat imposed by vessels or persons that approach the power plant. The proposed security zone will be in effect continuously. Its effect would be to prohibit vessels or persons from entering into the security zone, unless specifically authorized by the Captain of the Port, Baltimore, Maryland. Federal, state and local agencies may assist the Coast Guard in the enforcement of this rule.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed security zone is of limited size, and vessels may transit around the zone.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Chesapeake Bay near the Calvert Cliffs Nuclear Power Plant.

If you think that your business, organization, or governmental

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Dulani Woods, at Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576-2513.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

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

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because this rule establishes a security zone. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.505 to read as follows:

§ 165.505 Security Zone; Calvert Cliffs Nuclear Power Plant, Chesapeake Bay, Calvert County, Maryland.

(a) *Location.* The following area is a security zone: All waters of the Chesapeake Bay, from surface to bottom, encompassed by lines connecting the following points, beginning at 38°26'06" N, 076°26'18" W, thence to 38°26'10" N, 076°26'12" W, thence to 38°26'21" N, 076°26'28" W, thence to 38°26'14" N, 076°26'33" W, thence to beginning at 38°26'06" N, 076°26'18" W. These coordinates are based upon North American Datum (NAD) 1983.

(b) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Baltimore, Maryland.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 410-576-2693 or on VHF channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: October 7, 2002.

R.B. Peoples,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 02-26462 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Chapter I****The Negotiated Rule Making Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore**

ACTION: Notice of changes and additions to the Negotiated Rulemaking Committee Membership.

SUMMARY: As required by section 3 of the Negotiated Rulemaking Act of 1990, 5 U.S.C. 564, the National Park Service (NPS) is giving notice of additions and changes to the members of the Negotiated Rulemaking Advisory Committee. The Committee was established to negotiate and develop a proposed rule revising off-road vehicle use regulations at Fire Island National Seashore (36 CFR 7.20).

FOR FURTHER INFORMATION CONTACT:

Barry T. Sullivan, Acting Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, New York 11772; telephone 631-289-4810, ext. 221; fax 631-289-4898.

SUPPLEMENTARY INFORMATION: The Secretary has determined that establishment of this Committee is in the public interest and supports the National Park Service in performing its duties and responsibilities under the National Park Service Organic Act, 16 U.S.C. 1 *et seq.*, and the Fire Island National Seashore, Act 16 U.S.C. 459e *et seq.*

Because of a transfer to another National Park Service site, Constantine Dillon is no longer the primary representative for the Department of the Interior. Barry Sullivan will become the primary representative and Wayne Valentine the alternate.

The Designated Federal Official is changed from Constantine Dillon to Barry Sullivan.

Because he will be running for public office and will not have the time to serve on the committee, J. Lee Snead resigned from the committee. Laurie

Farber will serve as the primary representative for Visitors, and Guy Jacob will serve as alternate.

Due to a change in assigned officers, Suffolk County Police Dept. has requested that their primary representative be changed from Deputy Inspector Robert C. Cassagne to Captain William Read. They have also requested that their alternate representative be changed from Captain Henry A. Mulligan to Police Officer Brian Cassidy.

The Inc. Village of Saltaire has requested that their alternate representative be changed from Scott Rosenblum to John Zaccaro, Jr.

The Inc. Village of Ocean Beach has requested that their primary representative be changed from James Mallott to Andrew Miller.

So that they would have better representation on the committee, the following groups have added alternate representatives.

Utility companies—Michael Harvey
On-island contractors—Walter Boss
Off-island contractors—Douglas R.

Teague
Town of Brookhaven—Linda B. Petersen
Village of Ocean Beach—Joseph C. Loeffler, Jr.

Dated: September 23, 2002.

Barry T. Sullivan,

Acting Superintendent, Fire Island National Seashore.

[FR Doc. 02-26602 Filed 10-17-02; 8:45 am]

BILLING CODE 4310-76-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[Region II Docket No. NJ53-245, FRL-7394-5]

Approval and Promulgation of Air Quality Implementation Plans; New Jersey; Open Market Emissions Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; withdrawal.

SUMMARY: In a January 9, 2001 proposed rule (66 FR 1796), EPA proposed to conditionally approve a revision New Jersey requested to its State Implementation Plan for ozone. The request related to an Open Market Air Emissions Trading (OMET) Program which New Jersey had adopted.

In a June 24, 2002 letter to the New Jersey Department of Environmental Protection (NJDEP), EPA identified a number of problems with the New Jersey OMET program. New Jersey responded in an August 13, 2002 letter to EPA, indicating it agreed with many of the concerns EPA had raised and also identifying additional problems. The Commissioner of NJDEP informed EPA that the Program has failed and New Jersey should terminate the OMET Program, and that New Jersey would begin that process. Therefore, EPA is announcing its decision to cease processing the New Jersey revision request and to withdraw its January 9, 2001 proposed conditional approval. EPA intends to work with New Jersey to address compliance issues concerning sources that currently hold or have been using credits.

DATES: The proposed rulemaking is withdrawn as of October 18, 2002.

FOR FURTHER INFORMATION CONTACT:

Richard Ruvo, Air Programs Branch, Environmental Protection Agency Region II, 290 Broadway, 25th Floor, New York, NY 10007-1866, (212) 637-4014.

List of Subjects in 40 CFR Part 52

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

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

Dated: October 7, 2002.

William J. Muszynski,

Deputy Regional Administrator, Region 2.

[FR Doc. 02-26440 Filed 10-17-02; 8:45 am]

BILLING CODE 6560-50-P

Notices

Federal Register

Vol. 67, No. 202

Friday, October 18, 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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection: Comment Request: FNS-583, Employment and Training Program Activity Report

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice invites the general public and other public agencies to comment on a proposed revision in information collection for the FNS-583, Employment and Training Program Activity Report. The proposed revision affects the collection currently approved under OMB No. 0584-0339.

DATES: Written comments must be submitted on or before December 17, 2002.

ADDRESSES: Send comments and requests for copies of this information collection to John Knaus, Chief, Program Design Branch, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed revision 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 of the proposed collection of information, including validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection

techniques or other form of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Micheal Atwell at (703) 305-2449, or send e-mail to micheal_atwell@fns.usda.gov via the Internet.

SUPPLEMENTARY INFORMATION:

Title of Information Collection: FNS-583, Employment and Training Program Activity Report.

OMB Number: 0584-0339.

Expiration Date: December 31, 2004.

Type of Request: Revision of a currently approved collection.

Abstract: Title 7 CFR 273.7(c)(6) requires State agencies to submit quarterly Employment and Training (E&T) Program Activity Reports containing monthly figures for participation in the program. The first quarter FNS-583 report includes the number of work-registered persons in a State as of October of the new fiscal year. On the fourth quarter FNS-583 report State agencies list the components of their E&T programs and the number of participants in each.

The currently approved FNS-583 report includes the number of participants newly work registered; work registrants exempted from the E&T Program; participants who volunteered and began an approved E&T component; E&T mandatory participants who began an approved E&T component; number of able-bodied adults without dependents (ABAWDs) exempted from the 3-month food stamp time limit under each State agency's 15 percent ABAWD exemption allowance; the number of filled and offered (unfilled) workfare slots in waived and unwaived geographic areas of the State; the number of filled and offered education and training slots in waived and unwaived geographic areas of the State; the amount of Federal 100 percent E&T funding spent on workfare slots that meet the requirements of Section 6(o)(2)(C) of the Food Stamp Act of 1977, as amended (the Act); and the amount of Federal 100 percent E&T funding spent on education and training slots that meet the requirements of section 6(o)(2)(B) of the Act.

On May 13, 2002, President Bush signed into law the Farm Bill—the Farm Security and Rural Investment Act of

2002 (Pub. L. 107-171). Title IV of the Farm Bill includes Section 4121, Employment and Training Program, which was effective upon enactment. Section 4121 includes several major revisions, one of which significantly affects the information collection on the FNS-583 by eliminating the maximum reimbursement rates for offering and filling qualifying education/training and workfare opportunities for ABAWDs (slot rates). Thus, the information reporting the numbers of filled and offered education/training slots and workfare slots in waived and unwaived geographic areas is no longer required. Additionally, we are taking this opportunity to further revise and streamline the FNS-583 report by condensing, combining, or eliminating other information collection requirements.

Reporting Burden:

Frequency: The FNS-583 report must be completed and submitted to FNS on a quarterly basis by the 45th day following the end of the quarter.

Affected Public: State governments.

Number of Respondents: 53.

Number of Responses: 212.

Estimated Time per Response: 138 hours per State agency.

Estimated Total Annual Reporting Burden: 29,216 hours.

Recordkeeping Burden:

Number of Respondents: 53.

Number of Records: 212.

Number of Hours Per Record: 0.137 hours.

Estimated Total Annual Recordkeeping burden: 29 hours.

Total Annual Reporting and Recordkeeping Burden: 29,245 hours.

Dated: October 9, 2002.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 02-26566 Filed 10-17-02; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Del Norte County Resource Advisory Committee (RAC) will meet on November 5, 2002 in

Crescent City, California. The purpose of the meeting is to discuss the selection of Title II projects under Public Law 106-393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the "Payments to States" Act.

DATES: The meeting will be held on November 5, 2002 from 6 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Elk Valley Rancheria Community Center, 2298 Norris Avenue, Crescent City, California.

FOR FURTHER INFORMATION CONTACT:

Laura Chapman, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501. Phone: (707) 441-3549. E-mail: 1chapman@fs.fed.us.

SUPPLEMENTARY INFORMATION: Agenda items include a discussion of the Smith River National Recreation Area program of work for fiscal year 2003, voting on a project proposed by the California Conservation Corps., and a discussion of the committee's ground rules. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: October 10, 2002.

Roy E. Bergstrom,

Acting Forest Supervisor.

[FR Doc. 02-26539 Filed 10-17-02; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[CA 668_02_1610_DO_083A]

Monument Advisory Committee Meeting Announcement

AGENCY: Bureau of Land Management, Interior; United States Forest Service, Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Land Management (BLM) and United States Forest Service (USFS) announces a meeting of the Advisory Committee to the Santa Rosa and San Jacinto Mountains National Monument (hereinafter referred to as ANational Monument@). The meeting will be held on Saturday, November 23, 2002. The location for the meeting will be Palm Desert City Hall Council Chambers, located at 73-510 Fred Waring Drive, Palm Desert, California, 92260. The

meeting will take place from 9 a.m. until 4 p.m. There will be a half hour dedicated to public input from 1 p.m. until 1:30 p.m. A sign up sheet will be located at the meeting room on the day of the meeting. Speakers wishing to comment publicly should sign the public comment sign-in sheet provided at the location of the meetings. All committee meetings are open to the general public, including representatives of the news media. Any organization, association, or individual may file a statement with or appear before the committee and its working groups regarding topics on a meeting agenda—except that the chairperson or the designated federal official may require written comments to the Advisory Committee. The topics to be discussed at the November 23rd, 2002 meeting include Issue Development and Alternative Development for the Management Plan for the National Monument. Additional information regarding the National Monument can be found on the following Web page : <http://www.ca.blm.gov/palmsprings/>. The subject matter of subsequent meetings will focus on the development and implementation of the Santa Rosa and San Jacinto Mountains National Monument Management Plan. This notice of the November 23rd, 2002 meeting date adds another meeting date to the previously noticed dates for Advisory Committee meetings. All meetings will occur from 9 a.m. until 4 p.m. at the same location listed above. The complete list of upcoming meeting dates follows:

- October 5th, 2002,
- November 23rd, 2002,
- December 5th, 2002,
- February 1, 2003.

The Monument Advisory Committee (MAC) is a committee of citizens appointed to provide advice to the BLM and USFS with respect to preparation and implementation of the management plan for the National Monument as required in the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (16 U.S.C. 431nt). The act authorized establishment of the MAC with representative members from State and local jurisdictions, the Agua Caliente Band of Cahuilla Indians, a natural science expert, local conservation organization, local developer or building organization, the Winter Park Authority and a representative from the Pinyon Community Council.

The meeting will be open to the public with attendance limited to space available. Individuals who plan to attend and need special assistance such as sign language interpretations or other

reasonable accommodations should notify the contact person listed below in advance of the meeting. Persons wishing to make statements will need to sign up at the meeting location.

DATES: November 23rd, 2002. The meeting will take place from 9 a.m. to 4 p.m. with an afternoon public comment period from 1 p.m. to 1:30 p.m.

ADDRESSES: The meeting will be held in the Council Chambers of the Palm Desert City Hall, 73-510 Fred Waring Drive, Palm Desert, California, 92260.

FOR FURTHER INFORMATION CONTACT:

Written comments should be sent to Miss Danella George, Santa Rosa San Jacinto Mountains National Monument Manager, Bureau of Land Management, PO Box 581260, North Palm Springs, CA 92258; or by fax at (760) 251-4899 or by e-mail at dgeorge@ca.blm.gov.

Information can be found on our webpage: <http://www.ca.blm.gov/palmsprings/>. Documents pertinent to this notice, including comments with the names and addresses of respondents, will be available for public review at the Palm Springs-South Coast Field Office located at 690 W. Garnet Avenue, North Palm Springs, California, during regular business hours 8 a.m. to 4 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Santa Rosa and San Jacinto Mountains National Monument was established by act of Congress and signed into law on October 24, 2000. The National Monument was established in order to preserve the nationally significant biological, cultural, recreational, geological, educational and scientific values found in the Santa Rosa and San Jacinto Mountains. This legislation established the first monument to be jointly managed by the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS). The Santa Rosa and San Jacinto Mountains National Monument Act of 2000 affects only Federal lands and Federal interests located within the established boundaries.

The 272,000 acre Monument encompasses 86,400 acres of Bureau of Land Management lands, 64,400 acres of Forest Service lands, 23,000 acres of Agua Caliente Band of Cahuilla Indians lands, 8,500 acres of California Department of Parks and Recreation lands, 35,800 acres of other State of California agencies lands, and 53,900 acres of private land. The BLM and the Forest Service will jointly manage Federal lands in the National Monument in coordination with the Agua Caliente Band of Cahuilla Indians,

other federal agencies, state agencies and local governments.

Dated: October 8, 2002.

Danella George,

Designated Federal Official, National Monument Manager, Bureau of Land Management.

Laurie Rosenthal,

District Ranger, San Jacinto Ranger District, San Bernardino National Forest, Forest Service.

[FR Doc. 02-26477 Filed 10-17-02; 8:45 am]

BILLING CODE 4310-40-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a service previously furnished by such agencies.

EFFECTIVE DATE: November 17, 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:

Additions

On November 23, 2001, June 21, July 26, August 16, and August 23, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (66 FR 58712, 67 FR 42235, 48870, 53561, and 54629) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4. I certify that the following action will not have a significant impact on a substantial number of small entities.

The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List.

Accordingly, the following products and services are added to the Procurement List:

Products

Product/NSN: Paper, Copy, 50% PCW,
7530-00-NIB-0644,
7530-00-NIB-0645,
7530-00-NIB-0646,
7530-00-NIB-0647.

NPA: Louisiana Association for the Blind, Shreveport, Louisiana.

Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Product/NSN: Rayon Deck Mop, Refill, M.R. 1028, Cotton Deck Mop, Refill, M.R. 1029.

NPA: Arizona Industries for the Blind, Phoenix, Arizona.

NPA: Mississippi Industries for the Blind, Jackson, Mississippi.

NPA: New York City Industries for the Blind, Brooklyn, New York.

Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.

Services

Service Type/Location: Base Supply Center, U.S. Army Combined Arms Center & Fort Leavenworth, Fort Leavenworth, Kansas.

NPA: Envision, Inc., Wichita, Kansas.

Contract Activity: U.S. Army Combined Arms Center & Fort Leavenworth.

Service Type/Location: Base Supply Center, U.S. Army Maneuver Support Center, Fort Leonard Wood, Missouri.

NPA: Alhappointe Association for the Blind, Kansas City, Missouri.

Contract Activity: U.S. Army Maneuver Support Center, Fort Leonard Wood, Missouri.

Service Type/Location: Grounds Maintenance, Fort Douglas, Cemetery, Salt Lake City, Utah.

NPA: Community Foundation for the Disabled, Inc., Salt Lake City, Utah.

Contract Activity: U.S. Army, 96th Regional Support Command, Salt Lake City, Utah.

Service Type/Location: Office Supply Store, Herbert Hoover Building, Washington, DC.

NPA: Columbia Lighthouse for the Blind,

Washington, DC.

Contract Activity: Department of Commerce, Washington, DC.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action may result in authorizing small entities to furnish the service 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 service deleted from the Procurement List.

After consideration of the relevant matter presented, the committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

Accordingly, the following service is deleted from the Procurement List:

Service

Service Type/Location: Janitorial/Grounds Maintenance, Nininger U.S. Army Reserve Center, Fort Lauderdale, Florida.

NPA: Goodwill Industries of Broward County, Inc., Ft. Lauderdale, Florida.

Contract Activity: U.S. Army, 81st Regional Support Command.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02-26595 Filed 10-17-02; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must be Received on or Before: November 17, 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.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each service will be required to procure the 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 services to the Government.

2. If approved, 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. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Cleaning Services, Laguna Atascosa NWR, Rio Hondo, Texas.

NPA: Training, Rehabilitation & Development Institute, Inc., San Antonio, Texas.

Contract Activity: Department of Interior, Albuquerque, New Mexico.

Service Type/Location: Facilities Management, John F. Kennedy Presidential Library, Boston, Massachusetts.

NPA: Work, Incorporated, North Quincy, Massachusetts.

Contract Activity: National Archives & Records Service, College Park, Maryland.

Service Type/Location: Janitorial/Custodial, Army Reserve Center, Fort Harrison, Indianapolis, Indiana.

NPA: Child-Adult Resource Services, Inc., Green Castle, Indiana.

Contract Activity: HQ, 88th Regional Support Command, Fort Snelling, Minnesota.

Service Type/Location: Recycling Service, Cape Cod National Seashore, Wellfleet, Massachusetts.

NPA: Nauset, Inc., Hyannis, Massachusetts.

Contract Activity: National Park Service, Wellfleet, Massachusetts.

Service Type/Location: Switchboard Operation, Shaw Air Force Base, South Carolina.

NPA: Goodwill Industries of Lower SC, Inc., North Charleston, South Carolina.

Contract Activity: 20th Contracting Squadron/LGCA, Shaw AFB, South Carolina.

Deletions

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 products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products proposed for deletion from the Procurement List.

The following products are proposed for deletion from the Procurement List:

Products

Product/NSN: Pencil, Mechanical
7520-00-285-5822
7520-00-285-5823
7520-00-285-5826

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Product/NSN: Strap Assembly, Litter
1680-00-878-6964

NPA: Huntsville Rehabilitation Foundation, Huntsville, Alabama.

Contract Activity: Defense Supply Center Richmond, Richmond, Virginia.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02-26596 Filed 10-17-02; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the

following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology.

Title: National Weights and Measures Benchmarking and Needs Assessment Survey.

Form Number(s): None.

OMB Approval Number: None.

Type of Request: Regular submission.

Burden Hours: 396.

Number of Respondents: 79.

Average Hours Per Response: 6 hours.

Needs and Uses: The purpose of the National Weights and Measures Benchmarking and Needs Assessment Survey is to provide a comprehensive information base that can be used in strategic planning. The information will evaluate the effectiveness of the national weights and measures infrastructure, provide a basis for comparing weights and measures programs to one another, identify how the resources for the U.S. weights and measures system has changed over 10 years, identify the number of businesses, measuring devices, the volume of business done in various business sectors subject to weights and measures inspections, and to identify the most critical needs under the current environment and operation conditions of the programs.

Affected Public: State, local or tribal government, and business or other for-profit organizations.

Frequency: One-time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Office, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: October 11, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02-26459 Filed 10-17-02; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-423-808]

Stainless Steel Plate in Coils From Belgium; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 7, 2002, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on stainless steel plate in coils from Belgium (67 FR 39354). This review covers imports of subject merchandise from ALZ, N.V. (ALZ) and its affiliated U.S. importer TrefilARBED, Inc. (TrefilARBED). The period of review ("POR") is May 1, 2000 through April 30, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results of review. The final weighted-average dumping margin is listed below in the section entitled "Final Results of the Review."

EFFECTIVE DATE: October 18, 2002.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon at (202) 482-0162, Javier Barrientos at (202) 482-2243, or Brett Royce at (202) 482-4106, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:**Applicable Statute & 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's regulations are to the regulations codified at 19 CFR part 351 (2001).

Background

Since the issuance of the preliminary results of review, (see *Stainless Steel Plate in Coils From Belgium: Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 39354 (June 7, 2002) ("Preliminary Results")), the following events have occurred. On July 8, 2002, we received a timely written case brief from Allegheny Ludlum, Corp., AK Steel Corporation, Butler Armco Independent Union, North American Stainless, Zanesville Armco Independent Union,

and the United Steelworkers of America, AFL-CIO/CLC (collectively, petitioners). On July 9, 2002, we received a timely written case brief from the respondent ALZ and its affiliated U.S. importer TrefilARBED.¹ On July 16, 2002, we received a timely rebuttal brief from the respondent. We have now completed the administrative review in accordance with section 751 of the Act.

Scope of the Antidumping Duty Order

The product covered by this order is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. In addition, certain cold-rolled stainless steel plate in coils is also excluded from the scope of these orders. The excluded cold-rolled stainless steel plate in coils is defined as that merchandise which meets the physical characteristics described above that has undergone a cold-reduction process that reduced the thickness of the steel by 25 percent or more, and has been annealed and pickled after this cold reduction process.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80.

¹ On July 8, 2002, the Department received the "non-final" business proprietary version of respondent's case brief. The following day, July 9, 2002, respondent submitted the "final" business proprietary version.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" ("Decision Memorandum") from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 7, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B-099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations. The changes are listed below:

- We added Billing Adjustment 2 to U.S. price;
- For the purpose of deriving CEP profit, we deducted billing adjustments from both home market and U.S. price;
- We did not deduct indirect selling expenses incurred in Belgium for U.S. sales from U.S. price;
- We have reallocated U.S. warranty expenses reported by TrefilARBED at verification on a CONNUM-specific basis.

Final Results of Review

We determine that the following percentage margin exists for the period May 1, 2000 through April 30, 2001:

Manufacturer/exporter	Margin (percent)
ALZ, N.V.	3.84

Assessment

The Department will determine, and the U.S. Customs Service (Customs) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific

assessment rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to Customs within 15 days of publication of these final results of review. We will direct Customs to assess the resulting assessment rates against the entered Customs values for the subject merchandise on each of the importer's entries during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of the final results of this administrative review for all shipments of stainless steel plate in coils from Belgium entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 9.86 percent, which is the "all others" rate established in the LTFV investigation (see *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil From Belgium*, 64 FR 15476 (March 31, 1999)). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance

with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: October 7, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

List of Issues

Comment 1: U.S. Billing Adjustment 2
 Comment 2: CEP Profit Calculation
 Comment 3: Indirect Selling Expenses
 Comment 4: Date of Sale
 Comment 5: Warranty Expenses

[FR Doc. 02-26608 Filed 10-17-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101002B]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Whiting Oversight Committee and Advisory Panel in November, 2002. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Monday, November 4, 2002 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Ferncroft, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 465-0492.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0492.

SUPPLEMENTARY INFORMATION: The committee and panel will review information and analyses included in Framework 37 to the Northeast Multispecies Fishery Management Plan (FMP). They will provide recommendations for Council consideration for final selection of management measures to be included in Framework 37; measures in Framework 37 may eliminate the Year 4 default measure in both whiting stock areas, increase opportunities for whiting fishing in the Cultivator Shoal Whiting Fishery and other fisheries in the northern stock area, and adjust other whiting management measures. They will also consider a new control date for small mesh multispecies (whiting, red hake, offshore hake) and development of related recommendations for Council consideration.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: October 11, 2002.

Richard W. Surdi,

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

[FR Doc. 02-26598 Filed 10-17-02; 8:45 am]

BILLING CODE 3510-22-S

CONSUMER PRODUCT SAFETY COMMISSION

Petition Requesting Ban of All-Terrain Vehicles Sold for Use by Children Under 16 Years Old

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission has received a petition (CP-02-4/ HP-02-1) requesting that the Commission ban the sale of adult-size four wheel all-terrain vehicles ("ATVs") sold for the use of children under 16 years of age. The

Commission solicits written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by December 17, 2002.

ADDRESSES: Comments, preferably in five copies, on the petition should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0800, or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by telefacsimile to (301) 504-0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned "Petition CP-02-4/HP-02-1, Petition on ATVs." A copy of the petition is available for inspection at the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0800, ext. 1232.

SUPPLEMENTARY INFORMATION: The Commission has received correspondence from Consumer Federation of America ("CFA") and other groups¹ requesting that the Commission take several actions concerning all-terrain vehicles ("ATVs"). The Commission is docketing their request for a ban of the sale of adult-size four wheel ATVs sold for the use of children under 16 as a petition under the Consumer Product Safety Act, 15 U.S.C. 2057, and the Federal Hazardous Substances Act, 15 U.S.C. 1261(q)(1)(A). The petitioners assert that ATVs pose an unreasonable risk of injury and death to children. They cite Commission data that between 1982 and 2001 there were reports of 4,541 ATV-related deaths, and that 1,714 (or 38%) of those deaths were children under 16 years old. They also note that in the year 2001, there were 111,700 people taken to emergency rooms for ATV-related injuries, of which 34,800 were under 16 years old. They argue that there is no feasible standard that would address the risks ATVs pose to children.

Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0800. Copies of the petition are also

available for inspection from 8:30 a.m. to 5 p.m., Monday through Friday, in the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

Dated: October 10, 2002.

Todd Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 02-26458 Filed 10-17-02; 8:45 am]

BILLING CODE 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, October 24, 2002, 10 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

Petition HP 99-1 Polyvinyl Chloride (PV)

The staff will brief the Commission on Petition HP 99-1 requesting a ban of polyvinyl chloride (PVC) in all toys and other products intended for children five years of age and under.

For a recorded message containing the latest agenda information, call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL

INFORMATION: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504-0800.

Dated: October 15, 2002.

Todd A. Stevenson,

Secretary.

[FR Doc. 02-26730 Filed 10-16-02; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement for Proposed Aircraft Conversion at Martinsburg, WV

Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 United States Code 4321, *et seq.*), the Council on Environmental Quality (CEQ) Regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations (CFR) parts 1500-1508), and Air Force policy and procedures (32 CFR part 989), This announcement provides notice that the

Air Force proposes a conversion of C-130 aircraft to C-5 aircraft along with associated actions to meet strategic airlift requirements of the U.S. Air Force and Air National Guard. This action requires a unique mix of facilities and support capabilities associated with the C-5, the largest cargo aircraft in the Department of Defense inventory. The eventual receiving location would maintain and operate an inventory of 10 C-5 aircraft.

The Air National Guard is preparing an EIS to assess potential environmental impacts associated with the proposed conversion from C-130 to C-5 aircraft at the 167th Airlift Wing (167 AW), Martinsburg, WV. The 167th AW action would consist of three primary components: (1) Conversion from C-130 to C-5 aircraft; (2) acquisition of land through lease; from the Eastern West Virginia Airport and (3) construction of both ANG and the Eastern West Virginia Regional Airport facilities on existing and acquired parcels. The EIS will address alternatives to the proposed action, including alternative facilities development scenarios, reduced airfield expansion, and the No Action Alternative.

The ANG will initiate a public scoping process to facilitate identification of the relevant scope of environmental issues to be addressed in the EIS. The public will be invited to participate in scoping meetings and review the Draft EIS. Notification of the meeting locations and time will be made in the local area and will be announced via local news media. Information gathered during the public scoping will be used in the development of the Draft EIS.

For Further Information Contact: ANG/CEVP, Martinsburg EIS, Attention: Lt Col TJ Mitnik, 3500 Fetchet Avenue, Andrews Air Force Base, MD 20762.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02-26604 Filed 10-17-02; 8:45 am]

BILLING CODE 5001-05-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Biomass Research and Development Technical Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research

¹ The other groups are the American Academy of Pediatrics, the American College of Emergency Physicians, Bluewater Network, the Center for Injury Research and Policy, the Danny Foundation for Crib and Child Product Safety, Kids in Danger, National Association of Orthopaedic Nurses, and U.S. PIRG.

and Development Act of 2000. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and Development Technical Advisory Committee.

DATES: November 6, 2002, 8:30 a.m.

ADDRESSES: Hilton Crystal City Hotel at National Airport, Crystal Room, 2399 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: John Ferrell, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586-7766.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance that promotes research and development leading to the production of biobased industrial products.

Tentative Agenda: Agenda will include discussions on the following:

- Full committee discussion to finalize the Roadmap document for federal biomass research and development programs.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you should contact John Ferrell at (202) 586-7766 or Bioenergy@ee.doe.gov (email). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room; Room 1E-190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on October 11, 2002.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02-26556 Filed 10-17-02; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03-22-000]

Arizona Public Service Company; Notice of Filing

October 11, 2002.

Take notice that on October 8, 2002, Arizona Public Service Company (APS) tendered for filing an Interconnection and Operating Agreement with Aitibi Consolidated Sales Corporation (Abitibi) under APS' Open Access transmission Tariff, designated as Service Agreement No. 210.

A copy of this filing has been served on Abitibi and the Arizona Corporation Commission.

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 "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or TTY, (202) 502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: October 29, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-26497 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02-36-001]

Canyon Creek Compression Company; Notice of Compliance Filing

October 11, 2002.

Take notice that on October 8, 2002, Canyon Creek Compression Company (Canyon) tendered for filing to be part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff), Substitute Original Sheet No. 165A, to be effective September 20, 2002.

Canyon states that the purpose of this filing is to comply with the Commission's "Order Conditionally Accepting Tariff Sheet" issued on September 20, 2002, in Docket No. GT02-36-000.

Canyon states that copies of the filing are being mailed to each person designated on the official service list in Docket No. GT02-36-000.

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 in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-26495 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP01-142-001]

Columbia Gas Transmission Corporation; Notice of Petition To Amend

October 11, 2002.

Take notice that on October 4, 2002, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030-0146, filed in Docket No. CP02-142-001, a petition to amend the application filed April 5, 2002, in Docket No. CP02-142-000, requesting a certificate pursuant to sections 7(b) and (c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations for abandonment authorization and a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission facilities in Pennsylvania and Maryland to provide firm transportation service (FTS) under Part 284 of the Commission's Regulations for Rock Springs Generation, LLC (Rock Springs) and CED Rock Springs, Inc. (CEDRS) (together, "Customer"), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to revise its previously approved and requested proposals in Docket Nos. CP01-260-000, CP01-439-000 and CP02-142-000 because of changing needs and customer circumstances, as discussed in a public meeting at the Commission held September 4, 2002. It is stated that the customer for which facilities were authorized in Docket No. CP01-260-000 exercised its option to terminate its contract. That authorization included a proposal to abandon the existing compressor at the Downingtown compressor station in Pennsylvania and to construct and operate additional compression at the compressor station. It is stated that the proposal in Docket No. CP02-142-001 requires the additional compression; therefore, because those facilities were not installed, Columbia requests authorization in the instant docket to include abandonment of the existing compressor and construction of a new 6,000 horsepower compressor at Downingtown. Columbia has filed a separate application with proposed revisions to its Delaware Valley Energy Expansion Project in Docket No. CP01-439-003.

In Docket No. CP02-142-001, Columbia proposes to abandon 8.8 miles

of 10-inch pipeline in Chester County, Pennsylvania, and to construct and operate 8.8 miles of 24-inch pipeline (replacement of Line 1896), and to abandon 0.3 mile of 14-inch pipeline and to construct and operate 0.3 mile of 24-inch pipeline in Chester County (replacement of Line 1556), both as previously authorized in Docket No. CP01-439-000. It is stated that Columbia will use the expanded mainline capacity to transport up to 270,000 Dekatherms (dt) per day of natural gas to the Customer's power plant to be located in Rock Springs, Cecil County, Maryland, in order to serve the fuel requirements of the power plant and to serve future electric demand requirements. Columbia states that it has signed contracts with Rock Springs and CEDRS to transport gas for a term of 20 years, delivering 135,000 dt of gas per day to each. It is asserted that the replacement of the line will enhance reliability and flexibility for Columbia's existing customers through the creation of additional capacity during off-peak periods. Columbia states that it will make deliveries to the Customer using the existing Rock Springs Meter Station which was constructed by Columbia under the automatic provisions of its blanket certificate and paid for by the Customer.

Columbia estimates the cost of the project at \$29,214,400 and requests rolled-in rate treatment for the cost, asserting that the project satisfies the requirements of the Commission's Pricing Policy Statement for new construction. Columbia requests that a certificate be issued by December 18, 2002, in order to begin service by April 1, 2003.

Any questions regarding this application should be directed to Fredric J. George, Senior Attorney, at (304) 357-2359, Columbia Gas Transmission Company, PO Box 1273, Charleston, West Virginia 25325-1273.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before November 1, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and

by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. Comments and protests may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the Commission's Web site at <http://www.ferc.fed.us/efi/doorbell.htm>. The Commission strongly encourages intervenors to file electronically.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important to file comments or to intervene as early in the process as possible.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a

final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-26490 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-336-007]

El Paso Natural Gas Company; Notice of Compliance Filing

October 11, 2002.

Take notice that on October 7, 2002, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1-A, the tariff sheets listed in Appendix A to the filing, with an effective date of November 1, 2002.

El Paso states that the tariff sheets are being filed in compliance with the Commission's September 20, 2002 order in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02-26491 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-499-001]

Equitrans, L.P.; Notice of Compliance Filing

October 11, 2002.

Take notice that on October 9, 2002, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to become effective on October 1, 2002:

Sheet No. 225
Original Sheet No. 225A
Second Revised Sheet No. 276
Original Sheet No. 276A
Original Sheet No. 276B
Second Revised Sheet No. 277
Second Revised Sheet No. 278
Substitute Fourth Revised Sheet No. 308
Substitute First Revised Sheet No. 309

Equitrans states that the purpose of this tariff filing is to comply with the Commission's Letter Order, issued in Docket No. RP02-499-000, on September 27, 2002, where the Commission accepted the Equitrans tariff sheets to comply with Commission Order 587-O, subject to its filing certain modifications to include and delete standards in accordance with Version 1.5 of the North American Energy Standards Board.

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 in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions

on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02-26492 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02-2330-000 and EL00-62-039]

New England Power Pool and ISO—New England, Inc.; Notice

October 11, 2002.

Take notice that at the Commission's public meeting of October 9, 2002, the Agenda Item A-3 panel presentations and discussions on demand response matters may have touched upon matters relating to demand response issues currently being considered by the Commission in the dockets listed above. Consequently, the Commission is hereby providing an opportunity for parties in the dockets listed above to file comments on the presentations and discussions that pertain to issues pending in these dockets. The relevant portions of the transcripts of the October 9, 2002, Commission meeting will also be placed in the record of these dockets.

Any party in these dockets desiring to file comments 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). All such comments 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. Comments may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: October 31, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02-26562 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. EL03-10-000]

Northeast Utilities Service Company, Complainant, v. NRG Energy, Inc., Respondent.; Notice of Complaint

October 11, 2002.

Take notice that on October 9, 2002, Northeast Utilities Service Company (NUSCO) tendered for filing a public and non-public Complaint against NRG Energy, Inc. (NRG) asking for the enforcement of an Interconnection Agreement between NUSCO and NRG.

Copies of the Public Complaint were served upon NRG Energy, Inc., and the Connecticut Department of Public Utilities. The respondent and any interested person who has filed a motion to intervene in the complaint proceeding may make a written request to the complainant for a copy of the complete (non-public) complaint. The request must include an executed copy of the protective agreement which Northeast Utilities Service Company provided with its complaint to the Commission, as required by 18 CFR 385.206(e). Any party may file an objection to the proposed form of protective agreement.

Any person desiring to be heard 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. The answer to the complaint and all comments, interventions or protests must be filed on or before November 12, 2002. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 502-8659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18

CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-26501 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket Nos. ER02-1326-001 and ER02-1326-002]

PJM Interconnection, L.L.C.; Notice

October 11, 2002.

Take notice that at the Commission's public meeting of October 9, 2002, the Agenda Item A-3 panel presentations and discussions on demand response matters may have touched upon matters relating to demand response issues currently being considered by the Commission in the dockets listed above. Consequently, the Commission is hereby providing an opportunity for parties in the dockets listed above to file comments on the presentations and discussions that pertain to issues pending in these dockets. The relevant portions of the transcripts of the October 9, 2002, Commission meeting will also be placed in the record of these dockets.

Any party in these dockets desiring to file comments 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). All such comments 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. Comments may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: October 31, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02-26561 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Applications, Hearings, Determinations, etc.; Notice****Regional Transmission Organizations**

[Docket Nos. RT01-99-000, RT01-99-001, RT01-99-002 and RT01-99-003]

Bangor Hydro-Electric Company, et al.

[Docket Nos. RT01-86-000, RT01-86-001 and RT01-86-002]

New York Independent System Operator, Inc., et al.

[Docket Nos. RT01-95-000, RT01-95-001 and RT01-95-002]

PJM Interconnection, L.L.C., et al.

[Docket Nos. RT01-2-000, RT01-2-001, RT01-2-002 and RT01-2-003]

PJM Interconnection, L.L.C.

[Docket No. RT01-98-000]

ISO New England, Inc., New York Independent System Operator, Inc.

[Docket No. RT02-3-000]

October 11, 2002.

Take notice that PJM Interconnection, L.L.C., New York Independent System Operator, Inc. and ISO New England, Inc. have posted on their internet Web sites charts updating their progress on the resolution ISO seams.

Any person desiring to file comments on this information 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). All such comments should be filed on or before the comment date. Comments may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: October 31, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02-26563 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. RP02-523-001]

**Southern LNG Inc.; Notice of
Compliance Filing**

October 11, 2002.

Take notice that on October 7, 2002, Southern LNG Inc. (Southern) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets with an effective date of October 1, 2002:

Substitute Third Revised Sheet No. 5
Substitute Third Revised Sheet No. 6

Southern states that the purpose of this filing is to implement certain modifications to its tariff sheets in compliance with the Commission's Order issued on September 30, 2002, in the captioned proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-26493 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. RP02-289-001]

**Southern Natural Gas Company;
Notice of Compliance Filing**

October 11, 2002.

Take notice that on July 11, 2002, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, Substitute Seventh Revised Sheet No. 237, with an effective date of July 1, 2002.

Southern states that the filing implements certain directives in the Commission's order issued on June 26, 2002, in the captioned proceeding.

Southern states that copies of the filing are being served upon its customers and interested state commissions, and upon each party designated on the official service list.

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 October 21, 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 502-8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-26494 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. ER03-27-000]

**Tampa Electric Company; Notice of
Filing**

October 11, 2002.

Take notice that on October 9, 2002, Tampa Electric Company (Tampa Electric) tendered for filing a transaction-specific service agreement with Cargill Fertilizer, Inc. (Cargill) for non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff. Tampa Electric proposes that the service agreement be made effective on October 1, 2002.

Copies of the filing have been served on Cargill and the Florida Public Service Commission.

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 "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or TTY, (202) 502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: October 30, 2002.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-26496 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. ER03-28-000]****Walton County Power, LLC; Notice of Filing**

October 11, 2002.

Take notice that Walton County Power, LLC on October 9, 2002, tendered for filing a Notice of Succession pursuant to sections 35.16 and 131.51 of the Commission's regulations. Walton County Power, LLC is succeeding to the FERC Electric Tariff, Original Volume No. 1 and Rate Schedule FERC No. 1 of LG&E Power Monroe LLC, effective February 15, 2002 as a result of a name change. Consequently, the tariff sheets filed by LG&E Power Monroe LLC in Docket Nos. ER01-1301-000, *et al.*, and ER02-902-000 have been replaced with appropriate sheets reflecting the name change.

Copies of the filing were served on LG&E Energy Marketing Inc., the only party taking service under the agreements. 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 "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or TTY, (202) 502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: October 30, 2002.**Linwood A. Watson, Jr.,***Deputy Secretary.*

[FR Doc. 02-26498 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. ER02-2602-004, et al.]****Dayton Power and Light Company, et al.; Electric Rate and Corporate Regulation Filings**

October 3, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Dayton Power and Light Company and DPL Energy LLC

[Docket Nos. ER96-2602-004 and ER96-2601-015]

Take notice that The Dayton Power and Light Company and DPL Energy, LLC on September 27, 2002 tendered for filing an updated market power analysis.

Comment Date: October 18, 2002.**2. Allegheny Energy Supply Company, LLC, AYP Energy, Inc., Allegheny Energy Supply Conemaugh, LLC, Allegheny Energy Supply, Gleason Generating Facility, LLC, Allegheny Energy Supply, Lincoln Generating Facility, LLC, Allegheny Energy Supply, Wheatland Generating Facility, LLC, Allegheny Energy Supply, Hunlock Creek, LLC, Allegheny Power, Green Valley Hydro, LLC, and Buchanan Generation, LLC**

[Docket Nos. ER00-814-001, ER99-954-001, ER01-791-001, ER01-2067-002, ER01-2068-002, ER01-2066-001, ER01-332-001, ER98-1466-002, ER00-2924-002, and ER02-1638-001]

Take notice that on September 30, 2002, Allegheny Energy Supply Company, LLC, AYP Energy, Inc., Allegheny Energy Supply Conemaugh, LLC, Allegheny Energy Supply Gleason Generating Facility, LLC, Allegheny Energy Supply Lincoln Generating Facility, LLC, Allegheny Energy Supply Wheatland Generating Facility, LLC, Allegheny Energy Supply Hunlock Creek, LLC, Allegheny Power, Green Valley Hydro, LLC, and Buchanan Generation, LLC ("Applicants") filed their triennial market power report pursuant to the Commission's orders authorizing the Applicants to sell power at market-based rates.

Comment Date: October 21, 2002.**3. Southern Company Services, Inc.**

[Docket No. ER02-851-006]

Take notice that on September 27, 2002, on behalf of Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively, Southern Companies) submitted an Informational Filing. The purpose of this Informational Filing is to update the FERC Annual Charge component of Southern Companies' bulk transmission charges, as adopted by Southern Companies in this proceeding to amend their Open Access Transmission Tariff (FERC Electric Tariff, Fourth Revised Volume No. 5).

Comment Date: October 18, 2002.**4. ISO New England Inc.**

[Docket No. ER02-2153-001]

Take notice that on September 30, 2002, ISO New England Inc., submitted its compliance report in this proceeding.

Copies of the said filing have been served upon all parties to this proceeding and electronically upon the New England Power Pool participants.

Comment Date: October 21, 2002.**5. Bridger Valley Electric Association, Inc.**

[Docket No. ER02-2198-001]

Take notice that on September 30, 2002, Bridger Valley Electric Association, Inc. (Bridger Valley) submitted additional information to the Commission's letter dated August 16, 2002, that the June 28, 2002, Open Access Transmission Tariff and accompanying rates are deficient and requested further information.

Comment Date: October 21, 2002.**6. Southern Company Services, Inc.**

[Docket No. ER02-2220-002]

Take notice that on September 30, 2002, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively, Southern Companies), resubmitted First Revised Service Agreement No. 387 for long-term firm point-to-point transmission service under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5) (Tariff) in compliance with the Commission's order in this proceeding dated August 30, 2002.

Comment Date: October 21, 2002.

7. Southwest Power Pool, Inc.

[Docket Nos. ER02-2222-001, (not consolidated), ER02-2223-001, ER02-2224-001, ER02-2225-001, and ER02-2226-001]

Take notice that on September 30, 2002, Southwest Power Pool, Inc. (SPP) submitted for filing the compliance filing required by the Federal Energy Regulatory Commission's August 30, 2002 issued in the proceedings listed above. Southwest Power Pool, Inc., 100 FERC ¶ 61,239.

Comment Date: October 21, 2002.

8. Mt. Carmel Public Utility Company

[Docket No. ER02-2293-001]

Take notice that on September 30, 2002, Mt. Carmel Public Utility Company tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to its service agreement filed July 1, 2002. The amendment is cover sheets containing the proper designations and tariff references.

Comment Date: October 21, 2002.

9. Element Re Capital Products Inc.

[Docket No. ER02-2610-000]

Take notice that on September 30, 2002, Element Re Capital Products Inc., (Element Re) petitioned the Commission for acceptance of Element Re's Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Element Re intends to engage in wholesale electric power and energy transactions as a marketer and a broker. Element Re is not in the business of generating or transmitting electric power. Element Re is a privately held corporation formed under the laws of Delaware. Element Re's principal place of business is Stamford, Connecticut. In transactions where Element Re sells electric power it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party.

Comment Date: October 21, 2002.

10. Public Service Company of New Mexico

[Docket No. ER02-2611-000]

Take notice that on September 30, 2002, Public Service Company of New Mexico (PNM) submitted for filing an executed revised Network Integration Transmission Service Agreement (NITSA) and an associated revised Network Operating Agreement (NOA) with Tri-State Generation and Transmission Association, Inc. (Tri-State), with an effective date of August 31, 2002, under the terms of PNM's

Open Access Transmission Tariff (OATT). The NITSA and NOA have been updated to reflect current business arrangements between PNM and Tri-State, including the recently agreed to arrangements concerning Spinning Reserve Services, under a new Reserve Obligation Agreement between PNM and Tri-State, which is being filed as Exhibit "E" to the NITSA. PNM is requesting an effective date for the NITSA and NOA of August 31, 2002. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

A copy of this filing has been served upon Tri-State and informational copies have been sent to the New Mexico Public Regulation Commission and to the New Mexico Attorney General.

Comment Date: October 21, 2002.

11. Public Service Company of New Mexico

[Docket No. ER02-2612-000]

Take notice that on September 30, 2002, Public Service Company of New Mexico (PNM) submitted for filing, pursuant to the Regulations of the Federal Energy Regulatory Commission (18 CFR 35.15), Notices of Cancellation of rate schedules between PNM and Tri-State Generation and Transmission Association, Inc. (Tri-State). PNM's filing is a follow-up to a previously requested Notice of Cancellation of these same rate schedules that were postponed by request of PNM to await requisite regulatory approvals for certain replacement agreements.

Pursuant to PNM's filing, the agreements to be canceled include: Service Schedule A to the PNM-Tri-State Master Interconnection Agreement, dated February 28, 1977 (Rate Schedule FERC No. 31, Supplement 4); Service Schedule G to the PNM-Tri-State Master Interconnection Agreement, dated February 27, 1987 (Rate Schedule FERC No. 31, Supplements 43, 43.1, 43.2, 43.5, 45, and 45.1); and the Contract for Transmission Service Agreement Between PNM and Tri-State, dated July 11, 1968 (Rate Schedule FERC No. 12, Supplement 12.1). PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

A copy of this filing has been served upon Tri-State and informational copies have been sent to the New Mexico Public Regulation Commission and to the New Mexico Attorney General.

Comment Date: October 21, 2002.

12. American Electric Power Service Corporation

[Docket No. ER02-2613-000]

Take notice that on September 30, 2002, the American Electric Power Service Corporation (AEPSC), tendered for filing Specifications for Long-Term Firm PTP Transmission Service for Exelon Generation Company, LLC and Consumers Energy Company. These agreements are pursuant to the AEP Companies' Open Access Transmission Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Third Revised Volume No. 6.

AEPSC requests waiver of notice to permit the Specifications for Long-Term Firm PTP Transmission Service to be effective on and after September 1, 2002. A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: October 21, 2002.

13. Central Vermont Public Service Corporation

[Docket No. ER02-2614-000]

Take notice that Central Vermont Public Service Corporation (Central Vermont), on September 30, 2002, tendered for filing proposed modifications to its Open Access Transmission Tariff (OATT). The modifications permit Central Vermont to offer transmission service on portions of the Phase I and Phase II HVDC Transmission facilities that currently are under the control of third party holders of transmission rights who have given Central Vermont authority to broker those rights. The purpose of this filing is to improve the ability of transmission customers to obtain service over the Phase I/Phase II transmission lines by aggregating the transmission rights of several rights owners into a single block.

Copies of the filing were served upon the public utility's jurisdictional customers, New Hampshire Public Utilities Commission and Vermont Public Service Board.

Comment Date: October 21, 2002.

14. PPL Electric Utilities Corporation

[Docket No. ER02-2615-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of Rate Schedule FERC No. 114. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Delmarva Power & Light Company.

Comment Date: October 21, 2002.

15. PPL Electric Utilities Corporation

[Docket No. ER02-2616-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 98. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Public Service Company of New Hampshire.

Comment Date: October 21, 2002.

16. PPL Electric Utilities Corporation

[Docket No. ER02-2617-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of Rate Schedule FERC No. 99. Rate Schedule FERC No. 99 terminated by its own terms on May 31, 1992.

Notice of the termination has been served on Atlantic City Electric Company.

Comment Date: October 21, 2002.

17. PPL Electric Utilities Corporation

[Docket No. ER02-2618-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of Rate Schedule FERC No. 103. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Atlantic City Electric Company.

Comment Date: October 21, 2002.

18. PPL Electric Utilities Corporation

[Docket No. ER02-2619-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of Rate Schedule FERC No. 100. Rate Schedule FERC No. 100 terminated by its own terms on May 31, 1995.

Notice of the termination has been served on GPU Service Corporation.

Comment Date: October 21, 2002.

19. PPL Electric Utilities Corporation

[Docket No. ER02-2620-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of Rate Schedule FERC No. 102. PPL Electric Utilities requests that

the termination be effective on November 29, 2002.

Notice of the termination has been served on GPU Service Corporation.

Comment Date: October 21, 2002.

20. PPL Electric Utilities Corporation

[Docket No. ER02-2621-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of Rate Schedule FERC No. 104. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Public Service Electric and Gas Company.

Comment Date: October 21, 2002.

21. PPL Electric Utilities Corporation

[Docket No. ER02-2622-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of Rate Schedule FERC No. 105. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Baltimore Gas & Electric Company.

Comment Date: October 21, 2002.

22. PPL Electric Utilities Corporation

[Docket No. ER02-2623-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of Rate Schedule FERC No. 106. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Atlantic City Electric Company.

Comment Date: October 21, 2002.

23. PPL Electric Utilities Corporation

[Docket No. ER02-2624-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of Rate Schedule FERC No. 77. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Orange and Rockland Utilities, Inc.

Comment Date: October 21, 2002.

24. PPL Electric Utilities Corporation

[Docket No. ER02-2625-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination PPL Electric Utilities' Rate

Schedule FERC No. 76. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Consolidated Edison Company of New York, Inc..

Comment Date: October 21, 2002.

25. PPL Electric Utilities Corporation

[Docket No. ER02-2626-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 78. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Mohawk Power Corporation.

Comment Date: October 21, 2002.

26. PPL Electric Utilities Corporation

[Docket No. ER02-2627-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 83. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on the Power Authority of the State of New York.

Comment Date: October 21, 2002.

27. PPL Electric Utilities Corporation

[Docket No. ER02-2628-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 82. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Connecticut Municipal Electric Energy Cooperative.

Comment Date: October 21, 2002.

28. PPL Electric Utilities Corporation

[Docket No. ER02-2629-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 81 and effective on October 4, 1983, is to be termination as of November 29, 2002.

Notice of the termination has been served on New England Power Company.

Comment Date: October 21, 2002.

29. PPL Electric Utilities Corporation

[Docket No. ER02-2630-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 80. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on New York State Electric & Gas Corporation.

Comment Date: October 21, 2002.

30. PPL Electric Utilities Corporation

[Docket No. ER02-2631-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 75. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Northeast Utilities Service Company.

Comment Date: October 21, 2002.

31. PPL Electric Utilities Corporation

[Docket No. ER02-2632-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No.145. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Catex Vitol Electric, Inc.

Comment Date: October 21, 2002.

32. PPL Electric Utilities Corporation

[Docket No. ER02-2633-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 144. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on PEPC Energy Company.

Comment Date: October 21, 2002.

33. PPL Electric Utilities Corporation

[Docket No. ER02-2634-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No.137. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Enron Power Marketing, Inc.

Comment Date: October 21, 2002.

34. PPL Electric Utilities Corporation

[Docket No. ER02-2635-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 111. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on New York Power Authority.

Comment Date: October 21, 2002.

35. PPL Electric Utilities Corporation

[Docket No. ER02-2636-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No.138. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Public Service Electric and Gas Company.

Comment Date: October 21, 2002.

36. PPL Electric Utilities Corporation

[Docket No. ER02-2637-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 136. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on North American Energy Conservation, Inc.

Comment Date: October 21, 2002.

37. PPL Electric Utilities Corporation

[Docket No. ER02-2638-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 135. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Louis Dreyfus Electric Power, Inc.

Comment Date: October 21, 2002.

38. PPL Electric Utilities Corporation

[[Docket No. ER02-2639-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of

termination of PPL Electric Utilities' Rate Schedule FERC No. 148. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Pennsylvania Electric Company.

Comment Date: October 21, 2002.

39. PPL Electric Utilities Corporation

[Docket No. ER02-2640-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 147. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Jersey Central Power and Light Company.

Comment Date: October 21, 2002.

40. PPL Electric Utilities Corporation

[Docket No. ER02-2641-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 156. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Toledo Edison Company.

Comment Date: October 21, 2002.

41. PPL Electric Utilities Corporation

[Docket No. ER02-2642-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 146. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Northeast Utilities Service Company.

Comment Date: October 21, 2002.

42. PPL Electric Utilities Corporation

[Docket No. ER02-2643-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 153. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Niagara Mohawk Power Corporation.

Comment Date: October 21, 2002.

43. PPL Electric Utilities Corporation

[Docket No. ER02-2644-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 131. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Potomac Electric Power Company.

Comment Date: October 21, 2002.

44. PPL Electric Utilities Corporation

[Docket No. ER02-2645-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 155. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on GPU Energy Services Company.

Comment Date: October 21, 2002.

45. PPL Electric Utilities Corporation

[Docket No. ER02-2646-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 132. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Metropolitan Edison Company.

Comment Date: October 21, 2002.

46. PPL Electric Utilities Corporation

[Docket No. ER02-2647-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 150. PPL Electric Utilities requests that the termination be effective on November 29, 2002.

Notice of the termination has been served on Atlantic City Electric Company.

Comment Date: October 21, 2002.

47. PPL Electric Utilities Corporation

[Docket No. ER02-2648-000]

Take notice that on September 30, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) filed a notice of termination of PPL Electric Utilities' Rate Schedule FERC No. 151. PPL Electric Utilities requests that the

termination be effective on November 29, 2002.

Notice of the termination has been served on Public Service Electric and Gas Company.

Comment Date: October 21, 2002.

48. Southwest Power Pool, Inc.

[Docket No. ER02-2649-000]

Take notice that on September 30, 2002, Southwest Power Pool, Inc. (SPP) tendered for filing an executed service agreement for Network Integration Transmission Service and an unexecuted Network Operating Agreement with (Network Customer). SPP seeks an effective date of September 1, 2002 for these service agreements.

A copy of this filing was served on the Network Customer.

Comment Date: October 21, 2002.

49. Bangor Hydro-Electric Company

[Docket No. ER02-2650-000]

Take notice that on September 30, 2002, Bangor Hydro-Electric Company filed an executed service agreement for firm point-to-point transmission service with Central Maine Power Company (CMP).

Comment Date: October 21, 2002.

50. PJM Interconnection, L.L.C.

[Docket No. ER02-2651-000]

Take notice that on September 30, 2002, PJM Interconnection, L.L.C. (PJM), submitted for filing amendments to the PJM Open Access Transmission Tariff to add a new Schedule 6A which sets forth the terms and conditions for Black Start Service.

PJM requests an effective date of December 1, 2002 for the amendments. Copies of this filing were served upon all PJM members and each state electric utility regulatory commission in the PJM control area and PJM West region.

Comment Date: October 21, 2002.

51. New York Independent System Operator, Inc.

[Docket No. ER02-2652-000]

Take notice that on September 30, 2002, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Open Access Transmission Tariff (OATT) and its Market Administration and Control Area Services (Services Tariff) to shorten the time period within which the NYISO may adjust or correct Settlement information to twelve-months from the date that the NYISO issues an initial invoice for services provided beginning October 1, 2002, and to shorten the time period to four months for challenges to final billing invoices for services provided beginning

with the October 2002 service month. The NYISO has requested an effective date of October 31, 2002.

The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's OATT and Services Tariff and to the electric utility regulatory agencies in New York, New Jersey, and Pennsylvania.

Comment Date: October 21, 2002.

52. Cleco Power LLC

[Docket No. ER02-2653-000]

Take notice that on September 26, 2002, Cleco Power LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) First Revised Sheet Nos. 77 and 78, an Attachment E, from Cleco Power's open access transmission tariff, titled "Index of Point-to-Point Transmission service Customers", to include TECO EnergySource, Inc. as a short-term firm and non-firm transmission customer. Cleco Power LLC and TECO EnergySource, Inc. have executed agreements under which Cleco Power will provide short-term firm point-to-point transmission service and non-firm point-to-point transmission service to TECO EnergySource, Inc. Under its Open Access Transmission Tariff.

Comment Date: October 17, 2002.

Standard Paragraph

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.,

Acting Secretary.

[FR Doc. 02-25982 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-37-000]

Williston Basin Interstate Pipeline Company; Notice of Route and Site Review

October 11, 2002.

On October 23, 2002, the staff of the Office of Energy Projects (OEP) will conduct a site review of the proposed Grasslands Project. The Grasslands Project facilities are proposed for construction by Williston Basin Interstate Pipeline Company. The proposed facilities, crossing portions of Campbell County, Wyoming; Carter, Fallon, and Wibaux Counties, Montana; and Golden Valley, Billings, Stark, and Dunn Counties, North Dakota, will be inspected entirely by helicopter.

Anyone interested in obtaining further information may contact the Commission's Office of External Affairs at 1-866-208-FERC.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-26499 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD02-21-000, et al.]

Notice of Hydro Licensing Status Workshop 2002

October 11, 2002.

In the matter of 2069-003, 10100-002, 2283-005, 2205-006, 11475-000 and 11478-000, 2306-008, 176-018, 2474-004, 2539-003, 2616-004, 2612-005, 1975-014, 2061-004, 2777-007 and 2778-005, 11495-000, 11563-002, 1982-017, 1354-005 and 2687-014, 1927-008 and 2342-005, 2493-006, 11472-000 and 11566-003, 10311-002, 10942-001, 1932-004, 1933-010, 1934-010 and 2017-011, 1864-005, 2019-017 and 2699-001, 10865-001, 10416-003; Hydro Licensing Status Workshop 2002, Arizona Public Service, Company; Cascade River Hydro, Central Maine Power Company, Central Vermont Public Service Corporation, Citizens Utilities Company, City of

Escondido, California, Erie Boulevard Hydropower, L.P., FPL Energy Maine, LLC Idaho Power Company, Nooksack River Hydro, Inc. Northern California Power Agency Northern States Power Company Pacific Gas and Electric Company PacifiCorp Puget Sound Energy, Inc. Ridgewood Maine Hydro Partners, L.P. Skagit River Hydro Skykomish River Hydro, Inc. Southern California Edison Company Upper Peninsula Power Company Utica Power Authority Warm Creek Hydro, Inc. Washington Hydro Development Company

A one-day, Commissioner-led workshop will be held on November 8, 2002, beginning at 10:00 a.m., in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. The workshop will focus on the above-listed 37 pending license applications filed at the Commission. The workshop is open to the public and all interested persons are invited to attend and participate.

The goals of the workshop are to: (1) Review and discuss the pending license applications; (2) identify unresolved issues; (3) determine next steps; (4) agree on who will take the next step; and (5) focus on solutions. The workshop will concentrate on identifying the unresolved issues associated with each project, and determining the best course of action to resolve or remove obstacles to final action on each pending license application.

A transcript of the discussions will be placed in the public record for Docket No. AD02-21-000 and in the record for each of the pending license applications.

Filing Requirements for Paper and Electronic Filings

Comments, papers, or other documents related to this proceeding may be filed in paper format or electronically. Those filing electronically do not need to make a paper filing.

For paper filings, the original and 8 copies of the comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Paper filings should, at the top of the first page, refer to Docket No. AD02-21-000 and reference the specific project name(s) and project number(s) that the comments concern. The deadline to file comments is December 9, 2002.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. Documents filed electronically via the Internet must be

prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at <http://www.ferc.gov>, click on "e-Filing" and then follow the instructions on the screen. First-time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments. User assistance for electronic filing is available at 202-502-8258 or by e-mail to efiling@ferc.gov. Comments should not be submitted to the e-mail address.

All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington DC 20426, during regular business hours. Additionally, all comments may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. For assistance, call 202-502-8371, or toll free 1-866-208-3676, or for TTY 202-502-8659, or by e-mail to FERCONLINESUPPORT@ferc.gov.

Opportunities for Listening, Participating, and Viewing the Workshop Offsite and Obtaining a Transcript

The workshop will be transcribed. Those interested in transcripts immediately for a fee should contact Ace-Federal Reporters, Inc. at 202-347-3700, or 1-800-336-6646. They will be available for free to the public on the Commission's FERRIS system two weeks after the workshop.

The Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703-993-3100) as soon as possible or visit the Capitol Connection Web site at <http://www.capitolconnection.gmu.edu> and click on "FERC".

Anyone wishing to participate via teleconference should call or E-mail Susan Tseng 202-502-6065 or susan.tseng@ferc.gov, by November 1, 2002, to receive the toll free telephone number to join the teleconference.

Anyone interested in participating in the workshop via video teleconference from one of the Commission's regional offices should call or E-mail the following staff, by November 1, 2002, to make arrangements. Seating capacity is limited.

Regional office	Staff contact	Telephone No.	E-mail address
Atlanta	Charles Wagner	770-452-3765	charles.wagner@ferc.gov
Chicago	Dave Simon	312-353-6701	david.simon@ferc.gov
New York	Chuck Goggins	212-273-5910	charles.goggins@ferc.gov
Portland	Pat Regan	503-944-6741	patrick.regan@ferc.gov
San Francisco	John Wiegel	415-369-3336	john.wiegel@ferc.gov

By November 1, 2002, an agenda for the workshop and information about the pending license applications will be posted on the Commission's web site under Hydro Licensing Status Workshop 2002. Anyone without access to the Commission's web site, or who have questions should contact Steve Kartalia at 202-502-6131, or e-mail stephen.kartalia@ferc.gov; or Susan O'Brien at 202-502-8449, or e-mail susan.obrien@ferc.gov.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-26500 Filed 10-17-02; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7394-9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: *Title:* 2003 Drinking Water Infrastructure Needs Survey; EPA ICR No. 2085.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 18, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 2085.01 to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 566-1672, by E-Mail at auby.susan@epa.gov or download off the Internet at <http://www.epa.gov/icr> and refer to EPA ICR No. 2085.01. For technical questions about the ICR contact David Travers at (202) 564-4638 or travers.david@epa.gov

SUPPLEMENTARY INFORMATION:

Title: Information Collection Request for the 2003 Drinking Water Infrastructure Needs Survey EPA ICR No. 2085.01.

Abstract: The Environmental Protection Agency (EPA) will conduct a voluntary survey to estimate the capital investment needs for drinking water systems. The nationwide survey is authorized by sections 1452(h) and 2452(i)(4) of the Safe Drinking Water Act and will be used to estimate the cost of providing safe drinking water to consumers over a 20-year period. The data also will be used to allocate Drinking Water State Revolving Fund monies among the states and as part of an allotment formula for the American Indian and Alaska Native Village set-aside program. All states have committed to assist EPA in administering the survey. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on July 16, 2002; three comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; collect, validate, and verify information; search data sources; complete and review the collection of information;

and transmit or otherwise disclose the information.

Respondents/Affected Entities: Community Water Systems.

Estimated Number of Respondents: 3,790.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 14,809.

Estimated Total Annualized Capital, O&M Cost Burden: \$0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 2085.01 in any correspondence.

Dated: October 7, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02-26574 Filed 10-17-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7394-8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Information Collection Request for RCRA Reporting and Recordkeeping Requirements for Incinerators, Boilers and Industrial Furnaces Burning Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Information Collection Request for RCRA Reporting and Recordkeeping requirements for Incinerators, Boilers and Industrial Furnaces Burning Hazardous Waste, OMB Control No. 2050-0073, expiring October 31, 2002. The ICR describes the nature of the information collection and

its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 18, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1361.09 and OMB Control No. 2050-0073, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 566-1672, by e-mail at auby.susan@epamail.epa.gov, or download off the Internet at <http://www.epa.gov/icr> and refer to EPA ICR No. 1361.09. For technical questions about the ICR contact: Margaret R. Bailey, 703/308-4043, fax number 703/308-8433, e-mail bailey.margaret@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Information Requirements for Boilers and Industrial Furnaces: General Hazardous Waste Facility Standards, Specific Unit Requirements, and Part B Permit Application and Modification Requirements, OMB Control No. 2050-0073, EPA ICR No.1361.09, expiring October 31, 2002. This is a request for extension of a currently approved collection.

Abstract: EPA regulates the burning of hazardous waste in boilers, incinerators, and industrial furnaces (BIFs) under 40 CFR parts 63, 264, 265, and 266. This ICR describes most of the RCRA paperwork requirements that apply to owners and operators of BIFs. This includes the requirements under the comparable/syngas fuel specification at 40 CFR 261.38; the general facility requirements at 40 CFR parts 264 and 265, subparts B through H; the requirements applicable to BIF units at 40 CFR part 266; and the RCRA part B permit application and modification requirements at 40 CFR part 270. Examples of the paperwork collected under these requirements include one-time notices, certifications, waste analysis data, inspection and monitoring records, plans, reports, RCRA part B permit applications and modifications. EPA needs this information for the proper implementation, compliance tracking, and enforcement of the RCRA

regulations. Based on information from the EPA Regions, the ICR estimates that 91 BIF facilities are currently subject to the RCRA hazardous waste program. Of these, 47 are under interim status and 44 are permitted. This renewal reflects new burden to the RCRA incinerator requirements promulgated on September 30, 1999 (64 FR 52828), and subsequent amendments, but also reflects a substantial reduction in the paperwork burden imposed on these facilities. This burden reduction is caused by a decrease in the BIF universe of 25 boilers which are assumed to receive the comparable fuels exclusions, and a rollback of burden added to another ICR (2050-0171). Thus, this renewal accounts for the addition of new requirements as well as the burden reductions to the BIF universe affected by the rulemaking, and its subsequent amendments. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 26, 2002 (67 FR 43106), no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 156 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Business or other for-profit.

Estimated Number of Respondents: 91.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 307,949 hours.

Estimated Total Annualized Capital, O&M Cost Burden: \$26,353,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1361.09 and OMB Control No. 2050-0073 in any correspondence.

Dated: October 7, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02-26575 Filed 10-17-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6634-2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information, (202) 564-7167 or <http://www.epa.gov/compliance/nepa/>.

Weekly receipt of Environmental Impact Statements
Filed October 07, 2002 through October 11, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020419, Final EIS, BLM, CA, Coachella Valley California Desert Conservation Area Plan Amendment, Santa Rosa and San Jacinto Mountains Trails Management Plan, Implementation, Riverside and San Bernardino Counties, CA, Wait Period Ends: November 18, 2002, Contact: Jim Foote (760) 351-4836.

EIS No. 020420, Draft EIS, FHW, MT, US-89 from Fairfield to Dupuyer Corridors Study, Reconstruction, Widening, and Realignment, Route Connects Yellowstone National Park to the South, with Glacier National Park to the North, Teton and Pondera Counties, MT, Comment Period Ends: December 02, 2002, Contact: Dale W. Paulson (406) 449-5302.

EIS No. 020421, Draft EIS, FHW, OR, Newberg-Dundee Transportation Improvement Project (TEA 21 Prog. #37), Proposal to Relieve Congestion on Ore. 99W through the Cities of Newberg and Dundee, Bypass Element Location (Tier 1), Yamhill County, OR, Comment Period Ends: December 02, 2002, Contact: Jim Cox (503) 986-3013.

EIS No. 020422, Draft EIS, BLM, TX, NM, El Camino Real De Tierra Adentro National Historic Trail, Comprehensive Management Plan, Implementation, TX and NM, Comment Period Ends: January 15,

2003, Contact: Terry Humphrey (505) 751-4718. This document is available on the Internet at: <http://www.elcaminoreal.org>.

EIS No. 020423, Final EIS, NPS, CA, Santa Cruz Island Primary Restoration Plan, Implementation, Channel Island National Park, Santa Cruz Island, Santa Barbara County, CA, Wait Period Ends: November 18, 2002, Contact: Alan Schmierer (415) 427-1441.

EIS No. 020424, Final Supplement, FRC, WA, 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, Wait Period Ends: November 18, 2002, Contact: Dianne Rodman (202) 502-6077.

EIS No. 020425, Final EIS, FHW, NY, County Road (Mill Hill Road and Glen Road) Improvements, From Howard Drive to State Route 9N including a New Bridge over the East Branch of the Ausable River, Funding and COE Section 404. Permit, Essex County, NY, Wait Period Ends: November 18, 2002, Contact: Robert Arnold (518) 431-4127.

EIS No. 020426, Draft EIS, AFS, MT, Garver Project, Regeneration Harvest and Old Growth, Implementation, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT, Comment Period Ends: December 18, 2002, Contact: Kathy Mohar (406) 295-4693.

EIS No. 020427, Final EIS, NPS, WV, National Coal Heritage Area, Strategic Management Action Plan, Implementation, Boone, Cabell, Fayette, Logan, McDowell, Mercer, Mingo, Raliegh, Summers, Wayne and Wyoming Counties, WV, Wait Period Ends: November 18, 2002, Contact: Peter Samuel (215) 597-1848.

Dated: October 15, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02-26594 Filed 10-17-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-2002-0292; FRL-7278-5]

Agricultural Worker Risk Assessment Process; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Pesticide Programs will hold a public seminar on

the agricultural worker risk assessment decision process on October 29-30, 2002. The agenda is being developed and will be posted by October 15, 2002, on EPA's website at www.epa.gov/pesticides/. The following topics are being planned for presentation and discussion: Overview of the worker risk assessment process; agricultural handler risk assessment for selected crop/handler scenarios; post application risk assessment for selected crop/post application worker scenarios; and presentations relating to post exposure evaluation.

DATES: The meeting will be held on Tuesday, October 29, 2002, from 8:30 a.m. to 5 p.m., and on Wednesday, October 30, 2002, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Georgetown University Conference Center, 3800 Reservoir Road, Washington, DC, in the Leavey Center (Entrance #1 to the Georgetown University Medical Center), Salon C. The telephone number is 202-687-3200.

FOR FURTHER INFORMATION CONTACT: Margie Fehrenbach, Office of Pesticide Programs, 7501C, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-308-4775; fax number: 703-308-4776; e-mail address: Fehrenbach.Margie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general; however, persons may be interested who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA); (Public Law 104-170) of 1996. 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**. Potentially affected entities may include, but are not limited to:

Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer and farmworker groups; pesticide users and growers; pest consultants; State, local and tribal governments; academia;

public health organizations; food processors; and the public.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPP-2002-0292. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is 703-305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

II. Background

Stakeholders from two of EPA's Federal advisory committees, the Pesticide Program Dialogue Committee (PPDC) and the Committee to Advise on Reassessment and Transition (CARAT), have expressed interest in better understanding the process followed by the Office of Pesticide Programs when developing agricultural worker risk assessments. EPA is planning two seminars to address these issues. The first seminar will focus on the inputs, decisions, calculations and end results of the worker risk assessment process for agricultural handlers and post applicators. Presentations will include

information about occupational incident data bases and post exposure evaluations. There will also be presentations by the Task Forces for Agricultural Handlers Exposure and Agricultural Reentry. The public is invited to these seminars. Participation from the two advisory committees is also invited and represent the following sectors: Pesticide user, grower and commodity groups; industry and trade associations; environmental/public interest and farmworker groups; Federal, State and tribal governments; public health organizations; animal welfare; and academia.

III. How Can I Request to Participate in this Meeting?

This meeting will be open to the public. Opportunity will be provided for questions and comments by the public. Any person who wishes to file a written statement may do so before or after the meeting. These statements will become part of the permanent record and will be available for public inspection at the address listed under Unit I.B.1.

List of Subjects

Environmental protection, Agriculture, Agricultural workers, Chemicals, Foods, Pesticides, Pests, Risk assessment.

Dated: October 15, 2002.
Kathleen D. Knox,
Acting Director, Office of Pesticide Programs.
 [FR Doc. 02-26712 Filed 10-16-02; 3:21 pm]
BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7395-1]

Clean Water Act Section 303(d): Availability of 37 Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for comment of the administrative record file for 37 TMDLs and the calculations for these TMDLs prepared by EPA Region 6 for waters listed in the state of Arkansas, under section 303(d) of the Clean Water Act (CWA). These TMDLs were completed in response to the lawsuit styled *Sierra Club, et al. v. Browner et al.*, No. LR-C-99-114.

DATES: Comments must be submitted in writing to EPA on or before November 18, 2002.

ADDRESSES: Comments on the 37 TMDLs should be sent to Ellen Caldwell, Environmental Protection Specialist, Water Quality Protection

Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202-2733. For further information, contact Ellen Caldwell at (214) 665-7513. The administrative record file for these TMDLs are available for public inspection at this address as well. Documents from the administrative record file may be viewed at www.epa.gov/region6/water/artmdl.htm, or obtained by calling or writing Ms. Caldwell at the above address. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665-7513.

SUPPLEMENTARY INFORMATION: In 1999, five Arkansas environmental groups, the Sierra Club, Federation of Fly Fishers, Crooked Creek Coalition, Arkansas Fly Fishers, and Save our Streams (plaintiffs), filed a lawsuit in Federal Court against the United States Environmental Protection Agency (EPA), styled *Sierra Club, et al. v. Browner et al.*, No. LR-C-99-114. Among other claims, plaintiffs alleged that EPA failed to establish Arkansas TMDLs in a timely manner. EPA proposes these TMDLs pursuant to a consent decree entered in this lawsuit.

EPA Seeks Comments on 37 TMDLs

By this notice EPA is seeking comment on the following 37 TMDLs for waters located within the state of Arkansas:

Segment-reach	Waterbody name	Pollutant
11140203-20-11.9	Dorcheat Bayou	Mercury.
11140203-22-8.4	Dorcheat Bayou	Mercury.
11140203-24-7	Dorcheat Bayou	Mercury.
11140203-26-23.3	Dorcheat Bayou	Mercury.
11110206-02-8.7	Fourche LaFave River	Mercury.
11010014-36	South Fork Little Red River	Mercury.
11140203	Columbia Lake	Mercury.
11110206	Cove Creek Lake	Mercury.
11110206	Dry Fork Lake	Mercury.
11110206	Nimrod Lake	Mercury.
11010014	Johnson Hole	Mercury.
11110201	Shepherd Springs Lake	Mercury.
11110207	Lake Sylvia	Mercury.
11110207	Spring Lake	Mercury.
08040201-02-22.5	Ouachita River	Mercury.
08040201-04-2.5	Ouachita River	Mercury.
08040202	Oxbow River—Oxbows below Camden	Mercury.
08040202	Felsenthal Wildlife Refuge	Mercury.
08040202-02-4	Ouachita River	Mercury.
08040202-03-8.4	Ouachita River	Mercury.
08040202-04-28.9	Ouachita River	Mercury.
08040203	Lake Winona	Mercury.
08040203-01-0.2	Saline River	Mercury.
08040204-01-2.8	Saline River	Mercury.
08040204-02-53	Saline River	Mercury.
08040204-04-16.4	Saline River	Mercury.
08040204-06-17.5	Saline River	Mercury.
08040201-01-12	Moro Creek	Mercury.
08040201-03-20	Champagnolle Creek	Mercury.
08040202-03-8.4	Little Champagnolle	Mercury.
08040205-02-17.9	Bayou Bartholomew	Mercury.

Segment-reach	Waterbody name	Pollutant
08040205-12-82.7	Bayou Bartholomew	Mercury.
08040205-07-16.8	Cutoff Creek	Mercury.
08040201-606-8.5	ELCC Tributary	Chloride
08040201-606-8.5	ELCC Tributary	Sulfate
08040201-606-8.5	ELCC Tributary	TDS
08040201-606-8.5	ELCC Tributary	Ammonia

EPA requests that the public provide to EPA any water quality related data and information that may be relevant to the calculations for these 37 TMDLs. EPA will review all data and information submitted during the public comment period and revise the TMDLs and determinations where appropriate. EPA will then forward the TMDLs to the Arkansas Department of Environmental Quality (ADEQ). The ADEQ will incorporate the TMDLs into its current water quality management plan. The EPA also will revise the Arkansas 303(d) list as appropriate.

Dated: October 8, 2002.

Oscar Ramirez,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 02-26573 Filed 10-17-02; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 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, Pub. L. 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (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 December 17, 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 or Leslie Smith, Federal Communications Commission, Room 1-C804 or Room 1-A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *jboley@fcc.gov* or *lesmith@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.: 3060-0835.

Title: Ship Inspections.

Form Nos.: FCC Forms 806, 824, 827, and 829.

Type of Review: Revision of a current collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 1,210.

Estimated Time Per Response: .084 hours (5 minutes) for completion of certificate; 4 hours for inspection; .25 hours (15 minutes) for recordkeeping.

Frequency of Response: Annual, on occasion and every 5 years reporting requirement, recordkeeping requirement, third party disclosure requirement.

Total Annual Burden: 5,245 hours.

Total Annual Cost: N/A.

Needs and Uses: With this submission, the Commission combines two OMB-approved information collections (3060-0362 and 3060-0835). The approval for 3060-0362 contains the burden for the actual ship inspections. The approval for 3060-0835 contains the burden for the issuance of safety certificates after the ship has passed inspections.

The Communications Act requires the Commission to inspect the radio installation of large cargo ships and certain passenger ships at least once a year to ensure that the radio installation is in compliance with the requirements of the Communications Act.

Additionally, the Communications Act requires the inspection of small passenger ships at least once every five years. The Safety Convention (which the United States is a signatory) also requires an annual inspection. However, the Safety Convention permits an Administrator to entrust the inspections to either surveyors nominated for the purpose or to organizations recognized by it. Therefore, the United States can have other parties conduct the radio inspection of vessels for compliance with the Safety Convention. The Commission allows FCC-licensed technicians to conduct these inspections. FCC-licensed technicians certify that the ship passed an inspection and issue a safety certificate. These safety certificates (FCC Forms 806, 824, 827, and 829) indicate that the vessel complies with the Communications Act and the Safety Convention. These technicians are required to provide a summary of the results of the inspection in the ship's log. In addition, the vessel's owner, operator, or ship's master must certify in the ship's log that the inspection was satisfactory. Inspection certificates issued in accordance with the Safety Convention must be posted in a prominent and accessible place on the ship. The purpose of the information is to ensure that the inspection was successful so that passengers and crewmembers of certain United States ships have access to distress communications in an emergency.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 02-26611 Filed 10-17-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 10 a.m.—October 23, 2002.

PLACE: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Revisions to the Commission's Passenger Vessel Regulations (46 CFR part 540).

CONTACT PERSON FOR MORE INFORMATION: Bryant L. VanBrakle, Secretary, (202) 523-5725.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 02-26723 Filed 10-16-02; 2:09 pm]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 7, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309-4470:

1. *Thomas D. Caldwell, III*, Rome, Georgia; to acquire additional voting shares of Greater Rome Bancshares, Inc., Rome, Georgia, and thereby indirectly acquire additional voting shares of Great Rome Bank, Rome, Georgia.

2. *Mark Kardonski*, Fort Lauderdale, Florida, as trustee of the GNB Holding Trust, Miami, Florida; to acquire voting shares of Eagle National Holding Company, Miami, Florida, and thereby indirectly acquire voting shares of Eagle National Bank of Miami, Miami, Florida.

B. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *Kevin L. Johnson*, North Oaks, Minnesota; to acquire voting shares of

Johnson Holdings, Inc., Isanti, Minnesota, and thereby indirectly acquire voting shares of East Central Holding Company, Isanti, Minnesota, and Landmark Community Bank, N.A., Isanti, Minnesota.

Board of Governors of the Federal Reserve System, October 11, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02-26542 Filed 10-17-02; 8:45 am]

BILLING CODE 6210-01-P

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 November 18, 2002.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. *Franklin Financial Services Corporation*, Chambersburg, Pennsylvania; to acquire up to 23.5

percent of the voting shares of American Home Bank, National Association, Lancaster, Pennsylvania.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Mahaska Investment Company, and Mahaska Investment Company ESOP*, both of Oposkaloosa, Iowa; to acquire 100 percent of the voting shares of Belle Plaine Service Corporation, Belle Plaine, Iowa, and thereby indirectly acquire voting shares of Citizens Bank and Trust Company, Hudson, Iowa.

C. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *TCF Financial Corporation*, Wayzata, Minnesota; to acquire an additional 5 percent of the voting shares, thereby increasing its total ownership to 9.99 percent, of the voting share of MainStreet BankShares, Inc., Martinsville, Virginia, and thereby indirectly acquire additional voting shares of Smith River Community Bank, N.A., Martinsville, Virginia, and Franklin Community Bank, N.A., Rocky Mount, Virginia, a *de novo* bank.

D. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *First Okmulgee Corporation*, Okmulgee, Oklahoma; to acquire 100 percent of the voting shares of First National of Henryetta, Inc., Henryetta, Oklahoma, and thereby indirectly acquire voting shares of First National Bank of Henryetta, Henryetta, Oklahoma.

Board of Governors of the Federal Reserve System, October 11, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02-26544 Filed 10-17-02; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 02-25643) published on page 62976 of the issue for Wednesday, October 9, 2002.

Under the Federal Reserve Bank of Minneapolis heading, the entry for State Bankshares, Inc., Fargo, North Dakota, is revised to read as follows:

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *State Bankshares, Inc.*, Fargo, North Dakota; to acquire 100 percent of the voting shares of State Bank of Moorhead, Moorhead, Minnesota.

In connection with this application, Applicant also has applied to acquire Northern Capital Holding Company, Fargo, North Dakota, and thereby engage in providing trust services, financial and investment advisory services, transactional services for customer investments, and payroll services and processing, pursuant to §§ 225.28(b)(5), (b)(6)(i), (b)(7)(i), and (b)(14)(i) of Regulation Y.

Comments on this application must be received by November 1, 2002.

Board of Governors of the Federal Reserve System, October 11, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02-26545 Filed 10-17-02; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 18, 2002.

A. Federal Reserve Bank of Atlanta
(Sue Costello, Vice President) 1000

Peachtree Street, NE., Atlanta, Georgia 30309-4470:

1. *Citizens Bancshares, Inc.*, Atlanta, Georgia; to acquire CFS Bancshares, Inc., Birmingham, Alabama, and Citizens Federal Savings Bank, Birmingham, Alabama, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, October 11, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02-26543 Filed 10-17-02; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities; Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collection projects and solicit public comments in compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Office at (202) 619-2118 or e-mail Gerrie.Jones@HHS.gov.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: 1. HHS Small Business Vendor Outreach Program Registration—New—The Office of Small and Disadvantaged Business Utilization (OSDBU) proposes to establish an on-line registration form. The form will be used by OSDBU vendors to register for outreach sessions and training conferences. The on-line registration form will simplify the registration process for attendees. The system will accept the registration and

automatically confirm and verify the date, time and location of each session. When the training and outreach sessions are full the system is designed to notify attendees of the next available date to attend or place them on a waiting list.

Respondents: Individuals, business or other for-profit.

Number of Respondents: 2,030.

Average Burden per Response: 5 minutes.

Total Burden: 170 hours.

Send comments via e-mail to

Gerrie.Jones@HHS.gov or mail to OS Reports Clearance Office, Room 503H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC, 20201. Comments should be received within 60 days of this notice.

Dated: October 10, 2002.

Kerry Weems,

Deputy Assistant Secretary, Budget.

[FR Doc. 02-26579 Filed 10-17-02; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Privacy and Confidentiality.

Time and Date: 9 a.m. to 5 p.m. October 29, 2002, 9 a.m. to 5 p.m. October 30, 2002.

Place: Marriott Baltimore Waterfront Hotel, 700 Aliceanna Street, Baltimore, MD 21202, Phone: 410-385-3000.

Status: Open.

Purpose: The purpose of this meeting of the Subcommittee on Privacy and Confidentiality is to gather information on implementation plans for the final regulation "Standards for Privacy of Individually Health Information" (45 CFR parts 160 and 164), promulgated under the Health Insurance Portability and Accountability Act of 1996. The regulation and further information about it can be found in the Web site of the Office for Civil Rights at <http://www.hhs.gov/ocr/hippa/>.

The meeting will seek information from invited panels of experts from the industry about implementation plans and practical issues identified so far in implementation of the regulation, and as well as their suggestions about possible solutions for such issues. The Subcommittee particularly seeks detailed information about the following: (1) Technical assistance plans and needs, (2) outreach, education and training efforts, (3) compliance resources, (4) best practices, (5) public-private partnerships, (6) State preemption analyses, and (7) the quality of

vendors and consulting organizations. The panels will include representatives from various sectors of the healthcare industry, including small providers, health plans, and State agencies. In addition to the panels that will be invited to address these issues, members of the public who would like to make a brief (3 minutes or less) oral comment on one or more of the specified issues during the meeting will be placed on the agenda as time permits.

For Further Information Contact: Substantive program information may be obtained from Stephanie Kaminsky, J.D., Lead Staff Person for the NCVHS Subcommittee on Privacy and Confidentiality, Office of Civil Rights, Department of Health & Human Services, JFK Bldg., Government Center Rm. 1825, Boston, MA 02203, telephone (617) 565-1352; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, MD 20782, telephone (301) 458-4245. Information about the committee, including summaries of past meetings and a roster of committee members, is available on the Committee's Web site at <http://www.ncvhs.hhs.gov> where an agenda will be posted when available

Dated: October 10, 2002.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 02-26580 Filed 10-17-02; 8:45 am]

BILLING CODE 4151-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations.

Time and Date: 8:30 a.m. to 5 p.m., November 8, 2002.

Place: The Public Ledger Building, 150 S. Independence Mall West, Conference Room 415, Philadelphia, PA 19106, Phone: 215-861-4667.

Status: Open.

Purpose: The Subcommittee on Populations, NCVHS, is holding a hearing to discuss issues relating to statistics for the determination of health disparities in racial

and ethnic populations. The focus will be on State related issues in the collection and use of data on race and ethnicity. Invited panelists will address State and local collection of data on race and ethnicity, use of mixed race data, measurement of ethnic identity and perspectives on variables beyond race and ethnicity needed to determined health disparities in racial and ethnic groups.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Public Ledger Building by non-government employees. Thus, persons without a government identification card will need to present a photo identification card to the guard for admittance to the meeting.

For Further Information Contact: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Audrey L. Burwell, Senior Policy Analyst, Office of Minority Health, Department of Health and Human Services, Suite 1000, 5515 Security Lane, Rockville, MD, 20852, telephone: (301) 443-9923, e-mail: alburwell@osophs.dhhs.gov; or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidetal Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone: (301) 458-4245. Information also is available on the NCVHS home page of the HHS Web site: <http://www.ncvhs.hhs.gov/> where an agenda for the meeting will be posted when available.

Dated: October 7, 2002.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 02-26581 Filed 10-17-02; 8:45 am]

BILLING CODE 4151-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-03-04]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and

Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498-1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Cholera and Other Vibrio Illness Surveillance Report (OMB 0920-0322)—Extension—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). Vibrio species are naturally occurring marine bacteria and an important cause of seafoodborne and wound associated illnesses. Certain Vibrio species (e.g., V. cholera, V. parahaemolyticus) cause dehydrating diarrheal illnesses. In addition to endemic cholera in the United States, illnesses caused by epidemic strains of cholera are reported among travelers returning from southern Asia and Latin America.

The data collected in this surveillance provides important information on the public health impact of vibriosis in the Gulf Coast States. FDA, which has regulatory responsibility for the safety of seafood, has requested these data to identify interventions that may reduce the burden of seafoodborne vibriosis. The data are also of interest to public and industry groups such as the Interstate Shellfish Sanitation Conference and the National Fisheries Institute. There is no cost to respondents.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Total burden (in hours)
Local Health Dept Staff	90	1	20/60	30
Health Care Facility Staff	45	1	20/60	15

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Physicians	15	1	20/60	5
Total				50

Dated: October 10, 2002.
Nancy E. Cheal,
Acting Associate Director for Policy, Planning, and Evaluation, , Centers for Disease Control and Prevention.
 [FR Doc. 02-26478 Filed 10-17-02; 8:45 am]
BILLING CODE 4163-17-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY-04-03]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498-1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New

Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

National Surveillance of Dialysis-Associated Diseases (0920-0033)—Revision—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). The Division of Healthcare Quality Promotion (DHQP, formerly CDC Hospital Infections Program), is proposing an extension of a yearly survey of dialysis practices and dialysis-associated diseases at U.S. outpatient hemodialysis centers.

The rehabilitation of individuals in the United States who suffer from chronic renal failure has been identified as an important national priority, the Federal Government made a provision in 1973 to provide financial support for chronic hemodialysis patients. CDC, DHQP and Division of Viral Hepatitis have the responsibility of formulating strategies for the control of hepatitis, bacteremia, and other hemodialysis-associated diseases. In order to devise

such control measures, it is necessary to determine the extent to which the incidence of these dialysis-associated diseases changes over time. This request is to continue surveillance activities among chronic hemodialysis centers nationwide.

In addition, once control measures are recommended it is essential that such measures be monitored to determine their effectiveness. The survey is conducted once a year by a mailing to all chronic hemodialysis centers licensed by the Health Care Financing Administration. The types of dialysis practices surveyed include the use of hepatitis B vaccine in patients and staff members, the types of vascular access and dialyzers used, whether certain dialysis items are disinfected for reuse, and whether the dialysis center has any policy for insuring judicious use of antimicrobial agents. Among dialysis-associated diseases, the survey includes hepatitis B virus infection, antibody to hepatitis C virus, antibody to human immunodeficiency virus, and vancomycin-resistant enterococci. The estimated annualized burden is 3800 hours.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hours)
Chronic Hemodialysis Centers	3,800	1	1

Dated: October 10, 2002.
Nancy E. Cheal,
Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.
 [FR Doc. 02-26479 Filed 10-17-02; 8:45 am]
BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement Number 02164]

Laboratory Strengthening for Infectious Disease, Surveillance Control and Response in East Africa; Notice of Award 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 for Laboratory Strengthening for Infectious Disease Surveillance Control and Response in East Africa.

The purpose of the program is to strengthen the delivery of field support and programming to the CDC and the United States Agency for International Development (USAID) Missions in East Africa. This will be accomplished through the development of new approaches and technologies in response to near and long-term field needs. These needs were established in accordance with the Infectious Disease Interagency Agreement (IAA) between USAID and CDC. This cooperative agreement will support activities in laboratory confirmation of suspected outbreaks, control and prevention of infectious diseases, and system strengthening activities represented by quality assurance and quality control of laboratory confirmation of priority diseases. Measurable outcomes of the

program will be in alignment with one or more of the following performance goals for the Epidemiology Program Office:

1. Encourage state health departments and ministries of health to develop efficient and comprehensive public health information and surveillance systems by promoting the use of the internet and by focusing on development of standards for communications and data elements.
2. Efficiently respond to the needs of our public health partners through the provision of epidemiologic assistance.
3. Implement accessible training programs to provide an effective work force for staffing state and local health departments, laboratories, and ministries of health in developing countries.

B. Eligible Applicants

Assistance will be provided only to the African Medical and Research Foundation (AMREF) in Kenya. No other applications are solicited.

AMREF has extensive and documented experience in providing laboratory reference services, laboratory quality assurance, and training programs for laboratory confirmation, disease control and prevention in East Africa. This includes participation in the External Quality Assessment Scheme in Microbiology conducted by the World Health Organization (WHO) Collaborating Center for Antimicrobiology Resistance at CDC. They have the distinction of being the only organization in East Africa with the knowledge and experience of the logistics and technical issues related to transporting laboratory specimens from rural areas in East Africa. AMREF has extensive experience working in East African countries with ministries of health (MOH) and local non-governmental organizations (NGO), as well as with various international health organizations.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

C. Availability of Funds

Approximately \$80,000 is available in FY 2002 to fund this award. It is expected that the award will begin on or about September 1, 2002 and will be made for a 12-month budget period within a project period of up to 4 years depending on the availability of funds. 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.

1. Direct Assistance

No direct assistance will be provided.

2. Use of Funds

All requests for funds contained in the budget, shall be stated in U.S. dollars. Once an award is made, CDC will not compensate foreign grantees for currency exchange fluctuations through issuance of supplemental awards. By making this statement all requests, not only the initial budget but any subsequent request such as re-directions, requests for supplemental funds, carry-overs, etc. are included. This is Health and Human Services (HHS) policy.

a. Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services. Equipment may be purchased if deemed necessary to accomplish program objectives, however, prior approval by CDC officials must be requested in writing. All purchased equipment is for the sole use of the project, and will become the property of USAID at the completion of the project.

b. The costs that are generally allowable in grants to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: Indirect costs will not be paid (either directly or through sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

c. The applicant may contract with other organizations under this program; however, the applicant must perform a substantial portion of the activities (including program management and operations, and delivery of prevention services) for which funds are required.

d. Limitations and/or prohibitions on the use of funds are as follows: Alterations and renovations are not allowable.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—<http://www.cdc.gov>. Click on “Funding” then “Grants and Cooperative Agreements.”

To obtain business management technical assistance, contact: Angelia D. Hill, Grants Management Specialist, International & Territories Acquisition & Assistance Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920

Brandywine Road, Room 3000, E-09, Atlanta, GA 30341-4146. Telephone number (770) 488-2785. email address: ahill@cdc.gov.

For program technical assistance, contact: Dr. Peter Nsubuga, Medical Epidemiologist, Division of International Health, Epidemiology Program Office, Centers for Disease Control and Prevention, 4770 Buford Highway, K-72, Atlanta, GA 30341. Telephone number (770) 488-8334. email address: pcn0@cdc.gov.

Or
Kathleen F. Cavallaro, MT (ASCP), MS, Public Health Advisor, Division of Bacterial and Mycotic Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 4770 Buford Highway, K-72, Atlanta, GA 30341. Telephone number (770) 488-8333. email address: kfc1@cdc.gov.

Dated: October 9, 2002.

Edward J. Schultz,

Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26533 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02093]

Division of International Health/Global Surveillance Project Strengthening Outbreak Investigations and Response in Ghana; Notice of Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the award of fiscal year (FY) 2002 funds for a cooperative agreement program for the Division of International Health/Global Surveillance Project Strengthening Outbreak Investigations and Response in Ghana. This program addresses the “Healthy People 2010” focus area of Public Health Infrastructure.

The purpose of the program is to strengthen the ability of the Ministry(s) of Health (MOH) to identify, investigate, analyze, respond to and report on disease outbreaks and other unusual health events. By doing so, the agreement will result in strengthening the applied public health programs at the University.

B. Eligible Applicants

Assistance will be provided only to the University of Ghana. No other applications are solicited.

The University of Ghana Public Health School Without Walls (PHSWOW) is uniquely qualified as a partner since it has the only Masters of Public Health (MPH) program in the country. PHSWOW offers a one year MPH program to produce public health practitioners who will be leaders and change agents for health development in Ghana, in particular with the district as the focus, and Africa in general. This MPH is recognized throughout the region as proof of quality training in epidemiology, surveillance and other public health skills.

Note: Title two of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

C. Funds

Approximately \$40,000 is being awarded FY 2002 to fund one award. It is expected that the award will begin on or about June 1, 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.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—<http://www.cdc.gov>. Click on “Funding” then “Grants and Cooperative Agreements.”

To obtain business management technical assistance, contact: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146, Telephone number (770) 488-2757, e-mail address coc9@cdc.gov.

For program technical assistance, contact:

Dr. Peter Nsubuga, Medical Epidemiologist, Division of International Health, Epidemiology Program Office, Centers for Disease Control and Prevention, 4770 Buford Highway, MS-K72, Atlanta, GA 30341, Telephone number (770) 488-8334, e-mail address pcn0@cdc.gov.

or
Mr. B.J. (Bassam) Jarrar, Public Health Advisor, Division of International Health, Epidemiology Program Office, Centers for Disease Control and

Prevention, 4770 Buford Highway, MS-K72, Atlanta, GA 30341, Telephone number (770) 488-8330, e-mail address bmj0@cdc.gov.

Dated: October 9, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26529 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02099]

Expansion of HIV/AIDS/Tuberculosis Control and HIV/AIDS Care Activities in the Republic of Côte d'Ivoire; Notice of Award 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 with the Ministry of Health (MOH) of Côte d'Ivoire for the expansion of HIV/AIDS and Tuberculosis Control activities and HIV/AIDS Care activities.

The U.S. government seeks to reduce the impact of HIV/AIDS in specific countries within sub-Saharan Africa, Asia, and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. Through this LIFE program, CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of

- (1) HIV primary prevention;
- (2) HIV care, support, and treatment; and
- (3) Capacity and infrastructure development, especially for surveillance.

Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. government agencies are already active. Côte d'Ivoire is one of these targeted countries. As a key partner in the U.S. government's LIFE Initiative, CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic in LIFE initiative countries. In particular, CDC's mission in Côte d'Ivoire is to work with Ivorian and international partners in discovering and applying effective

interventions to prevent HIV infection and associated illness and death from AIDS.

Côte d'Ivoire is the West African country most heavily affected by the HIV/AIDS epidemic. UNAIDS has estimated that about one million persons in Côte d'Ivoire were living with HIV/AIDS in 2000 with an overall ten percent (10 percent) HIV prevalence in the adult population, although, HIV prevalence differs in sub-populations. In 2000, from antenatal sentinel serosurveillance, HIV prevalence was nine point five percent (9.5 percent) in pregnant women. The prevalence of HIV infection remains high in TB patients at about forty-five percent (45 percent). These statistics suggest the need for the expansion and improvement of a range of surveillance, care, prevention, and control activities and services. This agreement will assist the Tuberculosis Control Program of the Ministry of Health in screening more patients in order to better control the spread of tuberculosis in the general population, and in particular in HIV infected persons. At the same time, improving the national surveillance system will provide essential information for focusing prevention activities, allocating resources, and monitoring effectiveness of programs.

B. Eligible Applicants

Assistance will be provided only to the MOH of Côte d'Ivoire. No other applications are solicited. The MOH is the only appropriate and qualified organization to conduct a specific set of activities supportive of the CDC Global AIDS Program's technical assistance to Côte d'Ivoire for the following reasons:

1. The MOH is uniquely positioned, in terms of legal authority, ability, and credibility among Ivorian citizens, to collect crucial data on HIV/AIDS as well as to provide care to HIV infected patients.
2. The MOH in Côte d'Ivoire is mandated by the Ivorian government to coordinate activities necessary for the control of epidemics, including HIV/AIDS and Tuberculosis.
3. The MOH already has an established network of health care facilities throughout Côte d'Ivoire. They include tuberculosis treatment centers, maternal-child health clinics, and HIV/AIDS care sites. These facilities are accessible and provide health information and care for patients with HIV/AIDS and Tuberculosis, enabling the Ministry to become immediately engaged in the activities listed in this announcement.
4. The MOH has trained physicians, nurses, and social workers already

working in their network of health care facilities around the country who can carry out the activities listed in this announcement.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501 (c)(4) of the International Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

C. Availability of Funds

Approximately \$700,000 is available FY 2002 to fund this award.

It is expected that the award will begin on or about September 30, 2002, and will be made for a 12-month budget period within a project period of three (3) years. Annual 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 received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception of nevirapine in the Prevention of Mother-To-Child Transmission (PMTCT) cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested).

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. Where To Obtain Additional Information

To obtain business management technical assistance, contact: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 1600 Clifton Road, Mailstop E-15, Atlanta, GA 30333. Telephone number: (770) 488-2757. E-Mail: coc9@cdc.gov.

For program technical assistance, contact: Karen Ryder, MPH, CDC/HIV, 2010 Abidjan Place, Dulles, VA 20189-2010. Telephone: (404) 639-0911. E-Mail: kkr1@cdc.gov.

Dated: October 9, 2002.

Edward J. Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26525 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02200]

Response to the HIV/AIDS Epidemic in the Caribbean Region; Pan American Health Organization (PAHO) and the Caribbean Regional Epidemiology Center (CAREC), Port of Spain, Trinidad; Notice of the Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC), National Center for Human Immunodeficiency Virus/ Sexually Transmitted Disease/ Tuberculosis (HIV/STD/TB) Prevention (NCHSTP), announces the availability Fiscal Year (FY) 2002 funds for a Cooperative Agreement to the Caribbean Regional Epidemiology Center (CAREC) through Pan American Health Organization (PAHO). The purpose of this program is to help support implementation of CDC Global AIDS Program (GAP), a United States government program that seeks to reduce the impact of HIV/AIDS in specific countries within sub-Saharan Africa, the Caribbean Region, Asia and the Americas. CDC, through GAP, focuses on strengthening the capacity of national AIDS control programs in the areas of (1) HIV primary prevention, (2) HIV care, support, and treatment, and (3) capacity and infrastructure development, especially for surveillance. Countries targeted represent those with the most severe epidemic and the highest number of

new infections. They also represent countries where the potential for impact is greatest and where U.S. government agencies are already active. An updated list of partner countries for the CDC-GAP Initiative is available at: <http://www.cdc.gov/nchstp/od/gap/default.htm>

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, Global AIDS Program: Working with other countries, United States Agency for International Development (USAID), international and U.S. government agencies, reduce the number of new HIV infections among 15 to 24 year olds in sub-Saharan Africa, the Caribbean Region, Asia and the Americas from an estimated two million by 2005.

B. Eligible Applicants

Assistance will be provided only to CAREC through the PAHO, in support of LIFE Initiative activities in the Caribbean Region. No other applications will be solicited. CAREC is the most appropriate and qualified agency to conduct a specific set of activities supportive of CDC's LIFE Initiative-related assistance to countries in the Caribbean Region because:

1. CAREC is the lead agency in the Caribbean Region to provide support to this region of the world, second only to Africa, most affected by the HIV/AIDS epidemic. It is both chartered and uniquely positioned to assist national AIDS control programs in 21 member countries and its other partners to strengthen national health sector responses to HIV/AIDS.

2. World Health Organization (WHO), through its regional office, PAHO, is a leading partner within the International Partnership Against HIV/AIDS (IPAA), an international umbrella effort to increase support and visibility for a multi-lateral emergency response to the AIDS epidemic in the Caribbean Region. CAREC is supported by PAHO/WHO. Assistance will be provided to (CAREC) through the PAHO, in support of LIFE Initiative activities in the Caribbean Region. The LIFE Initiative is a key supporter of the IPAA.

3. CAREC has the capacity to provide a regional response to the specific laboratory needs for the provision of care and treatment of HIV/AIDS, information sharing and regional-level aggregation and interpretation of health data related to surveillance, prevention and care for HIV/AIDS within the region. In this sense, CAREC is unique in that it is the lead agency providing health sector policy-setting and

technical assistance to 21 member countries and non-member countries on request. CAREC is supported by PAHO/WHO which maintains a network of country offices and PAHO Coordinating Centres to serve as critical links for ensuring country access to available technical resources, information and coordination. CAREC's capacity compliments CDC's focus of action and requested support from CAREC which is to build and enhance existing capacity and infrastructure to support the region in support of the Regional Strategic Plan endorsed by 21 member countries. This includes strengthening of laboratory quality and standardization within CAREC and throughout the region.

PAHO is the only international/intergovernmental agency qualified to conduct the activities under this cooperative agreement because:

Headquartered in Washington, DC, PAHO serves as the specialized organization for health of the Inter-American System and as the Regional Office for the Americas of the World Health Association (WHO). As such, PAHO has a unique position among the world's health agencies as the technical agency for health within the Americas. PAHO has access to all national health promotion and disease prevention programs and potential research sites in the Americas through its 36 member governments and its scientific and technical expert employees stationed in Washington, DC, 27 country offices, and nine scientific centers. PAHO has more than 90 years of experience in working to improve health and living standards of the countries of the Americas. PAHO's basic responsibility is to collaborate with Ministries of Health, social security agencies, other government institutions, nongovernmental organization, universities, community groups, and others to strengthen national and local health systems and to improve the health of the peoples of the Americas. PAHO offers special opportunities for furthering research programs in the Americas through the use of unusual talent resources, populations, or environmental conditions in other countries that are not readily available in the United States or that provide augmentation of existing U.S. resources. PAHO is uniquely qualified to conduct activities in the Americas that have specific relevance to the mission and objectives of CDC and which have the potential to advance knowledge that benefits the United States.

C. Availability of Funds

Approximately \$250,000 dollars are available in FY 2002 to fund this award.

It is anticipated that the award will begin month budget period within a project period of up to five years. Annual funding estimates may vary and are subject to change. Continuation award within the project period will be made on the basis of satisfactory progress and availability of funds.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

1. Use of Funds

General Use

Funds may be used for:

(a) Establishing strategies, policies and guidelines for health sector responses to the HIV/AIDS epidemic in the Caribbean Region in areas such as surveillance, laboratory, clinical management, and prevention.

(b) Conducting meetings and other relevant activities that contribute to the development, dissemination and evaluation of strategies, policies and guidelines.

(c) Aggregating and disseminating information, strategies, policies, guidelines and training materials pertinent to HIV/AIDS and HIV-related conditions, including internet-based and other tools for efficient cataloguing and disseminating such information, and support for increasing national capacities to retrieve such information from such systems.

(d) Building capacity of CAREC to provide technical assistance and services to member countries and within Ministries of Health (MOH), National AIDS Councils, and similar key national institutions.

(e) Supporting key networks and partnerships within the region to lead evidence-based, improved health sector practices relevant to HIV/AIDS in the CAREC community (such as regional training network within the Caribbean Region to provide training in HIV clinical management on a national or sub-regional basis).

General Non-Use

(a) Funds received from this announcement will not be used for capital expenditures such as the purchase of off-road and multi-passenger vehicles and large volume (greater than fifty) purchase of computers.

(b) The purchase of antiretrovirals, reagents, and laboratory equipment for antiretroviral treatment projects requires pre-approval from GAP headquarters.

(c) No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(d) Applicant may contract with other organizations under these cooperative agreements, however, the applicant must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested).

(e) The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exception: Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the U.S. or to international organizations regardless of their location. Matching funds is not a requirement for this program announcement.

D. Where To Obtain Additional Information

CDC announcement information can be found on the CDC home page Internet address—<http://www.cdc.gov>. Scroll down the page, then click on "Funding" then "Grants and Cooperative Agreements."

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Cynthia R. Collins, Grants Management Specialist, Centers for Disease Control and Prevention (CDC), Procurement and Grants Office, Room 3000, 2920 Brandywine Road, Mailstop E-15, Atlanta, GA 30341-4146. Telephone: (770) 488-2757. Email: ccollins@cdc.gov.

For program technical assistance, contact: Ethleen Lloyd, Global AIDS Program (GAP), Caribbean Region, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC). Telephone: (404) 639-8016. Email address: esl1@cdc.gov.

Dated: October 9, 2002.

Edward J. Schultz,

Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26528 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02106]

Expansion of HIV/Prevention Activities in Malawi; Notice of Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the award of fiscal year (FY) 2002 funds for a cooperative agreement program for Global AIDS Program (GAP).

The purpose of the program is to provide assistance in planning, developing, implementing, and managing an HIV/AIDS Surveillance program for the control of HIV/AIDS in the country of Malawi, to support national level Voluntary Counseling and Testing (VCT) activities, and to implement the first step in support of a computerized information management system for HIV/AIDS at the National AIDS Commission (NAC).

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the GAP. Working with other countries, USAID, international, and U.S. government agencies, reduce the number of new HIV infections among 15 to 24 year olds in sub-Saharan Africa from an estimated 2 million by 2005.

B. Eligible Applicants

Assistance will be provided only to the NAC of the Country of Malawi. No other applications are solicited.

This announcement is restricted to the NAC because it is a unique agency designated by the Government of Malawi to develop, coordinate, and fund Human Immunodeficiency Virus (HIV/AIDS) prevention and care activities for the nation.

Note: Title 2 of the United States Code, Chapter 26, 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, cooperative agreement, contract, loan, or any other form.

C. Funds

Approximately \$725,000 is being awarded in FY 2002 to fund one award. The award began July 15, 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.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—<http://www.cdc.gov> Click on “Funding” then “Grants and Cooperative Agreements.”

To obtain business management technical assistance, contact: Cynthia Collins, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146, Telephone Number: (770) 488-2782, e-mail Address: dpr7@cdc.gov.

For program technical assistance, contact: Margaret Davis, MD, MPH, Kang'ombe Building 8 West, Lilongwe, Malawi, Telephone number: 265-775-188, Fax number: 265-775-848, Mobile: 265-960-152, e-mail Address: mdavis@cdc.gov. Mailing address: c/o U.S. Embassy, PO Box 30016.

Dated: October 9, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Center for Disease Control and Prevention.

[FR Doc. 02-26531 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02102]

Prevention of Human Immunodeficiency Virus (HIV/AIDS) Through Interpersonal Communication and Community Mobilization To Promote Voluntary Counseling and Testing (VCT), Prevention of Mother to Child Transmission (PMTCT), Tuberculosis (TB) Preventive Therapy and Access to Care and Support Programs in the Republic of Botswana; Notice of Award 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 with the National AIDS Coordinating Agency (NACA) to implement Total Community Mobilization (TCM) Project in the Republic of Botswana.

The purpose of this announcement is to mobilize community members in the Republic of Botswana and empower them to prevent HIV/AIDS transmission

and improve access to support programs.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the Global AIDS Program (GAP) Working with other countries, United States Agency for International Development (USAID), international, and U.S. government agencies, reduce the number of new HIV infections among 15 to 24 year olds in sub-Saharan Africa from an estimated two million by 2005. This program will enhance and expand the use of interpersonal communication and community mobilization to promote voluntary testing and counseling (VCT), prevention of mother to child transmission program (PMTCT), the national rollout of the Isoniazid Preventive Therapy (IPT) program, and improve access to care and treatment programs in Botswana. The program will also play an integral role in the implementation of the CDC MARCH (Modeling and Reinforcement to Combat HIV/AIDS) strategy for behavior change.

These collaborative activities if mobilized at the community level could profoundly impact the scope and intensity of the implementation of the National AIDS Policy. Cooperative efforts could lead to greater use of counseling and testing services in all areas of the country, increase in enrollment in the IPT and PMTCT programs, and greater use of existing programs for care and support throughout the nation.

Interpersonal communications can reinforce the messages and modeling which is taking place through behavior change communications such as the radio serial drama, “Magabeneg”. The U.S. Government seeks to reduce the impact of HIV/AIDS and related conditions in specific countries within sub-Saharan Africa, Asia, and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. Through this program, CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment; and (3) capacity and infrastructure development, especially for surveillance. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. government agencies are already active. Botswana is one of these targeted countries. To carry out its activities in these countries, CDC is working in a collaborative manner with national

governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic. CDC's program of technical assistance to Botswana focuses on several areas including scaling up promising prevention and care strategies, such as VCT, PMTCT, and IPT, supporting behavior change communication projects (MARCH strategy), such as the radio serial drama, and other capacity building efforts. Botswana is experiencing one of the world's most severe AIDS crises that looms as a disaster of unprecedented proportions. The global burden of HIV/AIDS in Botswana is the highest in sub-Saharan Africa, where 83 percent of the world's AIDS deaths have occurred, and where four-fifths of all HIV-positive women live. Despite a relative stabilization of infection rates in some countries in West Africa, the HIV/AIDS epidemic continues to grow at an alarming rate in Southern Africa. Like many countries in this region, Botswana has been disproportionately affected by the AIDS pandemic. Over 20 percent of the population are believed to be HIV positive and the Botswana National Aids Co-ordinating Agency's 2000 Sentinel Surveillance reports 38.5 percent HIV infection in participating pregnant women. Botswana estimates that as many as 25 babies a day are born with HIV. AIDS-related conditions are responsible for 10 percent of annual deaths, with women and adolescents particularly at risk. TB is by far the single leading cause of death among adults with AIDS in Botswana.

Based on Sentinel surveys in 1999, an estimated 19 percent of the total population and 29 percent of the economically productive age group (15-49 years old) are living with HIV infection. The rate of TB infection in Botswana (537/100,000 in 1999) is one of the highest in the world. Botswana has taken many positive steps to address the AIDS epidemic. The President has recognized HIV/AIDS as "the greatest challenge Botswana has faced" and has warned Botswana that HIV/AIDS "threatens the country with annihilation." The Botswana government pays for up to 80 percent of all HIV/AIDS activities in the country. This full-scale national response has generated many examples of creative programming and international collaborations. The government of Botswana will be among the first African countries to launch a TB prevention program using Isoniazid Preventive Therapy (IPT) for HIV infected individuals. A Pilot program of IPT was implemented in October 2000

and planning for nation-wide implementation is underway. In 1999 the MOH launched a pilot project for PMTCT in Gaborone and Francistown is now undertaking full scale implementation. In 2000 The BOTUSA Project in collaboration with the MOH launched the nationwide network of VCT centers, "Tebelopele" which means to look into the future. The government is also in the process of introducing ARV treatment and fully supports the MARCH strategy through Information Broadcasting. These programs are all new to the communities and providing information to the population using interpersonal communication can enhance uptake and empower the population to utilize these services.

The Botswana MOH and CDC collaboration was established in 1995 and is known as the "The BOTUSA Project" and is a successful example of MOH and international collaboration. BOTUSA is a strong supporter of the IPT program and is providing technical assistance, training for health care workers, supplying educational materials, and supporting program monitoring and evaluation. BOTUSA's collaboration includes support for the national PMTCT program through the provision of technical assistance, counseling space, equipment, and materials for prenatal clinics throughout the country. BOTUSA also supports in collaboration with the MOH, voluntary counseling and testing and a radio serial drama for behavior change.

However, despite the support of the government to fight the epidemic and the collaboration with international partners, the prevalence of HIV infection appears to have increased substantially in Botswana from 1997 to 2002 and the epidemic cannot yet be characterized as having stabilized. The capacity of the government to expand their pilot projects for prevention and extend the reach of their activities to the entire nation will have a substantial impact on the epidemic.

B. Eligible Applicants

Assistance will be provided only to the NACA for support of the TCM Project, as implemented by the NACA and the Humana People to People Foundation currently funded by the NACA of Botswana. No other applications are solicited.

The NACA is the only appropriate and qualified organization to fulfill the requirements set forth in this announcement because:

1. Through NACA, the Government of Botswana (GOB) has a cooperative agreement with Humana People to

People for the implementation of door-to-door community mobilization. In Botswana this program will be implemented under the name TCM. Humana People to People has been requested to find a partner to pay for twenty percent of the cost.

2. The TCM Project is uniquely positioned, in terms of support from the GOB. The NACA has the ability to financially and technically oversee the TCM project, and to provide implementation of a large scale interpersonal communication project as well as a mandate from GOB. The NACA has mandated Humana People to People to implement nationwide coverage of community mobilization and interpersonal communication through the TCM project. They have the ability to collect information, train staff and advocate for the programs implemented in the National AIDS Strategic Plan and disseminate personalized "one on one" communication to support the fight against HIV/AIDS in Botswana.

3. The GOB assisted by The Botswana/U.S. of America (BOTUSA) Project evaluated the TCM project in 2001. The results led the GOB to fund Humana People to People to undertake national community mobilization against HIV/AIDS. Therefore, Humana People to People is the only available organization approved by the GOB to implement door-to-door community mobilization, the TCM program, and specific services.

4. The specific services which the TCM project will deliver are directly associated with the CDC prevention strategies implemented under the Global AIDS Program in Botswana and integrated into the TCM project.

C. Availability of Funds

Approximately \$700,000 is available in FY 2002, to fund twenty percent of the TCM project by the NACA. The GOB will fund the remaining 80 percent of the agreement. It is expected that the award will begin on or about September 1, 2002 and will be made for a 12-month budget period within a project period of two years.

Continuation award within the 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

Funding to be administered by the NACA for TCM include:

Provision of salaries and short-term contracts for technical and support staff needed to scale up current pilot programs in the community to a nation

wide level. Funding for training, materials, and supervision in the field for the TCM community mobilization staff.

Funds received will not be used for the direct purchase of drugs to treat active TB disease. The purchase of antiretrovirals, reagents, and laboratory equipment for antiretroviral treatment projects requires preapproval from the GAP headquarters.

The applicant may contract with other organizations under these cooperative agreements, however, the applicant must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested).

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

1. Alterations and Renovations: Unallowable.
2. Customs and Import Duties: Unallowable. This includes consular fees, customs surtax, value added taxes, and other related charges.
3. Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the U.S. or to international organizations regardless of their location.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug. Matching funds is not a requirement for this program announcement.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page address—<http://www.cdc.gov>. Click on “Funding” then “Grants and Cooperative Agreements.”

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers

for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2757, Email address: ccollins@cdc.gov.

For program technical assistance, contact: Ethleen S. Lloyd, Global AIDS Program (GAP), c/o U.S. Embassy Gaborone, 2170 Gaborone Place, Washington DC 20521, Telephone number: (868)633–2065, Email address: ellyod@cdc.gov.

Dated: October 9, 2002.

Edward J. Schultz,

Deputy Director, Procurement and Grants Office, Center for Disease Control and Prevention.

[FR Doc. 02–26534 Filed 10–17–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02181]

Support for the National Laboratory for HIV/AIDS Reference & Quality Assurance in the Republic of Uganda; Notice of Award 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 to develop and support the National HIV/AIDS Reference Laboratory (HRL) in Uganda.

The overall aim of this program is to strengthen laboratory capacity across the country by assuring the accuracy of HIV testing at blood banks and at laboratories carrying out national sentinel surveillance, HIV-related research and those supporting Voluntary Counseling and Testing (VCT) and Prevention of Mother-To-Child Transmission (PMTCT) services.

The United States Government seeks to reduce the impact of HIV/AIDS in specific countries within sub-Saharan Africa, Asia and the Americas. CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV primary prevention, (2) HIV care, support and treatment and (3) capacity and infrastructure development, including surveillance. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential impact is greatest and where United States

government agencies are already active. Uganda is one of these countries.

CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic in many countries and it currently has an existing GAP Program in Uganda. CDC's mission in Uganda is to work with Ugandan and international partners in discovering and applying effective interventions to prevent HIV infection and associated illness and death from AIDS.

One of the functions of an HRL is to provide quality assurance of HIV testing nationwide. In Uganda, HIV testing is carried out to ensure the safety of the blood supply, to support national sentinel surveillance and specific research projects and in support of voluntary counseling and testing (VCT) and prevention of mother-to-child transmission (PMTCT) services.

The purpose of this program is to provide assistance to the National HRL in establishing a quality assurance (QA) program for all laboratories providing HIV testing services in both the governmental and non-governmental sectors.

VCT services are available at a large number of private and government clinics across the country and PMTCT services are expected to increase dramatically in the next few years as drugs to prevent mother-to-child transmission become more widely available. Serum-based HIV rapid testing is likely to be replaced by finger-stick rapid HIV testing at many of the sites providing VCT and PMTCT services presenting a new challenge for QA. There is no laboratory accreditation scheme in Uganda and the proficiency of many of the laboratories providing HIV testing services has not been established. As a consequence, users of these services, including policy makers and the general public are often not confident of the quality of laboratory test results. Currently there is no national QA scheme for rapid HIV testing and this program is intended to address this situation. It is expected that the scheme will become a model for other African countries as they develop their own HIV testing services in support of safe blood, surveillance and VCT and PMTCT programs.

This program will support both the development of the HRL and the implementation of a QA scheme for HIV testing. The development of the HRL will likely require; improvements in the physical infrastructure of the laboratory including power backup, computers, furnishings and fittings; additional equipment to ensure safe-practice and to

support an expanded range of laboratory assays; recruitment and training of staff; development of a laboratory management plan; design and implementation of HIV testing algorithms; design of a specimen repository policy and the development of a financial management plan. The implementation of the QA scheme will require; a census to be carried out to identify the potential scope of the scheme; evaluation of the performance characteristics of HIV assays and testing algorithms; development of QA activities in consultation with participating laboratories including training needs assessments and implementation of appropriate training programs, tools to evaluate laboratory performance, proficiency testing panels, schedule of QA site visits and reporting mechanisms.

B. Eligible Applicants

Assistance will be provided only to the National HRL of the Ministry of Health (MOH) of Uganda. No other applications are solicited.

The National HIV Reference Laboratory, being the mandated MOH laboratory for HIV reference activities, is the only appropriate and qualified laboratory to conduct the specific activities which will support the CDC Global AIDS Program's technical assistance to Uganda for the following reasons:

The HRL is uniquely positioned in terms of legal authority, ability and credibility with the Ugandan public to provide such services in support of communicable disease control and the maintenance of public health.

The HRL has provided limited HIV reference services for many years to most of the laboratories carrying out HIV testing in the country. As a result, HRL has established excellent working relations with the National Blood Bank, the AIDS Information Centre who are the main provider of VCT services in the country, the MOH-AIDS Control Program which has worked with the HRL in support of sentinel surveillance since its inception in 1987 and with numerous governmental and non-governmental laboratories in the country.

This proposal will help strengthen capacity within the existing framework of laboratories which are supported by the HRL to perform existing and newly-defined functions more effectively.

C. Availability of Funds

Approximately U.S. \$280,000 is available in FY 2002 to fund two specific activities within this award as follows:

1. U.S. \$160,000—non-recurrent expenditure for infrastructure development including furniture and fittings, equipment and vehicles.

2. U.S. \$120,000—recurrent expenditure for QA activities.

It is expected that the award will begin on or about August 30, 2002 and will be made for a 12-month budget period within a project period of three (3) years. Annual 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.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Use of Funds

Funds may only be utilized at the National HIV Reference Laboratory for QA of HIV testing as described in the goals, objectives, and activities of the submitted and funded plan.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested).

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

The purchase of antiretrovirals, reagents, and laboratory equipment for antiretroviral treatment projects requires pre-approval from the Global AIDS Program headquarters.

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—<http://www.cdc.gov>. Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146. Telephone: (770) 488-2757. E-mail: coc9@cdc.gov.

For program technical assistance, contact: Jonathan Mermin, MD, MPH, Global Aids Program [GAP], Uganda Country Team, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention [CDC], PO Box 49, Entebbe, Uganda. Telephone: +256-410320776. E-mail: jhm@cdc.gov.

Dated: October 9, 2002.

Edward J. Schultz,

Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26535 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02076]

Expansion of HIV/AIDS/STD Surveillance, Care, and Prevention Activities in the Republic of Tanzania; Notice of Award 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 for the expansion of HIV/AIDS/STD surveillance, care, and prevention activities in the Republic of Tanzania.

The purpose of this cooperative agreement is to improve HIV/AIDS surveillance, care, and prevention capacity and activities in Tanzania. This will be accomplished by cooperation between CDC and the Ministry of Health National AIDS Control Program (MOH/NACP) of Tanzania. These collaborative activities could profoundly change the focus and activities of the Tanzania National AIDS Policy. Most importantly, having a better understanding of the association between specific behaviors, STDs, and HIV prevalence will likely

improve AIDS control programs and prevention efforts in Tanzania and eventually throughout sub-Saharan Africa. The U.S. Government seeks to reduce the impact of HIV/AIDS in specific countries within sub-Saharan Africa, Asia, and the Americas through its Global AIDS Program (GAP). CDC has initiated its Global AIDS Program to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment; and (3) capacity and infrastructure development, especially for surveillance. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. government agencies are already active. Tanzania is one of these targeted countries.

CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic in GAP countries. In particular, CDC's mission in Tanzania is to work with Tanzanian and international partners in discovering and applying effective interventions to prevent HIV infection and associated illness and death from AIDS.

Tanzania has approximately 31 million people. In 1997, NACP estimated that 2.4 million (8 percent) would be HIV-infected by the year 2000. In 1998, the MOH reported that the HIV seroprevalence of pregnant women in four sentinel districts ranged from 12 to 24 percent. Also for 1998, the MOH reported that HIV seroprevalence among male blood donors was 9 percent, while the rate was 12 percent among female donors. The Adult Morbidity and Mortality Project recently reported that HIV/AIDS and TB were the leading causes of death in 15 to 59 year-old men and women in three study areas. These statistics suggest the need for the expansion and improvement of a range of surveillance, care, and prevention activities and services.

Accurate surveillance is the mainstay of public health programs, providing essential information for focusing prevention activities, allocating resources, and monitoring effectiveness of programs. Additionally, gaps in care and prevention activities are factors that must be addressed to reduce the epidemic's burdensome impact in Tanzania. The prevention and control of HIV/AIDS in Tanzania will continue to depend on the availability of accurate surveillance data and the continuation and expansion of basic care and prevention activities.

B. Eligible Applicants

Assistance will be provided only to the National AIDS Control Program (NACP) of the Tanzania Ministry of Health (MOH). No other applications are solicited.

The NACP is currently the only appropriate and qualified organization to conduct a specific set of activities supportive of the CDC Global AIDS Program's (GAP) technical assistance to Tanzania for the following reasons:

1. The NACP is uniquely positioned, in terms of legal authority, ability, and credibility among Tanzanian citizens, to collect crucial data on HIV/AIDS prevalence and incidence, as well as other health information.

2. The NACP has established mechanisms to access health information, enabling it to immediately become engaged in the activities listed in this announcement.

3. The purpose of the announcement is to build upon the existing framework of health information and activities that the MOH itself has collected or initiated.

4. The Ministry of Health in Tanzania has been mandated by the Tanzanian constitution to coordinate and implement activities necessary for the control of epidemics, including HIV/AIDS and STDs.

C. Availability of Funds

Approximately \$1,000,000 is available in FY 2002 to fund this award. It is expected that the award will begin on or about June 1, 2002, and will be made for a 12-month budget period within a project period of 5 years. Approximately \$500,000 will be available for years 2–5 of the project. Annual funding estimates may change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Use of Funds

Funds received under this announcement may not be used for the direct purchase of anti-retroviral drugs to treat established HIV infection, occupational exposures, and non-occupational exposures and will not be used for the purchase of instruments and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities including program management and operations, and delivery of prevention services for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations, located outside the territorial limits of the United States or to international organizations regardless of their location.

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—<http://www.cdc.gov>. Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146. Telephone number: 770-488-2757. e-mail: coc9@cdc.gov.

For program technical assistance, contact: Eddas M. Bennett, Deputy Director, CDC Tanzania AIDS Program, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 140 Mseke Road, Dar es Salaam, Tanzania. Telephone: 2 666 010 x4164. e-mail: ebennett@tancdc.co.tz.

Dated: October 9, 2002.

Edward J. Schultz,

Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26536 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02212]

Support for Civil Society Organizations Responding to HIV/AIDS in Mali; Notice of Award 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 to Support Civil Society Organizations Responding to HIV/AIDS in high risk groups in Mali.

The purpose of this cooperative agreement is to provide support to civil society organizations responding to the HIV/AIDS epidemic in Mali. Specifically, CDC intends to focus its support on (1) Non-governmental organizations (NGOs) with national or regional missions and activities or cross-cutting activities that focus on HIV/AIDS prevention in high risk groups and are under the auspices of the Groupe Pivot umbrella NGO organization; (2) NGO infrastructure or administrative support that is needed to complement already existing administrative and program management capacities, including assistance with program planning, accountability and monitoring and evaluation; and (3) providing support of NGO implementation of Sexually Transmitted Infection (STI) referral or direct treatment services based on the National STI syndromic treatment algorithms and utilizing outreach, education, counseling and partner referral mechanisms. See Attachment I for additional background information.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for HIV, STD and TB Prevention, Global AIDS Program: Working with other countries, USAID, international, and U.S. government agencies, reduce the number of new HIV infections among 15 to 24 year olds in sub-Saharan Africa from an estimated 2 million by 2005.

B. Eligible Applicants

Assistance will be provided only to the Groupe Pivot organization based in Bamako, Mali. No other applications are solicited.

This announcement is restricted to Groupe Pivot because it is the only organization in Mali that serves as an umbrella organization for hundreds of

non-governmental organizations located through the country. Groupe Pivot is the only organization in Mali that provides training, technical assistance and financial support to non-governmental organizations/community-based organizations (NGOs/CBOs) for the planning, implementation and management of health and population projects. CDC's support to NGOs/CBOs for STI/HIV prevention at the community level will be greatly enhanced by collaboration with Groupe Pivot.

C. Availability of Funds

Approximately \$100,000 is available in FY 2002 for Groupe Pivot to fund multiple awards to NGOs averaging from \$6,500 to \$19,500 per award. It is expected that the umbrella award will begin on or about September 1, 2002, and will be made for a 12-month budget period within a project period of up to three (3) years. Funding estimates may change and will be dependent on extension of CDC agreement with USAID in Mali.

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.

Funds are available under this announcement to support specific HIV/AIDS prevention activities. These activities are:

- Development of STI referral services for high risk groups and their partners.
- Development of on-site STI services for high risk groups and their partners, when appropriate.
- STI/HIV outreach services and STI/HIV education programs for high risk groups and partners.
- Monitoring and evaluation of program indicators, such as number of persons referred and treated, number of condoms distributed and number of education sessions held by the sub-grantee.
- Development of condom promotion and distribution programs among high risk groups, including condom skills training.

Use of Funds

STI/HIV Prevention

Funds may be utilized by grantee or sub-grantees only in activities associated with HIV/AIDS and STI prevention in particular. They are also targeted to high risk groups.

Antiretroviral Drugs

The purchase of antiretrovirals, reagents, and laboratory equipment for

antiretroviral treatment projects requires pre-approval from the Division of STD Prevention—International Activities.

Contracts

Applicant may contract or sign memoranda of understanding with other organizations under these cooperative agreements (*i.e.* local NGOs), however, applicant must perform a substantial portion of the activities, including program management and operations and ultimate responsibility for delivery of prevention services for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. All proposals must be written in English. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Needle Exchange

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. Where To Obtain Additional Information

CDC announcement information 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 technical assistance, contact: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement & Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341-4146, Telephone: (770) 488-2757, email address: ccollins@cdc.gov.

For program technical assistance, contact: Famory Fofana, MD, Centers for Disease Control, Bamako-Coura Rue 371, Porte 397, PNLS, Cour PMI Centrale (SSS Commune III), BAMAKO—Republique du Mali, email address: ffofana@cdcmali.org.

Dated: October 9, 2002.

Edward J. Schultz,

Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26538 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02140]

Global Health Promotion and Health Education Initiatives Related to Chronic Disease Prevention; Notice of Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year (FY) 2002 for a cooperative agreement for Global Health Promotion and Health Education Initiatives Related to Chronic Disease Prevention.

The purpose of this program announcement is to promote research, health promotion, and dissemination of expertise and information related to non-communicable disease, chronic diseases; mental health problems; and leading causes of death, disease and disability that can be significantly reduced through effective public health policies and community and school health programs.

The International Union for Health Promotion and Education (IUHPE) will accomplish the purpose of this program announcement by functioning as a coordinating agency for a comprehensive global health promotion and health education effort, related to non-communicable disease prevention through the development of public health policies, dissemination of evidence-based knowledge and practical experience, capacity building in non-communicable disease surveillance systems and prevention program development.

B. Eligible Applicant

Assistance will be provided only to the IUHPE. No other applications are solicited.

The IUHPE is the only international health promotion organization that can conduct the activities in this program announcement. IUHPE is the only international organization with independent professional association with more than 2,000 members in over 90 countries. IUHPE has seven Global Regional Offices located in Australia,

Japan, India, Kenya, Puerto Rico, USA, and Spain.

The IUHPE will accomplish the purpose of this program announcement by functioning as a coordinating agency for a comprehensive global health promotion and health education effort related to non-communicable disease prevention through the development of public health policies, dissemination of evidence-based knowledge and practical experience, capacity building in non-communicable disease surveillance systems and prevention program development.

IUHPE is the only qualified international health promotion organization dedicated to improving the health of the people of the world through education, community action and the development of public policies. IUHPE is uniquely qualified to conduct and coordinate research and programmatic activities under this program announcement because:

1. IUHPE has 50 years experience improving the health of the people of the world through education, community action and the development of public policies.

2. IUHPE is an independent professional association with more than 2,000 members in over 90 countries. IUHPE has seven Global Regional Offices located in Australia, Japan, India, Kenya, Puerto Rico, USA, and Spain. IUHPE truly understands international health and is aware of the public health issues impacting every corner of the world.

3. IUHPE is uniquely qualified to conduct and coordinate policy and programmatic initiatives that have specific relevance to the objectives of this program announcement.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

C. Availability of Funds

Approximately \$ 165,000 is available in FY 2002 to fund one award. It is expected that the award will begin on or about June 30, 2002, and will be made for a 12-month budget period within a project period of up to five years. Funding estimate for specific program components listed below may vary and are subject to change.

1. *Global Health Promotion, Health Education:* Approximately \$60,000 is available in FY 2002 to expand IUHPE's Global Program on Health Promotion Effectiveness to areas of the world where English publication bias has failed to demonstrate the impact of

effective health promotion evaluation such as Latin American Regional Office and other appropriate organizations.

2. *Nutrition and Physical Activity:* Approximately \$70,000 is available in FY 2002 to support activities to strengthen global and regional physical activity health promotion programs within the context of public health. A demonstration project in a region such as the Western Pacific (including but not limited to Fiji, Samoa, the Marshall Islands and the Federated States of Micronesia) may be supported.

3. *School Health:* Approximately \$10,000 is available in FY 2002 to support activities to strengthen international, national and local support of effective school health programs.

4. *Community Health:* Approximately \$25,000 is available in FY 2002 to support activities to strengthen international, national, and local support of effective community health programs.

5. *Tobacco Control and Prevention:* Based on availability of funding, money will be made available in FY 2003 for tobacco control and prevention activities.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

1. All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

2. Funds may be used to support personnel, supplies, and services directly related to project activities that are consistent with the scope of the cooperative agreement. Equipment may be purchased if deemed necessary to accomplish program objectives, however, CDC officials must be notified in advance of such purchases.

3. The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exception: *Indirect Costs:* Indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

4. Funds provided under this program announcement can not be used to supplant existing program funds, to

provide personal health services, medications, patient rehabilitation or to support facilities construction or renovation.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—<http://www.cdc.gov>. Click on “Funding” then “Grants and Cooperative Agreements.”

Business management technical assistance may be obtained from: Cynthia Collins, Grants Management Specialist, International/Territories Acquisition and Assistance Branch, Procurement and Grants Office, Program Announcement 02140, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Rd., Room 3000, Atlanta, GA 30341-5539, Telephone: (770) 488-2757, E-mail address: coc9@cd.gov.

Program technical assistance may be obtained from:

Project 1: Global Health Promotion, Health Education may be obtained from: Mary Hall, Program Analyst, Global Health Promotion, Office of the Director, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), Mail Stop K-40, 4770 Buford Highway, NE., Atlanta, GA 30341, Telephone: 770-488-5644, Email: moh4@cdc.gov.

Project 2: Nutrition and Physical Activity may be obtained from: Michael Pratt, Medical Officer, Division of Nutrition and Physical Activity, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), Mail Stop K-46, 4770 Buford Highway, NE., Atlanta, GA 30066, Telephone: 770-488-5692, Email: mxp4@cdc.gov.

Project 3: School Health may be obtained from: Paula Morgan, Program Analyst, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), Mail Stop K-29, 4770 Buford Highway, NE., Atlanta, GA 30066 Telephone: 770-488-6107, Email: pnm3@cdc.gov.

Project 4: Community Health may be obtained from: Mike Waller, Deputy Director, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), Mail Stop K-45, 4770 Buford Highway, NE., Atlanta, GA 30066, Telephone: 770-488-5264, Email: mnw1@cdc.gov.

Project 5: Tobacco Control and Prevention may be obtained from: Michelle Roland, Office of Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), Mail Stop K-50, 4770 Buford Highway, NE., Atlanta, GA 30066, Telephone: 770-488-5582, Email: izr0@cdc.gov.

Dated: October 9, 2002.

Edward J. Schultz,

Deputy Director, Procurement and Grants Office, Center for Disease Control and Prevention.

[FR Doc. 02-26532 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02105]

Enhancement of Surveillance for Trimethoprim-Sulfamethoxazole Resistant Invasive Respiratory and Diarrheal Disease in South Africa; Notice of Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the award of fiscal year (FY) 2002 funds for a cooperative agreement program for Enhancement of Surveillance for Trimethoprim-Sulfamethoxazole Resistant Invasive Respiratory and Diarrheal Disease in South Africa. This program addresses the “Healthy People 2010” focus area Immunization and Infectious Diseases.

The purpose of the program is to strengthen surveillance for key respiratory and diarrheal disease episodes in order to facilitate program monitoring of the increased use of trimethoprim-sulfamethoxazole (cotrimoxazole) as part of care and support of persons with Human Immunodeficiency Virus (HIV/AIDS). Enhanced sentinel hospital surveillance for bloodstream and cerebrospinal fluid infections caused by key Pathogens—*Streptococcus Pneumoniae*, *Haemophilus Influenzae*, and nontyphoidal *Salmonella* species will permit evaluation of trends in the occurrence of antimicrobial resistance in pediatric vs. adult infections, and estimation of temporal changes in the contribution of HIV/AIDS to the total burden of these respiratory and diarrheal diseases. Surveillance will also detect cases which occur despite adherence to cotrimoxazole prophylaxis

and estimate the role of antimicrobial resistance in these episodes.

B. Eligible Applicants

Assistance will be provided only to the Respiratory and Meningeal Pathogens Laboratory (The Unit) of the National Health Laboratory Service, Department of Health, South Africa. No other applications are solicited.

The Respiratory and Meningeal Pathogens Laboratory of the National Health Laboratory Service is a Government organization and the only appropriate and qualified organization to conduct the specific surveillance activities due to the following:

1. The unit is uniquely positioned to conduct enhanced surveillance and has established contacts as well as laboratory and epidemiologic experiences that enable it to immediately become engaged in the activities listed in this announcement.
2. The Laboratory has been the National Reference Laboratory for pneumococci and *Haemophilus Influenzae* and has provided training to reference laboratories throughout Africa. The Unit was designated by the Government to coordinate national surveillance through sentinel laboratories for the major pathogens causing meningitis (*pneumococcus*, *Haemophilus Influenzae*, and *Meningococcus*). The infrastructure can be expanded with minimal difficulty to include non-typhoidal salmonella isolated from blood and cerebrospinal fluid and be enhanced to assure additional epidemiologic data are collected as part of sentinel surveillance.
3. The Unit has coordinated surveillance for trimethoprim-sulfamethoxazole resistance in respiratory and meningeal infections in sentinel hospitals located throughout South Africa.
4. The Unit has provided training of laboratory identification and characterization, including antimicrobial susceptibility testing, for meningitis agents including pneumococcus and *Haemophilus Influenzae*. Laboratory staff have provided national training as well as training of personnel from multiple other countries in Africa. The Enteric Pathogens Laboratory is expert at identification and susceptibility testing of nontyphoidal *Salmonella*, and has been designated part of the National Health Laboratory Service by the Government to serve in a reference capacity for these organisms.
5. The Unit and the National Health Laboratory Service already have established collaborations in place. The

Unit operates under a memorandum of understanding between the Medical Research Council and CDC.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

C. Availability of Funds

Approximately \$250,000 is being awarded in FY 2002 to fund one award. It is expected that the award will begin on or about September 1, 2002, and will be made for a 12-month budget period within a project period of up to five years. The funding estimate may change.

Continuation award within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Where To Obtain Additional Information

This and other CDC and the Agency for Toxic Substance and Disease Registry (ATSDR) announcements can be found on the CDC home page Internet address <http://www.cdc.gov> Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Cynthia Collins, Grants Management Specialist, International & Territories Acquisition and Assistance Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146, Telephone: (770) 488-2757, e-mail: coc9@cdc.gov.

For program technical assistance, contact: Anne Schuchat, MD, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Atlanta, GA 30333, Telephone: (404) 639-2215, e-mail: acs1@cdc.gov.

Dated: October 9, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26527 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02095]

Division of International Health/Global Surveillance Project Strengthening Outbreak Investigations and Response in Uganda; Notice of Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the award of fiscal year (FY) 2002 funds for a cooperative agreement program for the Division of International Health/Global Surveillance Project Strengthening Outbreak Investigations and Response in Uganda. This program addresses the "Healthy People 2010" focus area of Public Health Infrastructure.

The purpose of the program is to strengthen the ability of the Ministry(s) of Health (MOH) to identify, investigate, analyze, respond to and report on disease outbreaks and other unusual health events. By doing so, the agreement will result in strengthening the applied public health programs at the University.

B. Eligible Applicants

Assistance will be provided only to the University of Uganda. No other applications are solicited.

The University of Uganda Public Health School Without Walls (PHSWOW) is uniquely qualified as a partner since it has the only Masters in Public Health (MPH) program in the country. PHSWOW offers a one year MPH program to produce public health practitioners who will be leaders and change agents for health development in Uganda, in particular with the district as the focus, and Africa in general. This MPH is recognized throughout the region as proof of quality training in epidemiology, surveillance and other public health skills.

Note: Title two of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

C. Funds

One award of \$40,000 is being made FY 2002. It is expected that the awards will begin on or about June 1, 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.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—<http://www.cdc.gov> Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146, Telephone number (770) 488-2757, e-mail address coc9@cdc.gov.

For program technical assistance, contact:

Dr. Peter Nsubuga, Medical Epidemiologist, Division of International Health, Epidemiology Program Office, Centers for Disease Control and Prevention, 4770 Buford Highway, MS -K72, Atlanta, GA 30341, Telephone number (770) 488-8334, e-mail address pcn0@cdc.gov.

or
Mr. B.J. (Bassam) Jarrar, Public Health Advisor, Division of International Health, Epidemiology Program Office, Centers for Disease Control and Prevention, 4770 Buford Highway, MS -K72, Atlanta, GA 30341, Telephone number (770) 488-8330, e-mail address bmj0@cdc.gov.

Dated: October 9, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26537 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02094]

Division of International Health/Global Surveillance Project Strengthening Outbreak Investigations and Response in Tanzania; Notice of Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the award of fiscal year (FY) 2002 funds for a cooperative agreement program for the Division of International Health/Global Surveillance Project Strengthening

Outbreak Investigations and Response in Tanzania. This program addresses the "Healthy People 2010" focus area of Public Health Infrastructure.

The purpose of the program is to strengthen the ability of the Ministry(s) of Health (MOH) to identify, investigate, analyze, respond to and report on disease outbreaks and other unusual health events. By doing so, the agreement will result in strengthening the applied public health programs through the World Health Organization (WHO) Country Office in Dar es Salaam, Tanzania.

B. Eligible Applicants

Assistance will be provided only to the WHO Country Office in Dar es Salaam, Tanzania. No other applications are solicited.

The WHO Country Office in Dar es Salaam is uniquely qualified as a partner since it serves as consultant to the MOH in implementing and administering Public Health programs in Tanzania. This office maintains the only polio surveillance and outbreak response systems for the MOH in the country.

Note: Title two of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

C. Funds

\$40,000 is being awarded in FY 2002 for one award. The award began on or about June 1, 2002, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—<http://www.cdc.gov> Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146, Telephone number (770) 488-2757, e-mail address coc9@cdc.gov.

For program technical assistance, contact:

Dr. Peter Nsubuga, Medical Epidemiologist, Division of International Health, Epidemiology Program Office, Centers for Disease Control and Prevention, 4770 Buford

Highway, MS-K72, Atlanta, GA 30341, Telephone number (770) 488-8334, e-mail address pcn0@cdc.gov.

Or

Mr. B.J. (Bassam) Jarrar, Public Health Advisor, Division of International Health, Epidemiology Program Office, Centers for Disease Control and Prevention, 4770 Buford Highway, MS-K72, Atlanta, GA 30341, Telephone number (770) 488-8330, e-mail address bmj0@cdc.gov.

Dated: October 9, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02-26540 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02098]

Expansion of HIV/AIDS Care Services in Côte d'Ivoire; Notice of Award 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 for the expansion of HIV/AIDS care services in the Republic of Côte d'Ivoire.

The purpose of this cooperative agreement is to strengthen and expand the community response to Human Immunodeficiency Virus (HIV/AIDS) care services in the ten communities of Abidjan, the capital of Côte d'Ivoire, and selected secondary cities throughout the country.

B. Eligible Applicants

Applications may only be submitted by public and private non-profit and for profit-organizations, state and local governments or their bona fide agents, that currently conduct HIV/AIDS work in Côte d'Ivoire.

Applicants must have at least five years experience in HIV/AIDS work in Côte d'Ivoire including: Community mobilization for prevention of HIV/AIDS and promotion of voluntary counseling and testing; successful working relationships with both local and national government offices such as the mayors' office and the Ministries of Health and AIDS; establishment of support groups for people living with AIDS (PLWA); knowledge and

understanding of resources available to create referral networks for clinical and psycho-social support for PLWA and families.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

C. Availability of Funds

Approximately \$200,000 is available in FY 2002 to fund this award. It is expected that the average award 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. Annual funding estimates may change.

Continuation awards within the 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 received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception nevirapine in Prevention of Mother to Child Transmission (PMTCT) cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities (including program management, operations and delivery of prevention services) for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization (WHO), indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS)

will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address <http://www.cdc.gov/>. Click on "Funding" then "Grants and Cooperative Agreements."

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 1600 Clifton Road, Mailstop E-15, Atlanta, GA 30333. Telephone number: (770) 488-2757. E-Mail: coc9@cdc.gov.

For program technical assistance, contact: Karen Ryder, MPH, CDC/HIV, 2010 Abidjan Place, Dulles, VA 20189-2010. Telephone: (404) 639-0911. E-Mail address: kkr1@cdc.gov.

Dated: October 9, 2002.

Edward J. Schultz,

Deputy Director, Procurement and Grants Office, Center for Disease Control and Prevention.

[FR Doc. 02-26526 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Committee on Smoking and Health Meeting: Correction

ACTION: Notice; Correction.

Name: Interagency Committee on Smoking and Health.

Date and Time: October 24, 2002, 8:30 a.m. to 2:15 p.m.

Correction

In the **Federal Register** of October 8, 2002, Volume 67, Number 195, Notices, Page 62727, under "PLACE" Should read: Hotel Monaco, 700 F Street, Athens Room, Washington, DC, (202) 628-7177.

Contact Person for More Information: Ms. Monica L. Swann, Committee Management Specialist, Interagency Committee on Smoking and Health, Office on Smoking and Health,

NCCDPHP, CDC, 200 Independence Avenue, SW., Room 317B, Washington, DC, 20201, telephone (202) 205-8500.

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 the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 11, 2002.

Cynthia P. Johnson.

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 02-26530 Filed 10-17-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N-0590]

Agency Information Collection Activities; Announcement of OMB Approval; Salmonella Discovery System Pilot Study

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Salmonella Discovery System Pilot Study" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 28, 2002 (67 FR 3902), the agency announced that the proposed information had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB Control Number 0910-0493. The approval expires on September 30, 2005. A copy of the supporting statement for this information collection is available on the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: October 11, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-26619 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N-0070]

Agency Information Collection Activities; Announcement of OMB Approval; Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring—Extension" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 16, 2002 (67 FR 46679), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910-0409. The approval expires on September 30, 2005. A copy of the supporting statement for this information collection is available on the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: October 11, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-26620 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N-0302]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Guidance for Industry on Formal Meetings With Sponsors and Applicants for Prescription Drug User Fee Act Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 18, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Industry on Formal Meetings With Sponsors and Applicants for Prescription Drug User Fee Act (PDUFA) Products—(OMB Control Number 0910-0429)—Extension

This information collection approval request is for a FDA guidance on the procedures for formal meetings between FDA and sponsors or applicants regarding the development and review of Prescription Drug User Fee Act (PDUFA) products. The guidance describes procedures for requesting, scheduling, conducting, and documenting such formal meetings. The guidance provides information on how the agency will interpret and apply section 119(a) of the Food and Drug Administration Modernization Act (the Modernization Act), specific PDUFA goals for the management of meetings

associated with the review of human drug applications for PDUFA products, and provisions of existing regulations describing certain meetings (§§ 312.47 and 312.82 (21 CFR 312.47 and 312.82)).

The guidance describes two collections of information: The submission of a meeting request containing certain information and the submission of an information package in advance of the formal meeting. Agency regulations at § 312.47(b)(1)(ii), (b)(1)(iv), and (b)(2) describe information that should be submitted in support of a request for an end-of-phase 2 meeting and a pre-NDA (new drug application) meeting. The information collection provisions of § 312.47 have been approved by OMB (OMB control number 0910-0014). However, the guidance provides additional recommendations for submitting information to FDA in support of a meeting request. As a result, FDA is submitting additional estimates for OMB approval.

A. Request for a Meeting

Under the guidance, a sponsor or applicant interested in meeting with the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER) should submit a meeting request to the appropriate FDA component as an amendment to the underlying application. FDA regulations (§§ 312.23, 314.50, and 601.2 (21 CFR 312.23, 314.50, and 601.2)) state that information provided to the agency as part of an investigational new drug application (IND), NDA, or biological license application (BLA) must be submitted in triplicate and with an appropriate cover form. Form FDA 1571 must accompany submissions under INDs and Form FDA 356h must accompany submissions under NDAs and BLAs. Both forms have valid OMB control numbers as follows: FDA Form 1571, OMB control number 0910-0014, expires September 30, 2002; and FDA Form 356h, OMB control number 0910-0001, expires March 31, 2005, OMB control number 0910-338, which expires March 31, 2003.

In the guidance document, CDER and CBER ask that a request for a formal meeting be submitted as an amendment to the application for the underlying product under the requirements of §§ 312.23, 314.50, and 601.2; therefore, requests should be submitted to the agency in triplicate with the appropriate form attached, either Form FDA 1571 or Form FDA 356h. The agency recommends that a request be submitted in this manner for two reasons: (1) To ensure that each request is kept in the

administrative file with the entire underlying application, and (2) to ensure that pertinent information about the request is entered into the appropriate tracking databases. Use of the information in the agency's tracking databases enables the agency to monitor progress on the activities attendant to scheduling and holding a formal meeting and to ensure that appropriate steps will be taken in a timely manner.

Under the guidance, the agency requests that sponsors and applicants include in meeting requests certain information about the proposed meeting. Such information includes:

- Information identifying and describing the product;
- The type of meeting being requested;
- A brief statement of the purpose of the meeting;
- A list of objectives and expected outcomes from the meeting;
- A preliminary proposed agenda;
- A draft list of questions to be raised at the meeting;
- A list of individuals who will represent the sponsor or applicant at the meeting;
- A list of agency staff requested to be in attendance;
- The approximate date that the information package will be sent to the agency; and
- Suggested dates and times for the meeting.

This information will be used by the agency to determine the utility of the meeting, to identify agency staff necessary to discuss proposed agenda items, and to schedule the meeting.

B. Information Package

A sponsor or applicant submitting an information package to the agency in advance of a formal meeting should provide summary information relevant to the product and supplementary information pertaining to any issue raised by the sponsor, applicant, or agency. The agency recommends that information packages generally include:

- Identifying information about the underlying product;
- A brief statement of the purpose of the meeting;
- A list of objectives and expected outcomes of the meeting;
- A proposed agenda for the meeting;
- A list of specific questions to be addressed at the meeting;
- A summary of clinical data that will be discussed (as appropriate);
- A summary of preclinical data that will be discussed (as appropriate); and
- Chemistry, manufacturing, and controls information that may be discussed (as appropriate).

The purpose of the information package is to provide agency staff the

opportunity to adequately prepare for the meeting, including the review of relevant data concerning the product. Although FDA reviews similar information in the meeting request, the information package should provide updated data that reflect the most current and accurate information available to the sponsor or applicant. The agency finds that reviewing such information is critical to achieving a productive meeting.

The collection of information described in the guidance reflects the current and past practice of sponsors and applicants to submit meeting requests as amendments to INDs, NDAs, and BLAs and to submit background information prior to a scheduled meeting. Agency regulations currently permit such requests and recommend the submission of an information package before an end-of-phase 2 meeting (§ 312.47(b)(1)(ii) and (b)(1)(iv)) and a pre-NDA meeting (§ 312.47(b)(2)).

Description of respondents: A sponsor or applicant for a drug or biological product who requests a formal meeting with the agency regarding the development and review of a PDUFA product.

Burden estimate: Provided in table 1 of this document is an estimate of the annual reporting burden for the submission of meeting requests and information packages under the guidance.

C. Request for a Formal Meeting

Based on data collected from the review divisions and offices within CDER and CBER, FDA estimates that approximately 500 sponsors and applicants (respondents) request approximately 1,253 formal meetings with CDER annually and approximately 176 respondents request approximately 388 formal meetings with CBER annually regarding the development and review of a PDUFA product. The hours per response, which is the estimated number of hours that a respondent would spend preparing the information to be submitted with a meeting request in accordance with the guidance, is estimated to be approximately 10 hours. Based on FDA's experience, the agency expects it will take respondents this amount of time to gather and copy brief statements about the product and a description of the purpose and details of the meeting.

D. Information Package

Based on data collected from the review divisions and offices within CDER and CBER, FDA estimates that approximately 450 respondents submitted approximately 1,118 information packages to CDER annually and approximately 155 respondents submitted approximately 341 information packages to CBER annually prior to a formal meeting regarding the development and review of a PDUFA product. The hours per response, which

is the estimated number of hours that a respondent would spend preparing the information package in accordance with the guidance, is estimated to be approximately 18 hours. Based on FDA's experience, the agency expects it will take respondents this amount of time to gather and copy brief statements about the product, a description of the details for the anticipated meeting, and data and information that generally would already have been compiled for submission to the agency.

As stated earlier, the guidance provides information on how the agency will interpret and apply section 119(a) of the Modernization Act, specific PDUFA goals for the management of meetings associated with the review of human drug applications for PDUFA products, and provisions of existing regulations describing certain meetings (§§ 312.47 and 312.82). The information collection provisions in § 312.47 concerning end-of-phase 2 meetings and pre-NDA meetings have been approved by OMB (OMB control number 0910-0014). However, the guidance provides additional recommendations for submitting information to FDA in support of a meeting request. As a result, FDA is submitting for OMB approval these additional estimates.

In the **Federal Register** of July 18, 2002 (67 FR 47383), the agency requested comments on the proposed collections of information. The agency received no comments to the notice.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN¹

Meeting Requests and Information Packages	Number of Respondents	Number of Responses Per Respondent	Total Annual Responses	Hours per Response	Total Hours
Meeting requests					
CDER	500	2.5	1,250	10	12,500
CBER	176	2.2	387.2	10	3,872
Total					16,372
Information packages					
CDER	450	2.5	1,125	18	20,250
CBER	155	2.2	341	18	6,138
Total					26,388
Meeting requests					16,372
Information packages					26,388
Total					42,760

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 9, 2002.
Margaret M. Dotzel,
Associate Commissioner for Policy.
 [FR Doc. 02-26474 Filed 10-17-02; 8:45 am]
BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N-0315]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Medical Devices: Humanitarian Use Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 18, 2002.

ADDRESSES: Submit written comments on the collection of information to the

Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Devices: Humanitarian Use Devices—21 CFR Part 814—Subpart H (OMB Control Number 0910-0332)—Extension

This collection implements the humanitarian use device (HUD) provision under section 520(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(m)) and 21 CFR part 814, subpart H. Under section 520(m) of the act, FDA is authorized to exempt an HUD from the effectiveness requirements of sections 514 and 515 of the act (21 U.S.C. 360d and 360e) provided that the device: (1) Is used to treat or diagnose a disease or condition that affects fewer than 4,000 individuals in the United States; (2) would not be

available to a person with such a disease or condition unless the exemption is granted, and there is no comparable device, other than another HUD approved under this exemption, available to treat or diagnose the disease or condition; and (3) the device will not expose patients to an unreasonable or significant risk of illness or injury, and the probable benefit to health from using the device outweighs the risk of injury or illness from its use, taking into account the probable risks and benefits of currently available devices or alternative forms of treatment.

The information collection will allow FDA to determine whether to: (1) Grant HUD designation of a medical device, (2) exempt a HUD from the effectiveness requirements in sections 514 and 515 of the act provided that the device meets requirements set forth in section 520(m) of the act, and (3) grants marketing approval(s) for the HUD. Failure to collect this information would prevent FDA from making those determinations. Also, this information enables FDA to determine whether the holder of a humanitarian device exemption (HDE) is in compliance with the HDE requirements.

Description of respondents: Businesses or others for-profit.

FDA estimates the burden of this collection as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per response	Total Hours
814.102	20	1	20	40	800
814.104	15	1	15	320	4,800
814.106	15	4	60	50	3,000
814.108	12	1	12	80	960
814.116(e)(3)	1	1	1	1	1
814.124(a)	5	1	5	1	5
814.124(b)	1	1	1	2	2
814.126(b)(1)	15	1	15	120	1,800
Total					11,368

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
814.126(b)(2)	15	1	15	2	30

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Generally, the information requested from the respondents represents an accounting of information already in the possession of the applicant.

In the **Federal Register** of June 26, 1996 (61 FR 33232), FDA published the final rule for HUDs and based its estimates on comments received to the

proposed rule (57 FR 60491, December 21, 1992); industry contact; and internal FDA benchmark factors (such as the number of premarket approval applications processed). The numbers generated in the current estimate as shown in tables 1 and 2 of this document are based upon those prior

estimates. This is still a relatively new program, and the data acquired from the past several years has remained fairly stable and consistent.

Dated: October 11, 2002.
Margaret M. Dotzel,
Associate Commissioner for Policy.
 [FR Doc. 02-26614 Filed 10-17-02; 8:45 am]
BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N-0296]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Investigational New Drug Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 18, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Investigational New Drug (IND) Regulations—Part 312 (21 CFR Part 312)—(OMB Control Number 0910-0014)—Extension

FDA is requesting OMB approval for the reporting and recordkeeping requirements contained in the FDA regulation “Investigational New Drug

Application” part 312 (21 CFR part 312). This regulation implements provisions of section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) to issue regulations under which the clinical investigation of the safety and effectiveness of unapproved new drugs and biological products can be conducted.

FDA is charged with implementing statutory requirements that drug products marketed in the United States be shown to be safe and effective, properly manufactured, and properly labeled for their intended uses. Section 505(a) of the act provides that a new drug may not be introduced or delivered for introduction into interstate commerce in the United States unless FDA has previously approved a new drug application (NDA). FDA approves an NDA only if the sponsor of the application first demonstrates that the drug is safe and effective for the conditions prescribed, recommended, or suggested in the product’s labeling. Proof must consist, in part, of adequate and well controlled studies, including studies in humans, that are conducted by qualified experts. The IND regulations establish reporting requirements that include an initial application as well as amendments to that application, reports on significant revisions of clinical investigation plans, and information on a drug’s safety or effectiveness. In addition, the sponsor is required to give FDA an annual summary of the previous year’s clinical experience. Submissions are reviewed by medical officers and other agency scientific reviewers assigned responsibility for overseeing the specific study. The IND regulations also contain recordkeeping requirements that pertain to the responsibilities of sponsors and investigators. The detail and complexity of these requirements are dictated by the scientific procedures and human subject safeguards that must be followed in the clinical tests of investigational new drugs.

The IND information collection requirements provide the means by which FDA can: (1) Monitor the safety of ongoing clinical investigations; (2) determine whether the clinical testing of a drug should be authorized; (3) ensure production of reliable data on the

metabolism and pharmacological action of the drug in humans; (4) obtain timely information on adverse reactions to the drug; (5) obtain information on side effects associated with increasing doses; (6) obtain information on the drug’s effectiveness; (7) ensure the design of well-controlled, scientifically valid studies; (8) obtain other information pertinent to determining whether clinical testing should be continued and information related to the protection of human subjects. Without the information provided by industry in response to the IND regulations, FDA cannot authorize or monitor the clinical investigations which must be conducted before authorizing the sale and general use of new drugs. These reports enable FDA to monitor a study’s progress, to assure subject safety, to assure that a study will be conducted ethically, and to increase the likelihood that the sponsor will conduct studies that will be useful in determining whether the drug should be marketed and available for use in medical practice.

There are two forms that are required under part 312:

Form FDA-1571—“Investigational New Drug Application.” A person who intends to conduct a clinical investigation submits this form to FDA. It includes: (1) A cover sheet containing background information on the sponsor and investigator; (2) a table of contents; (3) an introductory statement and general investigational plan; (4) an investigator’s brochure describing the drug substance; (5) a protocol for each planned study; (6) chemistry, manufacturing, and control information for each investigation; (7) pharmacology and toxicology information for each investigation; and (8) previous human experience with the investigational drug.

Form FDA-1572—“Investigator Statement.” Before permitting an investigator to begin participation in an investigation, the sponsor must obtain and record this form. It includes background information on the investigator and the investigation, and a general outline of the planned investigation and the study protocol.

FDA is requesting OMB approval for the following reporting and recordkeeping requirements in part 312:

TABLE 1.—REPORTING REQUIREMENTS

21 CFR Section	Explanations
312.7(d)	Applications for permission to sell an investigational new drug.
312.10(a)	Applications for waiver of requirements under part 312. Estimates for this requirement are included under §§ 312.23 and 312.31.

TABLE 1.—REPORTING REQUIREMENTS—Continued

21 CFR Section	Explanations
312.20(c)	Applications for investigations involving an exception from informed consent under § 50.24 (21 CFR 50.24). Estimates for this requirement are included under § 312.23.
312.23	INDs (content and format).
312.23(a)(1)	Cover sheet FDA-1571.
312.23(a)(2)	Table of contents.
312.23(a)(3)	Investigational plan for each planned study.
312.23(a)(5)	Investigator's brochure.
312.23(a)(6)	Protocols—Phase 1, 2, and 3.
312.23(a)(7)	Chemistry, manufacturing, and control information.
312.23(a)(7)(iv)(a),(b),(c)	A description of the drug substance, a list of all components, and any placebo used.
312.23(a)(7)(iv)(d)	Labeling: Copies of labels and labeling to be provided each investigator.
312.23(a)(7)(iv)(e)	Environmental impact analysis regarding drug manufacturing and use.
312.23(a)(8)	Pharmacological and toxicology information.
312.23(a)(9)	Previous human experience with the investigational drug.
312.23(a)(10)	Additional information.
312.23(a)(11)	Relevant information.
312.23(f)	Identification of exception from informed consent.
312.30	Protocol amendments.
312.30(a)	New protocol.
312.30(b)	Change in protocol.
312.30(c)	New investigator.
312.30(d)	Content and format.
312.30(e)	Frequency.
312.31	Information amendments.
312.31(b)	Content and format.
312.31(c)	Chemistry, toxicology, or technical information.
312.32	Safety reports.
312.32(c)(1)	Written reports to FDA and to investigators.
312.32(c)(2)	Telephone reports to FDA for fatal or life-threatening experience.
312.32(c)(3)	Format or frequency.
312.32(d)	Follow up submissions.
312.33	Annual reports.
312.33(a)	Individual study information.
312.33(b)	Summary information.
312.33(b)(1)	Adverse experiences.
312.33(b)(2)	Safety report summary.
312.33(b)(3)	List of fatalities and causes of death.
312.33(b)(4)	List of discontinuing subjects.
312.33(b)(5)	Drug action.
312.33(b)(6)	Preclinical studies and findings.
312.33(b)(7)	Significant changes.
312.33(c)	Next year general investigational plan.
312.33(d)	Brochure revision.
312.33(e)	Phase I protocol modifications.
312.33(f)	Foreign marketing developments.
312.35	Treatment use of investigational new drugs.
312.35(a)	Treatment protocol submitted by IND sponsor.
312.35(b)	Treatment IND submitted by licensed practitioner.
312.36	Requests for emergency use of an investigational new drug.
312.38(b) and (c)	Notification of withdrawal of an IND.
312.42(e)	Sponsor requests that a clinical hold be removed and submits a complete response to the issues identified in the clinical hold order.
312.44(c) and (d)	Opportunity for sponsor response to FDA when IND is terminated.
312.45(a) and (b)	Sponsor request for or response to inactive status determination of an IND.
312.47(b)	"End-of-Phase 2" meetings and "Pre-NDA" meetings.
312.53(c)	Investigator information. Investigator report (Form FDA-1572) and narrative; Investigator's background information; phase 1 outline of planned investigation; and phase 2 outline of study protocol; financial disclosure information.
312.54(a) and (b)	Sponsor submissions concerning investigations involving an exception from informed consent under § 50.24.
312.55(b)	Sponsor reports to investigators on new observations, especially adverse reactions and safe use. Only "new observations" are estimated under this section; investigator brochures are included under § 312.23.
312.56(b), (c), and (d)	Sponsor monitoring of all clinical investigations, investigators, and drug safety; notification to FDA.
312.58(a)	Sponsor's submission of records to FDA on request.
312.64	Investigator reports to the sponsor.

TABLE 1.—REPORTING REQUIREMENTS—Continued

21 CFR Section	Explanations
312.64(a)	Progress reports.
312.64(b)	Safety reports
312.64(c)	Final reports.
312.64(d)	Financial disclosure reports.
312.66	Investigator reports to Institutional Review Board. Estimates for this requirement are included under § 312.53.
312.70(a)	Investigator disqualification; opportunity to respond to FDA.
312.83	Sponsor submission of treatment protocol. Estimates for this requirement are included under §§ 312.34 and 312.35.
312.85	Sponsors conducting phase 4 studies. Estimates for this requirement are included under § 312.23, and under 21 CFR 314.50, 314.70, and 314.81 in 0910–0001.
312.110(b)	Request to export an investigational drug.
312.120(b) and (c)(2)	Sponsor's submission to FDA for use of foreign clinical study to support an IND.
312.120(c)(3)	Sponsor's report to FDA on findings of independent review committee on foreign clinical study.
312.130(d)	Request for disclosable information for investigations involving an exception from informed consent under § 50.24.

TABLE 2.—RECORDKEEPING REQUIREMENTS

21 CFR Section	Explanations
312.52(a)	Transfer of obligations to a contract research organization.
312.57(a) and (b)	Sponsor recordkeeping.
312.59	Sponsor recordkeeping of disposition of unused supply of drugs. Estimates for this requirement are included under § 312.57.
312.62(a)	Investigator recordkeeping of disposition of drugs.
312.62(b)	Investigator recordkeeping of case histories of individuals.
312.160(a)(3)	Records maintenance: Shipment of drugs for investigational use in laboratory research animals or in vitro tests.
312.160(c)	Shipper records of alternative disposition of unused drugs.

In tables 3 through 5 of this document, the estimates for “number of respondents,” “number of responses per respondent,” and “total annual responses” were obtained from the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) reports and data management systems for submissions received in 2001 and from other sources familiar with the number

of submissions received under part 312. The estimates for “hours per response” were made by CDER and CBER individuals familiar with the burden associated with these reports and from estimates received from the pharmaceutical industry. Although the number of submissions may fluctuate, e.g., due to the addition of respondents not previously required to comply with part 312 or due to the normal variation

in annual submissions, this variable is not reflected in the burden totals because the overall rate of submissions are not expected to change significantly over the next few years. In the **Federal Register** of July 22, 2002 (67 FR 47811), the agency requested comments on the proposed collection of information. No comments were received on that request.

TABLE 3.—ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN FOR HUMAN DRUGS¹

21 CFR Section	Number of Respondents	Number of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
312.7(d)	5	1.4	7	24	168
312.23(a) through (f)	1,506	1.2	1,872	1,600	2,995,200
312.30(a) through (e)	1,050	15	15,705	284	4,460,220
312.31(b)	1,037	8	8,375	100	837,500
312.32(c) and (d)	546	22.6	12,366	32	395,712
312.33(a) through (f)	1,608	2.6	4,202	360	1,512,720
312.35(a) and (b)	1	1	1	300	300
312.36	281	1	302	16	4,832
312.38(b) and (c)	466	1.3	608	28	17,024
312.42(e)	63	1.2	78	284	22,152
312.44(c) and (d)	40	1	42	16	672
312.45(a) and (b)	244	1.4	355	12	4,260
312.47(b)	130	1.8	233	160	37,280
312.53(c)	20,428	1	20,428	80	1,634,240
312.54(a) and (b)	1	1	1	48	48
312.55(b)	388	435	168,775	48	8,101,200

TABLE 3.—ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN FOR HUMAN DRUGS¹—Continued

21 CFR Section	Number of Respondents	Number of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
312.56(b), (c), and (d)	2	1	2	80	160
312.58(a)	75	4.2	322	8	2,576
312.64(a) through (d)	11,574	3	34,722	24	833,328
312.70(a)	2	1	2	40	80
312.110(b)	32	8.1	261	75	19,575
312.120(b) and (c)(2)	180	2	361	168	60,548
312.120(c)(3)	2	2	4	40	160
312.130(d)	4	1	4	8	32
312.52(a)	1,104	3.1	3,495	2	6,990
312.57(a) and (b)	1,104	34.5	38,088	100	3,808,800
312.62(a)	9,522	2	19,044	40	761,760
312.62(b)	9,522	10	95,220	40	3,808,800
312.160(a)(3)	301	1.4	425	.5	213
312.160(c)		1.4	425	.5	213
Total					29,326,763

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 4.—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICS¹

21 CFR Section	No. of Respondents	No. of Responses per Response	Total Annual Responses	Hours per Responses	Total Hours
312.7(d)	22	1.4	31	24	744
312.10(a)	9	7.9	71	40	2,840
312.23(a) and (f) and 312.120(b), (c)(2), and (c)(3)	376	1.4	535	1,600	856,000
312.30(a) through (e)	724	5.6	4,038	284	1,146,792
312.31(b)	268	9.0	2,399	100	239,900
312.32(c) and (d) and 312.56(c)	334	12.8	4,261	32	136,352
312.33(a) and (f) and 312.56(c)	614	2.6	1,615	350	565,250
312.35(a) and (b)	1	1	1	300	300
312.36	19	4	76	16	1,216
312.38(b)	172	2.1	358	28	10,024
312.38(c)	172	2.1	358	160	57,280
312.44(c) and (d)	0	0	0	0	0
312.45(a) and (b)	70	1.7	120	12	1,440
312.47(b)	60	1.1	68	160	10,880
312.53(c)	322	5.9	1,904	80	152,320
312.54(a) and (b)	0	0	0	0	0
312.55(b)	139	2.4	331	48	15,888
312.56(b) and (d)	12	1.7	20	80	1,600
312.58(a)	19	1	19	8	152
312.64(a) and (d)	5,713	1	5,713	24	137,112
312.110(b)	9	2.4	22	75	1,650
312.130(d)	1	1	1	0.5	0.5
Total					3,337,740.5

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 5.—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR BIOLOGICS¹

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
312.52(a) recordkeeping	113	1	113	5	565
312.57(a) and (b) record- keeping	1,432	2	2,859	100	285,900
312.62(a) recordkeeping	5,713	1	5,713	40	228,520
312.62(b) recordkeeping	5,713	12.5	71,355	40	2,854,200
312.160(a) recordkeeping	1,432	7.5	10,708	0.5	5,354
312.160(c) recordkeeping	1,432	2.5	3,573	0.5	1,786.5
Total biologics record- keeping hours					3,376,325.5
Total biologics burden hours					3,337,740.5
Subtotal					6,714,066
Human Drugs					29,326,763

TABLE 5.—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR BIOLOGICS¹—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
Biologics Total					6,714,066 36,040,829

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 11, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-26617 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N-0259]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Telephone Questionnaire Administration to Control Subjects Recruited into FDA Lyme Vaccine Safety Study; A Case-Control Study of HLA Type and T-Cell Reactivity to Recombinant Outer Surface Protein A and Human Leukocyte Function-Associated Antigen-1

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 18, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Telephone Questionnaire Administration to Control Subjects Recruited Into FDA Lyme Vaccine Safety Study entitled "A Case-Control Study of HLA Type and T-Cell Reactivity to Recombinant Outer Surface Protein A and Human Leukocyte Function-Associated Antigen-1"

Section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355), requires that important safety information relating to all human prescription drug products be made available to FDA so that it can take appropriate action to protect the public health when necessary. Section 702 of the act (21 U.S.C. 372) authorizes investigational powers to FDA for enforcement of the act. Under section 519 of the act (U.S.C. 360i), FDA is authorized to require manufacturers to report medical device-related deaths, serious injuries, and malfunctions to FDA and to require user facilities to report device-related deaths directly to FDA and to manufacturers, and to report serious injuries to the manufacturer. Section 522 of the act (21 U.S.C. 360l) authorizes FDA to require manufacturers to conduct post-market surveillance of medical devices. Section 705(b) of the act (21 U.S.C. 375(b)) authorizes FDA to collect and disseminate information regarding medical products or cosmetics in situations involving imminent danger to health or gross deception of the consumer. Section 903(d)(2) of the act (21 U.S.C. 393(d)(2)) authorizes the Commissioner of Food and Drugs (the Commissioner) to implement general powers (including conducting research) to carry out effectively the mission of FDA. These sections of the act enable FDA to enhance consumer protection from risks associated with medical products usage that are not foreseen or apparent during the premarket notification and review process. FDA's regulations governing application for agency approval to market a new drug (21 CFR part 314) and regulations governing biological products (21 CFR part 600) implement these statutory provisions. Currently FDA monitors medical product related postmarket adverse events via both the mandatory

and voluntary MedWatch reporting systems using FDA forms 3500 and 3500A (OMB control number 0910-0291) and the vaccine adverse event reporting system (VAERS) using form VAERS-1. Health care providers and manufacturers are required by law (42 U.S.C. 300aa-25) to report adverse events following vaccination listed in the vaccine injury table. Reports for reactions to other vaccines are voluntary and are received from vaccine recipients, their health care providers, and other reporters. FDA is seeking OMB clearance to collect vital information through the use of the proposed survey questionnaire for control subjects participating in this vaccine safety study. The intended respondents are control subjects previously recruited to participate in this study, and they are matched with case subjects reported to VAERS who developed arthritis following Lyme vaccine administration. Informed consent for administration of this questionnaire will have been received before the interview, and the interview is to be conducted at a time specified by the control subject at the time of initial recruitment into this study. Case and control subjects should have similar age, gender, and ethnic backgrounds. Specific genetic and immune factors will be compared between case and control subjects. This is a common, accepted type of epidemiological study called a case-control study. Information collected includes medical and vaccination history, family history, and possible exposures, such as in the workplace, that may play a part in the development of arthritis in some patients. FDA will use the information gathered from the use of this survey questionnaire to ensure appropriate matching of cases and controls in the study and to assess possible factors which may factor in the development of this adverse event. This study was approved by the FDA Research Involving Human Subjects Committee on February 15, 2002 (RIHSC 01-028B). This survey questionnaire is an abbreviated version of one used during enhanced surveillance followup of adverse events following Lyme vaccine administration reported to VAERS. The use of the vital information gathered

using this survey questionnaire will aid FDA in assessing risks that may be associated with vaccine product usage that are not foreseen or apparent during the premarket notification and review process, so the agency may take

appropriate public health or regulatory action including dissemination of this information as necessary and appropriate.

In the **Federal Register** of June 27, 2002 (67 FR 43323) FDA published a 60-

day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

Survey	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
"A Case-Control Study of HLA Type and T-Cell Reactivity to Recombinant Outer Surface Protein A and Human Leukocyte Function-Associated Antigen-1."	225	1	225	0.5	112.5

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA projects that there will be up to 75 case subjects recruited into this study with 3 control subjects recruited for each case subject, with a total maximum of 225 survey questionnaire respondents. FDA also projects a response time no greater than 0.5 hours per response. This estimate is based on previous results experienced with the instrument during enhanced surveillance followup of adverse events reported to VAERS. Respondents will only be contacted once during conduct of this study for the purposes of collection of vital information using this survey questionnaire.

Dated: October 11, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-26621 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01P-0252]

Determination That Dextroamphetamine Sulfate Tablets, 15 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that dextroamphetamine sulfate 15-milligram (mg) tablets (formerly marketed by Lannett Co., Inc.) were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug

applications (ANDAs) for dextroamphetamine sulfate 15-mg tablets.

FOR FURTHER INFORMATION CONTACT:

Mary E. Catchings, Center for Drug Evaluation and Research (HFD-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20855, 301-594-2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (the 1984 amendments) (Public Law 98-417), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug which was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA's regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale

for reasons of safety or effectiveness (21 CFR 314.162).

Under 21 CFR 314.161(a)(1), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

Dextroamphetamine sulfate tablets, 15 mg, are the subject of approved ANDA 85-652 held by Lannett Co., Inc. Dextroamphetamine sulfate tablets are indicated for narcolepsy and for attention deficit disorder with hyperactivity. Lannett Co., Inc.'s, dextroamphetamine sulfate 15-mg tablets are currently listed in the "Discontinued Drug Product List" section of the Orange Book.

On May 17, 2001, Mallinckrodt, Inc., submitted a citizen petition (Docket No. 01P-0252/CP1) to FDA under 21 CFR 10.20 and 10.30. The petition, as amended July 26, 2001, requested that the agency determine that dextroamphetamine sulfate tablets, 15 mg, were not withdrawn from the market for reasons of safety or effectiveness.

The agency has determined that dextroamphetamine sulfate tablets, 15 mg, were not withdrawn from sale for reasons of safety or effectiveness. There are several grounds for FDA's finding. First, there are drug products containing 15-mg dextroamphetamine sulfate being marketed today. Although these drug products are extended release products rather than immediate release products, FDA has concluded that this difference does not affect the product's safety. Second, the petitioner identified no data or other information suggesting that dextroamphetamine sulfate tablets, 15 mg, were withdrawn from sale as a result of safety or effectiveness concerns. Third, Lannett Company, Inc.,

informed FDA in June 1993 that its entire product line had been recalled following a change in management, and the agency has found no information that would lead it to conclude otherwise. Finally, FDA has also independently evaluated relevant literature and data for possible postmarketing adverse event reports, but has found no information that would indicate this product was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing its records, FDA determines that, for the reasons outlined above, Lannett Co.'s dextroamphetamine sulfate tablets, 15 mg, were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list dextroamphetamine sulfate tablets, 15 mg, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to dextroamphetamine sulfate tablets, 15 mg, may be approved by the agency.

Dated: October 10, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-26473 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Antiviral Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Antiviral Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 14, 2002, from 8:30 a.m. to 4 p.m.

Location: Holiday Inn, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Tara P. Turner, Center for Drug Evaluation and Research

(HFD-21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301-827-7001, e-mail: TurnerT@cder.fda.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12531. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss biologics license application 125061/0, peginterferon alfa-2a copackaged with ribavirin, new drug application 21-511, Hoffmann-La Roche, Inc., proposed as combination therapy for the treatment of chronic hepatitis C.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 6, 2002. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 6, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Tara Turner (see *Contact Person*) at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 10, 2002.

Linda Arey Skladany,

Senior Associate Commissioner for External Relations.

[FR Doc. 02-26615 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Security and Recalls; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) in cooperation with the Ohio State University, Department of Food Science and Technology is announcing a workshop for the food industry on food security and recalls. Topics for discussion include: Impact of U.S. bioterrorism legislation on the food industry, FDA and U.S. Department of Agriculture food safety and security guidance and procedures, product tampering investigations, tamper evident packaging in the food industry, preparing for and conducting a food recall, and opportunities to improve food security. This 1-day workshop is intended to target food manufacturers, repackers, and importers; and will include both industry and FDA perspectives on the prevention and handling of food security problems.

Date and Time: The public workshop will be held on Tuesday, November 19, 2002, from 8 a.m. to 4:15 p.m.

Location: The public workshop will be held at the University Plaza Hotel, 3110 Olentangy River Rd., Columbus, OH.

Contact: Marie Falcone, Industry and Small Business Representative, Food and Drug Administration, rm. 900, U.S. Customhouse, 200 Chestnut St., Philadelphia, PA 19106, 215-597-2120, ext. 4003, FAX 215-597-5798, e-mail: mfalcone@ora.fda.gov.

For registration information contact: Julie Townsend, 110 Parker Food Science and Technology Building, Ohio State University, 2015 Fyffe Rd., Columbus, OH 43210, e-mail: townsend.57@osu.edu, telephone 614-292-6281, FAX 614-292-2859. Send registration information (including name, title, firm name, address, telephone, and fax number) and the \$90.00 registration fee made payable to Ohio State University to the Registrar Julie Townsend (address above). Electronic registration for this workshop is available at <http://fst.osu.edu/recall.htm>. The Registrar will also accept payment by Visa or Mastercard. Attendees are responsible for their own accommodations.

To make reservations at the University Plaza Hotel at the FDA Food

Security and Recalls Workshop rate of \$75.00 (single) or \$90.00 (double), contact the hotel at 877-677-5292 or 614-267-7461 before October 28, 2002. The workshop registration fee will be used to offset the expenses of hosting the conference, including meals, refreshments, meeting rooms, and materials. Space is limited, therefore interested parties are encouraged to register early. Limited onsite registration may be available. Please arrive early to ensure prompt registration.

If you need special accommodations due to a disability, please contact Marie Falcone at least 7 days in advance of the workshop.

SUPPLEMENTARY INFORMATION: The Food Security and Recalls Workshop helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health by preventing and countering terrorism related to the nation's food supply. FDA has made providing security guidance and information to the food industry a high priority.

The workshop will help to implement the objectives of section 406 of the FDA Modernization Act (21 U.S.C. 393(b) and (f)) and the FDA Plan for Statutory Compliance, which includes working more closely with stakeholders and ensuring access to needed scientific and technical expertise. The workshop will also further the goals of the Small Business Regulatory Enforcement Fairness Act (Public Law 104-121) by providing outreach activities directed to small businesses.

Dated: October 10, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-26618 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 18 and 19, 2002, from 8 a.m. to 5 p.m.

Location: Holiday Inn, The Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Sandra Titus, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301-827-7001, or e-mail Tituss@cder.fda.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area) code 12543. Please call the Information Line for up-to-date information on this meeting.

Agenda: On November 18, 2002, the committee will discuss the role of brain imaging as an outcome measure in phase 3 trials of putative therapeutic drugs for Alzheimer's disease; the discussions will not focus on specific drugs or on specific applications to the agency. The agency is considering whether brain imaging modalities can be utilized as surrogate markers; that is, as primary outcomes in definitive clinical trials to measure drug effect in lieu of clinical outcomes. The committee will specifically discuss the following issues in reference to each imaging modality:

1. How is the surrogate imaging modality best validated?
2. If one uses an imaging modality to support a disease-modifying effect claim, how does one establish that such an effect occurs?
3. Has any surrogate imaging modality been validated at the present time?
4. Even if no surrogate imaging modality has currently been validated, is it appropriate to use one or more such modalities as primary or ancillary outcome measures of efficacy in phase 3 clinical trials?

On November 19, 2002, the committee will consider a supplemental new drug application (NDA) 20-306 for F-18 fluorodeoxyglucose (FDG) positron emission tomography (PET) imaging proposed to diagnose and/or identify progression of Alzheimer's disease and other forms of dementia. This application is based on published multi-center controlled clinical trials, additional information provided by some of the literature authors, and other supportive literature. Considerations will include the relevance of current practice, knowledge of Alzheimer's disease process, and clinical trial design to establish clinical usefulness of F-18

FDG PET in Alzheimer's disease. (Downstate Medical Center, Peoria, IL, is the sponsor of the new drug application. The Academy of Molecular Imaging provided the literature references and the literature summary that formed the basis of the supplemental NDA.)

The background material will become available no later than the day before the meeting and will be posted under the Peripheral and Central Nervous System Drugs Advisory Committee docket site at: <http://www.fda.gov/ohrms/dockets/ac/acmenu.htm>. (Click on the year 2002 and scroll down to the Peripheral and Central Nervous System Drugs Advisory Committee meetings.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 6, 2002. Oral presentations from the public will be scheduled between approximately 11 a.m. and noon each day. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 6, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Sandra Titus at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 10, 2002.

Linda Arey Skladany,

Senior Associate Commissioner for External Relations.

[FR Doc. 02-26613 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Psychopharmacologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Psychopharmacologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 4, 2002, from 8 a.m. to 4:30 p.m.

Location: Holiday Inn, the Ballroom, Two Montgomery Village Ave., Gaithersburg, MD, 301-948-8900.

Contact Person: Sandra Titus, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301-827-7001, or e-mail Tituss@cder.fda.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12544. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will consider supplemental new drug application S-047, Clozaril, (clozapine, Novartis Pharmaceuticals Corp.) proposed for the treatment of suicidality in patients with schizophrenia or schizoaffective disorder. The purpose of this meeting is to discuss the findings and regulatory implications for the InterSePT Study, a study that compared clozapine and olanzapine on the outcome of emergent suicidal behavior and thinking in schizophrenic and schizoaffective patients who were judged to be at risk of suicide. Background material for this meeting will be posted no later than 24 hours before the meeting at the Psychopharmacologic Drugs Advisory Committee Docket site: <http://www.fda.gov/ohrms/dockets/ac/acmenu.htm>. (Click on the year 2002 and scroll down to Psychopharmacologic Drugs Advisory Committee.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending

before the committee. Written submissions may be made to the contact person by October 24, 2002. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. each day. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 24, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Sandra Titus at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 10, 2002.

Linda Arey Skladany,
Senior Associate Commissioner for External Relations.

[FR Doc. 02-26616 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D-0350]

Draft Guidance for Industry on Handling and Retention of Bioavailability and Bioequivalence Testing Samples; Availability; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until December 17, 2002, the comment period for the draft guidance for industry entitled "Handling and Retention of Bioavailability and Bioequivalence Testing Samples." This draft guidance is intended to clarify how to distribute test articles and reference standards to testing facilities, how to randomly select reserve samples, and how to retain reserve samples. FDA published a

notice of availability of the draft guidance in the **Federal Register** of August 21, 2002 (67 FR 54219). The agency is taking this action in response to a request for an extension of the comment period and to allow interested parties additional time to submit comments.

DATES: Submit written or electronic comments on the draft guidance by December 17, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD-240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed, adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Martin Yau, Center for Drug Evaluation and Research (HFD-45), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-5458.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 21, 2002 (67 FR 54219), FDA announced the availability of a draft guidance for industry entitled "Handling and Retention of Bioavailability and Bioequivalence Testing Samples." The draft guidance had a 30-day comment period. The draft guidance clarifies the responsibilities of the involved parties for retention of samples used in bioavailability and bioequivalence studies. It includes recommendations for sampling techniques and responsibilities in various study settings.

In a letter dated September 20, 2002, FDA received a request from an interested party to extend the comment period. The party indicated that issues of importance to the pharmaceutical industry had been raised that warrant further discussion before filing comments. In response to this request, and to provide all interested persons additional time to comment on this draft guidance, FDA is reopening the comment period for 60 days.

II. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on the draft guidance. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either <http://www.fda.gov/ohrms/dockets/default.htm> or <http://www.fda.gov/cder/guidance/index.htm>.

Dated: October 10, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-26475 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D-0428]

Draft "Guidance for Industry: An Acceptable Circular of Information for the Use of Human Blood and Blood Components;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled "Guidance for Industry: An Acceptable Circular of Information for the Use of Human Blood and Blood Components" dated October 2002. The draft guidance document recognizes the "Circular of Information for the Use of Human Blood and Blood Components" (the circular) dated July 2002 as acceptable for use by manufacturers of blood and blood components intended for transfusion. The circular will assist those manufacturers in complying with the labeling requirements under FDA regulations.

DATES: Submit written or electronic comments on the draft guidance to ensure their adequate consideration in preparation of the final document by December 17, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance and the Circular to the Office of Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist the office in processing your requests. The documents may also be obtained by mail by calling the CBER Voice Information System at 1-800-835-4709 or 301-827-1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the document to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM-17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled "Guidance for Industry: An Acceptable Circular of Information for the Use of Human Blood and Blood Components" dated October 2002. The draft guidance document recognizes that the circular dated July 2002 meets the labeling requirements in § 606.122 (21 CFR 606.122), and therefore is acceptable for use by manufacturers of blood and blood components intended for transfusion that are subject to U.S. statutes and regulations.

The requirements under § 606.122 specify that an instruction circular must be available for distribution with blood and blood components intended for transfusion, and that the information in the instruction circular must include adequate instructions for use. The circular will assist manufacturers of blood and blood components intended for transfusion in complying with the labeling requirements under § 606.122. The circular was prepared jointly by the American Association of Blood Banks, America's Blood Centers and the American National Red Cross. A copy of the circular is in the draft guidance document.

This draft guidance document is being issued in accordance with FDA's good guidance practices regulation (21 CFR

10.115). The draft guidance document represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Comments

This draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this draft guidance document. Submit written or electronic comments to ensure adequate consideration in preparation of the final document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document and the circular at either <http://www.fda.gov/cber/guidelines.htm> or <http://www.fda.gov/ohrms/dockets/default.htm>. The circular may also be obtained at www.aabb.org.

Dated: October 10, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-26612 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D-0005]

Guidance for Industry on Labeling Over-the-Counter Human Drug Products—Updating Labeling in Reference Listed Drugs and Abbreviated New Drug Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Labeling OTC Human Drug

Products—Updating Labeling in RLDs and ANDAs.” The guidance is intended to assist manufacturers of over-the-counter (OTC) reference listed drugs (RLDs) and manufacturers, packers, and distributors of OTC drug products marketed under abbreviated new drug applications (ANDAs) to implement the agency’s regulation on standardized content and format requirements for the labeling of these products.

DATES: The guidance for industry is effective October 18, 2002. Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD-240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the guidance to <http://www.fda.gov/dockets/ecomments>. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

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

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled “Labeling OTC Human Drug Products—Updating Labeling in RLDs and ANDAs.” This is one of several guidances the agency is developing to help manufacturers, packers, and distributors implement the final regulation establishing standardized content and format requirements for the labeling of all OTC drug products. When finalized, these guidances will supersede all other statements, feedback, and correspondence provided by the agency on these matters since the issuance of the final regulation.

In the *Federal Register* of March 17, 1999 (64 FR 13254), FDA published a final regulation establishing standardized content and format requirements for the labeling of OTC drug products. The regulation is codified at § 201.66 (21 CFR 201.66). It is intended to standardize labeling for all OTC drug products so consumers can

easily read and understand OTC drug product labeling and use these products safely and effectively. The regulation requires manufacturers to present OTC drug product labeling information in a prescribed order and format. This new format will require revision of all existing labeling.

Following issuance of the final regulation, the agency received several inquiries from manufacturers of generic OTC drug products seeking guidance on whether they should convert products to the new labeling format before the manufacturers of the applicable innovator (or RLD) products revise their labeling. To address those inquiries, in the *Federal Register* of February 22, 2001 (66 FR 11174), FDA published a notice announcing the availability of a draft guidance entitled “Labeling Over-the-Counter Human Drug Products; Updating Labeling in ANDAs,” which included draft recommendations about how manufacturers of OTC drug products marketed under ANDAs and manufacturers of the RLD products could implement the agency’s new regulations for the labeling of OTC drug products. The draft guidance contained a series of labeling examples that manufacturers could use when revising their product labeling to the new format. The notice invited interested persons to submit comments on the draft guidance by April 23, 2001.

FDA received several comments regarding the February 22, 2001, draft guidance and, in response, the agency has made some clarifying changes in the final version of the guidance. Specifically, the agency is providing guidance on its general implementation expectations, the use of agency recommended labeling examples (manufacturers of RLDs who use these do not need agency preapproval), submission of new labeling in an annual report or preapproval supplement, and deferral requests. The agency is also announcing that it intends to exercise its enforcement discretion by giving manufacturers of generic OTC drug products a grace period to comply with the new format requirements of § 201.66. This grace period commenced on May 16, 2002, for most OTC ANDAs and shall continue until the agency posts on the Internet the approved, updated labeling for an ANDA holder’s applicable RLD. At that time, the ANDA holder should revise its labeling. (See the agency’s May 2000 guidance for industry entitled “Revising ANDA Labeling Following Revision of the RLD Labeling.”)

This guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115).

The guidance represents the agency’s current thinking on updating labeling in ANDAs consistent with the new standardized labeling content and format required for OTC drug products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such an approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written or electronic comments on the guidance to the Dockets Management Branch (see **ADDRESSES**). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at <http://www.fda.gov/cder/guidance/index.htm> and <http://www.fda.gov/ohrms/dockets/default.htm>.

Dated: October 10, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-26622 Filed 10-17-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health Professions and Nurse Education Special Emphasis Panel; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Health Professions and Nurse Education Special Emphasis Panel meetings. Part of the meeting will be open to the public. The rest of the meeting will be closed to the public. The closing is in accordance with the provision set forth in section 552(b)(c)(6), Title 5 U.S.C., and the Determination by the Associate Administrator for Management and Program Support, Health Resources and Services Administration, pursuant to Public Law 92-463.

Name: Dental Public Health.

Date and Time: November 18–21, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: November 18, 2002, 8 a.m. to 10 a.m.

Closed on: November 18, 2002, 10 a.m. to 6 p.m., November 19–21, 2002, 8 a.m. to 6 p.m.

Name: Residency Training in Primary Care.
Date and Time: December 2–5, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: December 2, 2002, 8 a.m. to 10 a.m.

Closed on: December 2, 2002, 10 a.m. to 6 p.m., December 3–5, 2002, 8 a.m. to 6 p.m.

Name: Residency Training in Primary Care.
Date and Time: December 9–12, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: December 9, 2002, 8 a.m. to 10 a.m.

Closed on: December 9, 2002, 10 a.m. to 6 p.m., December 10–12, 2002, 8 a.m. to 6 p.m.

Name: Residency Training in General and Pediatric Dentistry.

Date and Time: December 16–19, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: December 16, 2002, 8 a.m. to 10 a.m.

Closed on: December 16, 2002, 10 a.m. to 6 p.m., December 17–19, 2002, 8 a.m. to 6 p.m.

Name: Predoctoral Training in Primary Care.

Date and Time: January 13–16, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: January 13, 2003, 8 a.m. to 10 a.m.

Closed on: January 13, 2003, 10 a.m. to 6 p.m., January 14–16, 2003, 8 a.m. to 6 p.m.

Name: Faculty Development Training in Primary Care.

Date and Time: January 21–24, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: January 21, 2003, 8 a.m. to 10 a.m.

Closed on: January 21, 2003, 10 a.m. to 6 p.m., January 22–24, 2003, 8 a.m. to 6 p.m.

Name: Physician Assistant Training in Primary Care.

Date and Time: January 27–30, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: January 27, 2003, 8 a.m. to 10 a.m.

Closed on: January 27, 2003, 10 a.m. to 6 p.m., January 28–30, 2003, 8 a.m. to 6 p.m.

Name: Nursing Workforce Diversity.

Date and Time: February 3–6, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: February 3, 2003, 8 a.m. to 10 a.m.

Closed on: February 3, 2003, 10 a.m. to 6 p.m., February 4–6, 2003, 8 a.m. to 6 p.m.

Name: Model State-Supported Area Health Education Centers.

Date and Time: February 10–13, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: February 10, 2003, 8 a.m. to 10 a.m.

Closed on: February 10, 2003, 10 a.m. to 6 p.m., February 11–13, 2003, 8 a.m. to 6 p.m.

Name: Basic/Core Area Health Education Centers.

Date and Time: February 10–13, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: February 10, 2003, 8 a.m. to 10 a.m.

Closed on: February 10, 2003, 10 a.m. to 6 p.m., February 11–13, 2003, 8 a.m. to 6 p.m.

Name: Geriatric Faculty Fellowships.

Date and Time: February 10–13, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: February 10, 2003, 8 a.m. to 10 a.m.

Closed on: February 10, 2003, 10 a.m. to 6 p.m., February 11–13, 2003, 8 a.m. to 6 p.m.

Name: Academic Administrative Units in Primary Care.

Date and Time: February 24–27, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: February 24, 2003, 8 a.m. to 10 a.m.

Closed on: February 24, 2003, 10 a.m. to 6 p.m., February 25–27, 2003, 8 a.m. to 6 p.m.

Name: Quentin N. Burdick Program for Rural Interdisciplinary Training.

Date and Time: February 24–28, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: February 24, 2003, 8 a.m. to 10 a.m.

Closed on: February 24, 2003, 10 a.m. to 6 p.m., February 25–28, 2003, 8 a.m. to 6 p.m.

Name: Advanced Education Nursing.

Date and Time: March 3–6, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: March 3, 2003, 8 a.m. to 10 a.m.

Closed on: March 3, 2003, 10 a.m. to 6 p.m., March 4–6, 2003, 8 a.m. to 6 p.m.

Name: Regional Workforce Centers.

Date and Time: March 3–6, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: March 3, 2003, 8 a.m. to 10 a.m.

Closed on: March 3, 2003, 10 a.m. to 6 p.m., March 4–6, 2003, 8 a.m. to 6 p.m.

Name: Advanced Education Nursing.

Date and Time: March 10–13, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: March 10, 2003, 8 a.m. to 10 a.m.

Closed on: March 10, 2003, 10 a.m. to 6 p.m., March 11–13, 2003, 8 a.m. to 6 p.m.

Name: Basic Nurse Education and Practice Grants Program, Peer Review Group I.

Date and Time: March 17–20, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: March 17, 2003, 8 a.m. to 10 a.m.

Closed on: March 17, 2003, 10 a.m. to 6 p.m., March 18–20, 2003, 8 a.m. to 6 p.m.

Name: Geriatric Education Centers.

Date and Time: March 24–27, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: March 24, 2003, 8 a.m. to 10 a.m.

Closed on: March 24, 2003, 10 a.m. to 6 p.m., March 25–27, 2003, 8 a.m. to 6 p.m.

Name: Basic Nurse Education and Practice Grants Program, Peer Review Group II.

Date and Time: March 31–April 3, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: March 31, 2003, 8 a.m. to 10 a.m.

Closed on: March 31, 2003, 10 a.m. to 6 p.m., April 1–3, 2003, 8 a.m. to 6 p.m.

Name: Allied Health Projects.

Date and Time: April 7–11, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road Avenue, Silver Spring, MD 20910.

Open on: April 7, 2003, 8 a.m. to 10 a.m.

Closed on: April 7, 2003, 10 a.m. to 6 p.m., April 8–11, 2002, 8 a.m. to 6 p.m.

Name: Centers of Excellence.

Date and Time: April 7–11, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road Avenue, Silver Spring, MD 20910.

Open on: April 7, 2003, 8 a.m. to 10 a.m.

Closed on: April 7, 2003, 10 a.m. to 6 p.m., April 8–11, 2002, 8 a.m. to 6 p.m.

Name: Health Careers Opportunity Program Peer Review Group.

Date and Time: May 5–9, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: May 5, 2003, 8 a.m. to 10 a.m.

Closed on: May 5, 2003, 10 a.m. to 6 p.m., May 6–9, 2003, 8 a.m. to 6 p.m.

Name: Geriatric Academic Career Awards.

Date and Time: May 12–15, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: May 12, 2003, 8 a.m. to 10 a.m.

Closed on: May 12, 2003, 10 a.m. to 6 p.m., May 13–15, 2003, 8 a.m. to 6 p.m.

Name: Public Health Training Centers.

Date and Time: May 19–22, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: May 19, 2003, 8 a.m. to 10 a.m.

Closed on: May 19, 2003, 10 a.m. to 6 p.m., May 20–22, 2003, 8 a.m. to 6 p.m.

Name: Chiropractic Demonstration Project.

Date and Time: June 9–12, 2003.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: June 9, 2003, 8 a.m. to 10 a.m.

Closed on: June 9, 2003, 10 a.m. to 6 p.m., June 10–12, 2003, 8 a.m. to 6 p.m.

Purpose: The Health Professions and Nurse Education Special Emphasis Panel shall advise the Associate Administrator for Health Professions on the technical merit of grants to improve the training, distribution, utilization, and quality of personnel required to staff the Nation's health care delivery system.

Agenda: The open portion of each meeting from 8 a.m. to approximately 10 a.m. will cover introductions, opening remarks, housekeeping details, and an orientation to the review process. The meetings will be closed at approximately 10:00 a.m. on the first day of each meeting until adjournment for the review of grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

For Further Information Contact: Anyone wishing to obtain a roster of members or other relevant information should write or contact Ms. Wilma Johnson, Acting Deputy Director, Office of Peer Review, Bureau of

Health Professions, Parklawn Building, Room 8C-23, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301-443-6339.

Dated: October 11, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02-26623 Filed 10-17-02; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4734-N-60]

Notice of Submission of Proposed Information Collection to OMB: Survey of Neighborhood Networks Centers Directors

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 18, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395-6974; e-mail Lauren_Wittenberg@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the

information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Survey of Neighborhood Networks Centers Directors.

OMB Approval Number: 2502-XXXX.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: A Survey of Neighborhood Networks Centers will identify successful program areas, and target specific areas for improvement.

Respondents: Business or other for-profit, not-for profit institutions.

Frequency of Submission: Annually.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	800		1		0.9		733

Total Estimated Burden Hours: 733.
Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 10, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02-26485 Filed 10-17-02; 8:45 am]

BILLING CODE 4210-72-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Property Suitable as Facilities To Assist the Homeless

[Docket No. FR-4730-N-42]

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 a 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 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 a 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: 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: October 10, 2002.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

Suitable/Available Properties

Buildings (by State)

Arkansas

Jamestown Antenna Tower Site.
Jamestown Co: Independence AR 7250-
Landholding Agency: GSA.
Property Number: 54200240001.
Status: Surplus.
Comment: Radio repeater tower on 1.05
acres, subject to existing easements.
GSA Number: 7-D-AR-0562.

Ash Flat Comm. Site.
Gillette Co: AR 72055-
Landholding Agency: GSA.
Property Number: 54200240002.
Status: Surplus.
Comment: Radio repeater tower on 2.06
acres, subject to existing easements.
GSA Number: 7-D-AR-0565.

Maryland

9 Housing Units.
U.S. Naval Station.
Annapolis Co: Anne Arundel MD 21402-
Landholding Agency: Navy.
Property Number: 77200240005.
Status: Excess.
Comment: Size varies, brick veneer wood
frame on slab, off-site use only.

New York

Army Reserve Center.
205 Oak Street.
Batavia Co: NY 14020-
Landholding Agency: GSA.
Property Number: 54200240004.
Status: Excess.
Comment: 9595 sq. ft., presence of asbestos/
lead paint, most recent use—admin/
storage, proximity of wetlands.
GSA Number: 1-D-NY-890.
Fed. Bldg. #2.
850 Third Ave.
Brooklyn Co: NY 11232-
Landholding Agency: GSA.
Property Number: 54200240005.
Status: Surplus.
Comment: 140,000 sq. ft., needs major rehab,
presence of asbestos, historic property,
heavy industrial area, presence of
hazardous materials and toxic releases,
abutting Federal prison.
GSA Number: 1-G-NY-0872.

Suitable/Unavailable Properties

Buildings (by State)

Tennessee

Courthouse/Fed. Bldg.
101 W. Summer Street.
Greeneville Co: Greene TN 37743-

Landholding Agency: GSA.
Property Number: 54200210027.
Status: Excess.
Comment: 17,241 sq. ft. office bldg. w/25
parking spaces, presence of asbestos,
subject to Historic Preservation Covenants,
published in error on 9/13/02 as available.
GSA Number: 4-G-TN-0652.

Virginia

Federal Building.
1426 N. Augusta St.
Staunton Co: Augusta VA 24401-2401.
Landholding Agency: GSA.
Property Number: 54200210022.
Status: Surplus.
Comment: 4084 sq. ft. office building,
published in error on 9/13/02 as available.
GSA Number: 4-G-VA-0728.

Land (by State)

North Carolina

4.939 acres.
Staton Road.
Greenville Co: Pitt NC.
Landholding Agency: GSA.
Property Number: 54200210002.
Status: Surplus.
Comment: Undeveloped land, published in
error on 9/13/02 as available.
GSA Number: 4-D-NC-738.

Unsuitable Properties

Buildings (by State)

California

Bldg. 02606.
Naval Air Weapons Station.
China Lake Co: CA 93555-6100.
Landholding Agency: Navy.
Property Number: 77200240001.
Status: Excess.
Reasons: Secured Area, Extensive
deterioration.

Florida

Bldg. 148.
Naval Air Station.
Jacksonville Co: Duval FL 32212-
Landholding Agency: Navy.
Property Number: 77200240002.
Status: Unutilized.
Reasons: Secured Area, Extensive
deterioration.

Bldg. 161.
Naval Air Station.
Jacksonville Co: Duval FL 32212-
Landholding Agency: Navy.
Property Number: 77200240003.
Status: Unutilized.
Reasons: Secured Area, Extensive
deterioration.

Bldg. 944.
Naval Air Station.
Jacksonville Co: Duval FL 32212-
Landholding Agency: Navy.
Property Number: 77200240004.
Status: Unutilized.
Reasons: Secured Area, Extensive
deterioration.

Virginia

30 Housing Units.
Marine Corps Base.
Quantico Co: VA 22134-
Landholding Agency: Navy.
Property Number: 77200240006.

Status: Excess.
Reason: Extensive deterioration.
Bldgs. 3028, 3037.
Marine Corps Base.
Quantico Co: VA 22134—
Landholding Agency: Navy.
Property Number: 77200240007.
Status: Excess.
Reason: Extensive deterioration.
Bldgs. 3035, 3040, 3205.
Marine Corps Base.
Quantico Co: VA 22134—
Landholding Agency: Navy.
Property Number: 77200240008.
Status: Excess.
Reason: Extensive deterioration.
Bldg. 60.
Naval Surface Warfare Center.
Dahlgren Co: King George VA 22448—
Landholding Agency: Navy.
Property Number: 77200240009.
Status: Unutilized.
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration.

Bldg. 1216.
Naval Surface Warfare Center.
Dahlgren Co: King George VA 22448—
Landholding Agency: Navy.
Property Number: 77200240010.
Status: Unutilized.
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration.

Bldg. 1354.
Naval Surface Warfare Center.
Dahlgren Co: King George VA 22448—
Landholding Agency: Navy.
Property Number: 77200240011.
Status: Unutilized.
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration.

Land (by State)

Arkansas
Recreation Area.
Sandy Beach.
Camden Co: Ouachita AR 71701—
Landholding Agency: GSA.
Property Number: 54200240003.
Status: Surplus.
Reason: Floodway.
GSA Number: 7-D-AR-0566.

[FR Doc. 02-26344 Filed 10-16-02; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Quality Guidelines Pursuant to Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice of availability.

SUMMARY: A notice published by the
Office of Management and Budget

(OMB) in the **Federal Register** directed Federal agencies to issue and implement guidelines to ensure and maximize the quality, objectivity, utility, and integrity of Government information disseminated to the public. We, the U.S. Fish and Wildlife Service (FWS), are issuing these final Information Quality Guidelines to comply with the OMB requirement.

DATES: These guidelines are effective October 1, 2002.

ADDRESSES: To obtain a copy of the Fish and Wildlife Service Quality Guidelines please contact the Science Advisor, U.S. Fish and Wildlife Service, Office of the Assistant Director—External Affairs, 1849 C Streets, NW., Mail Stop 301, Washington, DC 20240-0001, or by calling (202) 208-6541, or via e-mail to scienceadvisor@fws.gov. In addition, these guidelines are available on the Service website (www.fws.gov).

FOR FURTHER INFORMATION CONTACT:
Science Advisor, (202) 208-6541.

SUPPLEMENTARY INFORMATION: A notice published by the Office of Management and Budget (OMB) in the **Federal Register**, dated January 3, 2002 (67 FR 369), and re-issued February 22, 2002 (67 FR 8451), directed Federal agencies to issue and implement guidelines to ensure and maximize the quality, objectivity, utility, and integrity of Government information disseminated to the public. On May 24, 2002, the Department of the Interior published a **Federal Register** notice providing the web site where the proposed Departmental Information Quality Guidelines may be reviewed. On August 5, 2002, the Department of the Interior published a Notice of Availability in the **Federal Register** of the proposed bureau specific information quality guidelines for public comment. Comments were received from a variety of sources and were considered in the preparation of this guidance. We are issuing these final Information Quality Guidelines in order to comply with Section 515 and the OMB direction.

FWS, which includes Headquarters and 7 Regional Offices, disseminates a wide variety of information to the public regarding the nation's fish and wildlife resources, habitat conservation and endangered species programs. The disseminated information includes organizational and management information, programs and services products, research and statistical reports, policy and regulatory information, and general reference material.

Dated: October 4, 2002.

Marshall P. Jones, Jr.,

Deputy Director.

[FR Doc. 02-26484 Filed 10-17-02; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-921-02-1320-EL-P; NDM 91647]

Notice of Competitive Coal Lease Offering by Sealed Bid—NDM 91647— The Falkirk Mining Company

AGENCY: Bureau of Land Management,
Montana State Office, Interior.

ACTION: Notice of Competitive Coal
Lease Offering by Sealed Bid—NDM
91647.

SUMMARY: Notice is hereby given that the coal resources in the lands described below in McLean County, North Dakota, will be offered for competitive lease by sealed bid. This offering is being made as a result of an application filed by The Falkirk Mining Company, in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (41 Stat. 437; 30 U.S.C. 181 *et seq.*)

The lease sale will be held at 1 p.m., Tuesday, December 10, 2002, in the Montana State Office Side B Main Conference Room, at the Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101. Bids for the tract will be in the form of sealed bids. Sealed bids *clearly marked* "Sealed Bid for NDM 91647 Coal Sale—Not to be opened before 1 p.m., Tuesday, December 10, 2002" must be submitted on or before 12 noon, December 10, 2002, to the cashier, Bureau of Land Management, Montana State Office, 5001 Southgate Drive, Post Office Box 36800, Billings, Montana 59107-6800.

An Environmental Assessment of the proposed coal development and related requirements for consultation, public involvement, and hearings have been completed in accordance with 43 CFR 3425. The results of these activities were a finding of no significant environmental impact. The coal resource to be offered consists of all recoverable reserves in the following-described lands:

T. 146 N., R. 82 W., 5th P. M.
Sec. 34: NW¹/₄SW¹/₄.

Containing 40.00 acres, McLean County,
North Dakota.

SUPPLEMENTARY INFORMATION: The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value of the coal resource. The minimum bid

for the tract is \$100 per acre, or fraction thereof. No bid that is less than \$100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand-delivered. The cashier will issue a receipt for each hand-delivered bid. Bids received after 12 noon, Tuesday, December 10, 2002, will not be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale.

If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed-bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

A lease issued as a result of this offering will provide for payment of an annual rental of \$3 per acre, or fraction thereof; and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods and 8.0 percent of the value of coal mined by underground methods. The value of the coal shall be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are included in the Detailed Statement of Lease Sale. Copies of the statement and the proposed coal lease are available at the Montana State Office. Casefile NDM 91647 is also available for public inspection at the Montana State Office.

FOR FURTHER INFORMATION CONTACT: Connie Schaff, Land Law Examiner, or Rebecca Good, Coal Coordinator, at (406) 896-5060 or (406) 896-5080, respectively.

Dated: September 16, 2002.

Randy D. Heuscher,

Chief, Branch of Solid Minerals.

[FR Doc. 02-26552 Filed 10-17-02; 8:45 am]

BILLING CODE 4310--55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-670-02-1610-JP-064B]

Notice of Availability of a Draft Amendment and Associated Environmental Assessment to the California Desert Conservation Area Plan for Off-Road Vehicle Trail (Route of Travel) Designations in the Western Colorado Desert (WECO) Portion of Imperial County, CA

AGENCY: Department of Interior, Bureau of Land Management, California Desert District.

ACTION: Notice of availability of a draft amendment and associated environmental assessment to the California Desert Conservation Area Plan for off-road vehicle trail (route of travel) designations in the Western Colorado Desert (WECO) portion of Imperial County, California.

DATES: Written comments on the Draft Amendment and the Environmental Assessment will be accepted if postmarked within 45 calendar days from the date this Notice of Availability is published in the **Federal Register** by the Bureau of Land Management. Instructions for submitting comments are included below under Supplemental Information.

SUMMARY: The draft plan amendment will establish or revise designations of trails (routes of travel) for off-road vehicles in accordance with Part 43 Code of Federal Regulations Subpart 8342. Trails (routes of travel) for inclusion in the State of California's Discovery Trail System and the route to be used as a segment of the Juan Bautista de Anza National Historic Trail within the Western Colorado Desert (WECO) project area will be identified. The proposals will pertain to public lands addressed by the California Desert Conservation Area Plan in the WECO portion of Imperial County that lie west of the Union Pacific Railroad and the Chocolate Mountain Gunnery Range (excluding the Imperial Sand Dunes and the western portion of the California Desert Conservation Area in San Diego County, California).

ADDRESSES: Copies of the document are being mailed to those who requested it. The document is available for review on line at <http://www.ca.blm.gov/elcentro> and is also available in a hard copy or a CD rom format at the following addresses and telephone numbers: Bureau of Land Management, El Centro Field Office, 1661 South 4th Street, El Centro, CA 92243, (760) 337-4400.

FOR FURTHER INFORMATION: Arnold Schoeck, Bureau of Land Management, 1661 South 4th Street, El Centro, CA 92243; (760) 337-4441.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management published in the **Federal Register** on March 25, 2002, the Notice of Intent to prepare an Environmental Assessment and to make a Plan Amendment to the California Desert Conservation Area Plan by making off-road vehicle trail (route of travel) designations in the Western Colorado Desert portion of Imperial County. The public scoping period for the project began March 25, 2002 and the comment period until has been expanded until October 7, 2002.

The publication of the Environmental Assessment will start a 45-day public comment period for the proposed designations and alternative plan amendments described in the environmental assessment. Public meetings and their locations for the public to make comments at will be announced in the local media and on the El Centro Field Office's Web site (<http://www.ca.blm.gov/elcentro>).

The public is invited to submit comments on the alternatives to the plan amendment and the Environmental Assessment. Written comments should be sent to the above address and must be post marked by December 2, 2002. E-mail comments may be sent to caecweco@ca.blm.gov but must be received by the close of business on December 2, 2002. Delays caused by the Internet, servers, and other related computer problems will not be cause for a time extension.

Comments, including names and addresses of respondents, will be available for public review at the El Centro Field Office during normal working hours (7:45 a.m. to 4:30 p.m., except holidays), and may be published as part of the Decision Record or other related documents. Individuals may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this promptly at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses will be made available for public inspection in their entirety.

After the public comment period ends, (1) a Notice of the Proposed Decision, (2) the effective date for the proposed decision, and (3) the beginning of a 30 day protest period will be published. The procedures for

protesting a decision will be described at that time.

Greg Thomsen,

Field Manager, El Centro Field Office.

[FR Doc. 02-25949 Filed 10-17-02; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Extend Concession Contract for Services at Olympic, Big Bend, Mammoth Cave, and Isle Royale National Parks and Blue Ridge Parkway

SUMMARY: Pursuant to the National Park Service Concessions Management Improvement Act of 1998, notice is hereby given that the National Park Service intends to extend the concession contract authorizing continued food and beverage, general merchandise, automobile service, transportation, marina, gift shop, and overnight accommodations at Olympic, Big Bend, Mammoth Cave, and Isle Royale National Parks and Blue Ridge parkway. The extension will be for a term of not more than 3 years. This extension is necessary to avoid interruption of public services while the National Park Service evaluates the long-term needs of each park. This extension will be for a 3-year period beginning September 21, 2002. This notice is pursuant to 36 CFR Part 51, § 51.24(a).

SUPPLEMENTARY INFORMATION: The current concession contract for these parks expired on September 20, 2002. This contract is unique in that when it was executed in 1982, all parks were covered under one authorization. The extension will allow for individual park contracts to be developed, a prospectus to be released and a new, long-term contract awarded.

Information about this notice can be sought from: National Park Service, Concession Program Manager, 1849 C Street, NW., (2410), Washington, DC 20240 or call 202/513-7156.

Dated: September 23, 2002.

Richard G. Ring,

Associate Director for Park Operations and Education.

[FR Doc. 02-26603 Filed 10-17-02; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Bureau of Land Management

[NM-02-930-1610-DS-005G]

Notice of Availability of Draft Environmental Impact Statement

AGENCY: National Park Service, Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability of Draft Environmental Impact Statement (EIS) for El Camino Real de Tierra Adentro National Historic Trail, and proposed amendments to the Taos, Mimbres and White Sands Resource Management Plans, New Mexico.

SUMMARY: The National Park Service and the Bureau of Land Management announce the availability of the *Draft El Camino Real de Tierra Adentro National Historic Trail Comprehensive Management Plan (CMP) and Environmental Impact Statement (EIS)*. The plan provides alternative visions for managing the trail between El Paso, Texas, and San Juan Pueblo, New Mexico. This plan also addresses Resource Management Plan (RMP) Amendments to the BLM's Taos, White Sands, and Mimbres RMP's related to protection of scenic values.

Added to the National Trails System in October 2000, El Camino Real de Tierra Adentro (Royal Road of the Interior) National Historic Trail (NHT) recognizes the primary route between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros (1598-1600), San Gabriel (1600-1609) and then Santa Fe (1610-1821). The NHT, as designated, extends 404 miles from El Paso, Texas, to San Juan Pueblo, New Mexico.

This draft CMP/EIS focuses on the NHT's purpose and significance, issues and concerns related to current conditions along the NHT, resource protection, visitor experience and use, and long-term administrative and management objectives. Elements of the proposed plan have been developed in cooperation with federal, state, and local agencies as well as nonprofit and non-governmental organizations—the entities that will form the core of partnerships with the NHT. Community meetings were held in Alcalde, Española, Santa Fe, Albuquerque, Socorro, Truth or Consequences, Sunland Park and Las Cruces, New Mexico, as well as in El Paso, Texas. Meetings were held with several North American Indian Pueblos.

The plan provides a range of alternatives for management direction for the NHT, addressing management of BLM-administered lands within the Las Cruces, Socorro, Albuquerque and Taos Field Offices as well as opportunities on other federal, tribal, state, local or private lands. Issues addressed in the draft plan include three statutory requirements (recreation, interpretation and protection of historic values), as well as integration with tribal and community plans, visitor services, education, scenic values and international interests. The following alternatives are discussed in the draft plan:

Alternative A—This is the no-action alternative, which serves as the baseline for evaluating the changes and impacts of the other action alternatives. Under Alternative A, federal agencies would continue to manage their lands (through which the trail passes) based upon their existing management plans. There would be no overall administration or coordination of the NHT. There would be no effective coordination of the activities of an NHT association, private landowners, and federal, state, and local agencies. There would be no directed cooperation that would result in resource protection. Current visitor and recreational activities commemorating or interpreting the trail would continue.

Alternative B—Collaborative efforts by NHT administration and partners would be directed toward the protection of trail resources (historical, cultural, and natural) on both private and public land. Active stewardship and certification priorities would protect threatened trail resources. A coordinated visitor experience along El Camino Real de Tierra Adentro NHT would be provided and structured to promote public understanding and appreciation of NHT-related resources. An auto tour route would be established. Existing recreational opportunities that are not trail-related, but provided by private landowners and various agencies and organizations would continue.

Alternative C (preferred alternative)—An ambitious program of resource preservation and visitor use would be implemented under this alternative. Trail administration and partners would work cooperatively to provide coordinated programming and activities that integrate themes, resources, and landscapes at certified sites on private land or protected sites on public land. Resources that best illustrate the trail's significance would be identified and protected on both public and private land (high-potential sites and segments). Certification priorities would be placed

upon sites and segments supporting interpretive and educational programming and protecting significant resources. An auto tour route would be established. A bi-national approach with Mexico would promote activities such as interpretation, events, and signage. The BLM's Taos, White Sands and Mimbres Resource Management Plans would be amended to protect important scenic values.

DATES: Comments must be received within 90 days from the date that the Environmental Protection Agency publishes a Notice of Availability and Filing of the Draft EIS in the **Federal Register**.

ADDRESSES: National Park Service, Long Distance Trails Office, 2968 Rodeo Park Drive West, Santa Fe, New Mexico; Bureau of Land Management New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico. Correspondence should be addressed to: Team Leaders, El Camino Real de Tierra Adentro National Historic Trail, P.O. Box 728, Santa Fe, New Mexico 87504-0728.

FOR FURTHER INFORMATION CONTACT: Team Leaders, Harry Myers and Terry Humphrey at the address listed above.

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the draft CMP/EIS may be obtained from the address/contacts above. Copies are available for inspection at the Long Distance Trails Office, 2968 Rodeo Park Drive West, Santa Fe, New Mexico. The document is also readily available on CD-ROM in Adobe Acrobat format that can be read by computer regardless of operating system. Copies can be requested from the team leaders at the address or phone numbers listed in the paragraph above. This same document is available at www.elcaminoreal.org. A series of public open houses will be held to discuss the draft plan and answer your questions. Meetings will be announced through press releases and the news media at least 15 days in advance.

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Team Leaders, Harry Myers and Terry Humphrey at: El Camino Real de Tierra Adentro National Historic Trail, P.O. Box 728, Santa Fe, New Mexico 87504-0728. You may also comment via the Internet to www.elcaminoreal.org. Please include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (505) 988-6717 or (505) 751-4718. Finally, you may hand-deliver comments to the Long Distance

Trails Office, 2968 Rodeo Park Drive West, Santa Fe, New Mexico. Our practice is to make comments, including names and home addresses of respondent's, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: July 12, 2002.

Richard A. Whitley,

Acting State Director, BLM—New Mexico, Oklahoma, Texas.

Karen P. Wade,

Director, NPS, Intermountain Region.

[FR Doc. 02-26055 Filed 10-17-02; 8:45 am]

BILLING CODE 4310-84-P; 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Jean Lafitte National Historical Park and Preserve; Notice of Task Force Meeting

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. App.1, section 10(a)(2), that a meeting of the Chalmette Battlefield Task Force Committee will be held at 6 p.m. at the following location and date:

DATES: Wednesday, November 20, 2002.

ADDRESSES: The Council Chambers Meeting Room at the St. Bernard Parish Government Complex, 8245 W. Judge Perez Drive in Chalmette, LA 70042.

FOR FURTHER INFORMATION CONTACT: Ms. Geraldine Smith, Superintendent, Jean Lafitte National Historical Park and Preserve, 419 Decatur Street, New Orleans, LA 70130, (504) 589-3882, extension 137 or 108.

SUPPLEMENTARY INFORMATION: The purpose of the Chalmette Battlefield Task Force Committee is to advise the Secretary of the Interior on suggested improvements at the Chalmette Battlefield site within Jean Lafitte National Historical Park and Preserve. The members of the Task Force are as

follows: Ms. Elizabeth McDougall, Ms. Faith Moran, Mr. Anthony A. Fernandez, Jr., Mr. Drew Heaphy, Mr. Alvin W. Guillot, Mrs. George W. Davis, Mr. Eric Cager, Mr. Paul V. Perez, Captain Bonnie Pepper Cook, Mr. Michael L. Fraering, Colonel John F. Pugh, Jr., and Geraldine Smith.

The matters to be discussed at this meeting include the purpose of the committee, background and history of the area, appointment of a chairperson and scheduling future meetings. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the committee a written statement concerning the matters to be discussed. Written statements may also be submitted to the superintendent at the address above. Minutes of the meeting will be available at park headquarters for public inspection at 419 Decatur Street, New Orleans, Louisiana for public inspection approximately 4 weeks after the meeting and on the park Web site at <http://www.nps.gov/jela.htm>.

Dated: September 26, 2002.

Jerre Brumbelow,

Acting Regional Director, Southeast Region.

[FR Doc. 02-26600 Filed 10-17-02; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Native American Graves Protection and Repatriation Review Committee: Meeting; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice.

This notice corrects the notice regarding the Native American Graves Protection and Repatriation Review Committee meeting in Seattle, WA, November 8-10, 2002.

In the Federal Register of Thursday, July 18, 2002, FR Doc. 02-18050, page 47397, paragraph number 1 is corrected by substituting the following paragraph: The agenda for the meeting will include Federal agency compliance; regulations on Section 10.11, Disposition of Culturally Unidentifiable Human Remains; and a dispute between the Ho-Chunk Nation and The Field Museum.

Dated: September 17, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02-26601 Filed 10-17-02; 8:45 am]

BILLING CODE 4310-70-S

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-481]

Certain Display Controllers With Upscaling Functionality and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 17, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Genesis Microchip (Delaware), Inc. of Alviso, California. A letter supplementing the complaint was filed on October 4, 2002. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain display controllers with upscaling functionality and products containing same by reason of infringement of claims 1-3, 5, 6, 9-13, 16-23, 25, 26, 30-36, 38, 39, 41, 42, 44, 45, and 47-55 of U.S. Letters Patent 5,739,867. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's ADD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDISON-LINE) at <http://dockets.usitc.gov/eol/public>.

FOR FURTHER INFORMATION CONTACT: James B. Coughlan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2221.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2002).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on October 10, 2002, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation is instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain display controllers with upscaling functionality or products containing same by reason of infringement of one or more of claims 1-3, 5, 6, 9-13, 16-23, 25, 26, 30-36, 38, 39, 41, 42, 44, 45, and 47-55 of U.S. Letters Patent 5,739,867, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—
Genesis Microchip (Delaware), Inc.,
2150 Gold Street, Alviso, California
94002.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:
Media Reality Technologies, Inc., 767
North Mary Avenue, Sunnyvale,
California 94086.
SmartASIC, Inc., 525 Race Street, San
Jose, California 95126.
Trumpion Microelectronics, Inc., 11F,
No. 17 Chien-Teh, Rd., Sec. 1, Taipei,
Taiwan.

(c) James B. Coughlan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401-L, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Charles E. Bullock is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be

submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation.

Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

Issued: October 11, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02-26481 Filed 10-17-02; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

Agency Information Collection Activities: Proposed Extension of Currently Approved Collection; Comments Requested

ACTION: 60-day notice of information collection under review; extension of currently approved collection; immigration practitioner appeal form from decision of adjudicating official, Board of Immigration Appeals.

The United States Department of Justice, Executive Office for Immigration Review, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until December 17, 2002. This

process is in accordance with 5 CFR 1320.10.

If you have any comments, especially on the estimated public burden or associated response time, or suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Charles Adkins-Blanch, General Counsel, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigration Practitioner Appeal Form from Decision of Adjudicating Official, Board of Immigration Appeals.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form EOIR-45. Executive Office for Immigration Review.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: Individuals. Other: None. The information on this form will be used by immigration practitioners to appeal an adverse decision of an Adjudicating Official in a disciplinary proceeding to the Board of Immigration Appeals, Executive Office for Immigration Review.

(5) *An estimate of the total number of respondents and the amount of time*

estimated for an average respondent to respond: There are approximately 50 respondents who will each require an average of 1 hour to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual public burden hours for this information collection is estimated to be 50 hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Washington, DC 20004.

Dated: October 15, 2002.

Robert B. Briggs,

Clearance Officer, Department of Justice.

[FR Doc. 02-26557 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-30-M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

Agency Information Collective Activities: Proposed Extension of Currently Approved Collection; Comments Requested

ACTION: 60-day notice of information collection under review; extension of currently approved collection; notice of entry of appearance as attorney or representative before the immigration court.

The United States Department of Justice, Executive Office for Immigration Review, has submitted the following information collection to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60-days until December 17, 2002. This process is in accordance with 5 CFR 1320.10.

If you have any comments, especially on the estimated public burden or associated response time, or suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Charles Adkins-Blanch, General Counsel, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of

information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of the appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court.

(3) *The agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form EOIR-28. Executive Office for Immigration Review.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals. Other: Business or other for-profit; not-for-profit institutions. The information collected on EOIR-28 will be used (i) to determine whether or not a responding attorney or representative meets the regulatory criteria necessary to be authorized to represent aliens before the Immigration Court, (ii) to provide the responding represented party an opportunity to expressly consent to such representation and to release of Executive Office for Immigration Review records to the representative, and (iii) to notify the Immigration and Naturalization Service and the Executive Office for Immigration Review of such representation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 77,000 respondents who will each require 6 minutes to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual public

burden for this information collection is estimated to be 7,700 hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Washington, DC 20004.

Dated: October 15, 2002.

Robert B. Briggs,

Clearance Officer, Department of Justice.

[FR Doc. 02-26558 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-30-M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

Agency Information Collection Activities: Proposed Extension of Currently Approved Collection; Comments Requested

ACTION: 60-day notice of information collection under review; extension of currently approved collection; immigration practitioner complaint form.

The United States Department of Justice, Executive Office for Immigration Review, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until December 17, 2002. This process is in accordance with 5 CFR 1320.10.

If you have any comments, especially on the estimated public burden or associated response time, or suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Charles Adkins-Blanch, General Counsel, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041.

Written comments and suggestions from the public and affected agencies concerning the proposed extension of a currently approved information collection instrument are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the

agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:*

Extension of Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigration Practitioner Complaint Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form EOIR-44. Executive Office for Immigration Review.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals. Other: Not-for-profit institutions, federal government. The information on this form will be used to determine whether or not, assuming the truth of the factual allegations raised therein, the Office of the General Counsel, Executive Office for Immigration Review, should conduct a preliminary disciplinary inquiry, request additional information from the responding complainant, refer the matter to a state bar disciplinary authority or other law enforcement agency, or take no further action.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average responded to respond:* There are approximately 500 respondents who will each require 2 hours to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual public burden for this information collection is estimated to be 1,000 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Washington, DC 20004.

Dated: October 15, 2002.

Robert B. Briggs,

Clearance Officer, Department of Justice.

[FR Doc. 02-26559 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-30-M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

Agency Information Collection Activities: Proposed Extension of Currently Approved Collection; Comments Requested

ACTION: 60-day notice of information collection under review; extension of a currently approved collection; notice of entry of appearance as attorney or representative before the Board of Immigration Appeals.

The United States Department of Justice, Executive Office for Immigration Review, has submitted the following information collection to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until December 17, 2002. This process is in accordance with 5 CFR 1320.10.

If you have any comments, especially on the estimated public burden or associated response time, or suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Charles Adkins-Blanch, General Counsel, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041.

Written comments and suggestions from the public and affected agencies concerning the proposed extension of a currently approved information collection instrument are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals.

(3) *Agency from number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form EOIR-27. Executive Office for Immigration Review.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: Individuals. Other: Business or other for-profit; not-for-profit institutions. The information collected on EOIR-27 will be used (i) to determine whether or not a responding attorney or representative meets the regulatory criteria necessary to be authorized to represent aliens before the Board of Immigration Appeals, (ii) to provide the represented party an opportunity to expressly consent to such representation and to release of Executive Office for Immigration Review records to the representative, and (iii) to notify the Immigration and Naturalization Service and the Executive Office for Immigration Review of such representation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 26,000 respondents who will each Require 6 minutes to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual burden for this information collection is estimated to be 2,600 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Washington, DC 20004.

Dated: October 15, 2002.

Robert B. Briggs,

Clearance Officer, Department of Justice.

[FR Doc. 02-26560 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-30-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree; Pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA")

In accordance with 28 CFR 50.7, notice is hereby given that on September 27, 2002, a consent decree was lodged with the United States District Court for the District of New Hampshire in two cases, *United States v. AVX Corporation, et al.*, Civ. No. 02-436-M, and *State of New Hampshire v. AVX Corporation, et al.*, Civ. No. 02-437-JD. In its complaint, the United States, on behalf of U.S. Environmental Protection Agency, asserted claims against two *de minimis* generator defendants under sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9606 and 9607(a), seeking recovery of response costs incurred and to be incurred in connection with the Fletcher Paint Works and Storage Facility Superfund Site, in Milford, New Hampshire ("Site"). In its complaint, the State of New Hampshire asserted claims against the same defendants under Sections 106 and 107(a) of CERCLA and under New Hampshire RSA 147-B:10 seeking recovery of response costs incurred and to be incurred in connection with the Site. The proposed consent decree will resolve the United States' and the State's claims against two defendants. The *de minimis* consent decree requires the two defendants to pay \$2,198,052 to the United States, which will be deposited into a special account to pay for response activities at the Site, and to pay \$4,191 to the State.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed *de minimis* consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. AVX Corporation, et al.*, DOJ Ref. No. 90-11-3-684/2.

The proposed *de minimis* consent decree may be examined at the office of the United States Attorney for the District of New Hampshire, 55 Pleasant Street, Rm. 352, Concord, NH 03301; and the Region I office of the U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Boston, MA 02114. A copy of the proposed *de minimis* consent decree may be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044-7611. In requesting a copy please enclose a check in the amount of \$4.75 payable to the U.S. Treasury.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 02-26503 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree; Under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq.

Notice is hereby given that on October 4, 2002, a proposed partial consent decree ("consent decree") in *United States vs. Brighton Township*, Civil Action No. 94-CV-75289-DT, was lodged with the United States District Court for the Eastern District of Michigan.

In this action the United States sought recovery, under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607(a), of response costs incurred in connection with a property formerly operated as a dump or disposal area on Corlett Road in Brighton Township, Livingston County, Michigan ("Site"). The consent decree resolves the United States' claims against Brighton Township, which is alleged to be liable as a result of having operated the Site. The consent decree recovers \$595,000 in response costs relating to the site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, PO Box 7611, Washington, DC 20044-7611, and should refer to *United States v. Brighton Township*, D.J. Ref. No. 905-1-1-5073.

The proposed consent decree may be examined at the Office of the United States Attorney, 211 West Fort Street,

Suite 2300, Detroit, Michigan. A copy of the proposed consent decree may be obtained by mail from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC 20044-7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514-0097. In requesting a copy, please enclose a check payable to the "U.S. Treasury", in the amount of \$4.00 (25 cents per page reproduction cost). The check should refer to *United States v. Brighton Township*, D.J. Ref. No. 90-5-1-1-5073.

W. Benjamin Fisherow,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02-26505 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on September 24, 2002, a proposed consent decree in *United States and City of Philadelphia v. Brotech Corporation*, Civ. Action No. 00-2428, was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action the United States alleged the Brotech Corporation had violated the Clean Air Act, 42 U.S.C. 7401 *et seq.* by discharging pollutants into the air at its chemical processing facility at 3620 "G" Street, Philadelphia, PA. The proposed decree will require defendants to pay a civil penalty of \$400,000.00, plus interest, divided equally between the United States and the City of Philadelphia. The consent decree will also require the defendant to comply with all federal, state, and local air pollution control regulations.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Chief, Civil Division, United States Attorney's Office, Eastern District of Pennsylvania, and transmitted by one of the following methods: (1) Via U.S. Mail or overnight mail to United States Attorney's Office, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106 and/or (2) by facsimile to (215) 861-8647. Each communication should reference *United States and City of Philadelphia v. Brotech Corporation*, CA No. 00-2428, DOJ #90-5-2-1-06899.

The proposed consent decree may be examined at the Office of the United States Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106 and

at U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. When requesting a copy, please enclose a check in the amount of \$22.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Department of Justice.

[FR Doc. 02-26506 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that two Consent Decrees in *United States v. CryoChem, Inc., C.S. Garber & Sons, Inc., Elizabeth H. Garber, Executrix of the Estate of Claude W. Garber, Russell E. Garber, Jr. and Randall J. Garber, Co-Executors of the Estate of Russell E. Garber, Sr., and Joan E. Miller, Executrix for the Estate of Kathryn Reigner* ("Settling Defendants"), Civil Action No. 02-CV-746, were lodged with the United States District Court for the Eastern District of Pennsylvania on September 26, 2002. These Consent Decrees resolve claims of the United States' against the Settling Defendants under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9606 and 9607(a). The Consent Decrees require the Settling Defendants to make payments in reimbursement of response costs for the CryoChem Superfund Site located in Berks County, Pennsylvania. One of the Consent Decrees is between the United States and C.S. Garber & Sons, Inc. and the Estates and requires C.S. Garber and Sons, Inc. to pay a total of \$240,000, plus interest, over a period of four years. This Consent Decree also requires each of the Estates to pay \$167,000 in reimbursement of response costs, for a total of \$501,000. The second Consent Decree requires CryoChem, Inc. to pay \$200,000 in reimbursement of response costs. The total amount to be paid by all parties under both Consent Decrees is \$941,000.

The Department of Justice will accept written comments on the proposed Consent Decrees for thirty (30) days from the date of publication of this notice. Please address comments to the

Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044-7611, and refer to *United States v. CryoChem, Inc., C.S. Garber & Sons, Inc., Elizabeth H. Garber, Executrix of the Estate of Claude W. Garber, Russell E. Garber, Jr. and Randall J. Garber, Co-Executors of the Estate of Russell E. Garber, Sr., and Joan E. Miller, Executrix for the Estate of Kathryn Reigner*, DOJ #90-11-3-06815.

Copies of the proposed Consent Decrees may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Philadelphia, PA 19106 and at EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. Copies of the proposed Consent Decrees may be obtained by mail from the U.S. Department of Justice, Consent Decree Library, P.O. Box 7611, Washington, DC 20044-7611. When requesting a copy of the proposed Consent Decrees, please enclose a check to cover the twenty-five cents per page reproduction costs payable to the "U.S. Treasury" in the amount of \$7.00 for the Consent Decree between the United States and CryoChem, Inc. and in the amount of \$8.25 for the Consent Decree between the United States and C.S. Garber & Sons, Inc., Elizabeth H. Garber, Executrix of the Estate of Claude W. Garber, Russell E. Garber, Jr. and Randall J. Garber, Co-Executors of the Estate of Russell E. Garber, Sr., and Joan E. Miller, Executrix for the Estate of Kathryn Reigner. Please specify which Consent Decree you are seeking and reference *United States v. CryoChem, Inc., C.S. Garber & Sons, Inc., Elizabeth H. Garber, Executrix of the Estate of Claude W. Garber, Russell E. Garber, Jr., and Randall J. Garber, Co-Executors of the Estate of Russell E. Garber, Sr., and Joan E. Miller, Executrix for the Estate of Kathryn Reigner*, DOJ #901-11-3-06815.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 02-26508 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree; Under the Clean Water Act, the Oil Pollution Act of 1990 and State of California Law

Notice is hereby given that on September 23, 2002, a proposed consent

decree in *United States and State of California v. ExxonMobil Oil Corp.*, Civil Action No. 2:02cv07408 MMM (MANx), was lodged with the United States District Court for the Central District of California.

The consent decree resolves claims against defendant ExxonMobil Oil Corporation arising from a spill from an oil pipeline in Southern California, operated by Mobil Oil Corporation, the predecessor of defendant ExxonMobil Oil Corporation, the predecessor of defendant ExxonMobil Oil Corporation ("ExxonMobil"). The proposed complaint seeks recovery by the United States of natural resource damages and civil penalties under Section 311 of the CWA, 33 U.S.C. 1321, and Sections 1002 and 1006 of OPA, 33 U.S.C. 2702, 2706, and recovery by the State of California of natural resource damages, civil penalties, and other damages under State of California law. The proposed consent decree resolves those claims in consideration of a total payment by ExxonMobil of \$4.7 million, consisting of \$3.45 million in natural resource damages, damage assessment costs, and planning and oversight costs; \$600,000 in federal civil penalties, and \$650,000 in state civil penalties and damages.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044-7611, and should refer to *United States and State of California v. ExxonMobil Oil Corp.*, D.J. Ref. No. 90-5-1-1-06971.

The consent decree may be examined at the offices of U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing a request to Tonia Fleetwood, fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy, please enclose a check in the amount of \$7.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ellen M. Mahan,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02-26504 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Modification of Consent Decree Under the Clean Water Act

Pursuant to 28 CFR 50.7, notice is hereby given that, on September 26, 2002, a proposed Stipulation modifying the Amended Consent Decree in *United States v. Government of the Virgin Islands*, Civil Action No. 84-104, was lodged with the United States District Court for the District of the Virgin Islands.

On May 10, 1985 and July 14, 1987, the Government of the Virgin Islands ("Virgin Islands") applied to the Environmental Protection Agency ("EPA"), pursuant to section 301(h) of the Clean Water Act, 33 U.S.C. 1311(h), for a waiver of secondary treatment requirements at the St. Croix Wastewater Treatment Plant ("St. Croix WWTP") and the Charlotte Amalie Wastewater Treatment Plant ("Charlotte Amalie WWTP"), respectively. On January 19, 1996, the United States District court for the District of the Virgin Islands approved an Amended Consent Decree in an action that had been filed by the United States against the Virgin Islands, on March 21, 1984, alleging violations of certain provisions of the Clean Water Act at eight of its wastewater treatment plants. The Amended Decree provided, *inter alia*, that if EPA denied either of the 301(h) waiver applications, the Virgin Islands would be required to achieve secondary treatment at the facility within three years of the effective date of EPA's final denial of the application.

On June 7, 2001, before EPA had taken action with respect to the 301(h) applications, the Virgin Islands withdrew the applications.

The United States, pursuant to this Stipulation, agrees to give the Virgin Islands additional time to complete the construction of new or upgraded facilities that will meet the secondary treatment requirements of the Clean Water Act or any more stringent requirements that may be set forth in the Territorial Pollutant Discharge Elimination System permits for the St. Croix WWTP and the Charlotte Amalie WWTP. Pursuant to the Stipulation, the Virgin Islands has until November 30, 2005 to complete construction and place into operation new or upgraded treatment facilities with respect to the St. Croix WWTP and until November 30, 2006 to complete construction and place into operation new or upgraded treatment facilities with respect to the Charlotte Amalie WWTP. Pursuant to the Stipulation, the Virgin Islands

agrees to use the services of a private contractor to design, construct, and operate (for at least 20 years) the new or upgraded facilities. The Virgin Islands has also agreed to deposit into a separate account, on an annual basis, the funds needed to design, construct, and operate (for two years) the facilities during the succeeding twelve-month period.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Stipulation. Comments should be addressed to Donald G. Frankel, Trial attorney, Department of Justice, One Gateway Center, Suite 616, Newton Massachusetts 02458 and should refer to *United States v. Government of the Virgin Islands*, D.J. Ref. 90-5-1-1-1911A.

The Stipulation may be examined at the Office of the United States Attorney, District of the Virgin Islands, Federal Building and United States Courthouse, 550 Veterans Drive, Suite 260, Charlotte Amalie, St. Thomas Virgin Islands 00802 (contact Joycelyn Hewlett at (340) 774-5757). A copy of the Stipulation may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy, please enclose a check in the amount of \$5 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02-26502 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA")

Notice is hereby given that a proposed consent decree in *United States and State of New Jersey v. Dominick Manzo, et al.*, C.A. Nos. 97-289 and 99-3937 (MLC) (Consolidated Actions), was lodged with the United States District Court for the District of New Jersey on September 25, 2002 (the "Consent Decree"). The Consent Decree will resolve the liability of 10 third-party generator defendants to the United States, on behalf of the United States Environmental Protection Agency, under sections 106 and 107(a) of the

Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9606 and 9607(a), for the recovery of costs incurred by the United States in connection with the Imperial Oil Co., Inc./Champion Chemical Site ("Imperial Site"), located at Orchard Place in Marlboro Township, Monmouth County, New Jersey, and at the Burnt Fly Bog Superfund Site ("Burnt Fly Bog Site"), located on Tyler Lane in Marlboro Township, Monmouth County, New Jersey. The Consent Decree requires 10 generators of hazardous substance to pay \$222,953, which will be deposited in equal shares of \$111,476.50 into two special accounts to pay for response activities at the Sites.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044-7611, and should refer to *United States and State of New Jersey v. Dominick Manzo, et al.*, DOJ Ref. #90-11-2-488A.

The proposed Consent Decree may be examined at the office of the United States Attorney for the District of New Jersey, 402 East State Street, Room 430, Trenton, New Jersey, and the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866 (contact Assistant Regional Counsel Kedari Reddy). A copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC. 20044-7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$8.50 (25 cents per page reproduction costs) for the Consent Decree, payable to the U.S. Treasury.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02-26507 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Department Policy, 28 CFR 50.7, and with section

122(d) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(d), notice is hereby given that a proposed amendment to a partial consent decree in *United States v. Niagara Frontier Transportation Auth.*, Case No. 96-CV-0219C(Sc) (W.D.N.Y.) was lodged with the United States District Court for the Western District of New York on October 2, 2002. This proposed amendment to a consent decree will resolve contribution claims against the United States pursuant to section 113 of CERCLA for payment of response costs incurred at or in connection with the release or threatened release of hazardous substances at the Bern Metal Superfund Site and the Universal Iron and Metal Superfund Site in Buffalo, New York.

The proposed amendment to the consent decree requires the United States to pay \$75,000 towards the total response costs.

The Department of Justice will accept written comments relating to this proposed amendment to a consent decree for thirty (30) days from the date of publication of this notice. Please address comments to Eileen T. McDonough, Environmental Defense Section, U.S. Department of Justice, Post Office Box 23986, L'Enfant Plaza Station, Washington, DC 20026-3986, and refer to this case name and civil action number.

The proposed amendment to the consent decree may be examined at the Clerk's Office, United States District Court for the Western District of New York. In addition, the proposed amendment to the consent decree may be viewed on the World Wide Web at <http://www.usdoj.gov/enrd/enrd-home.html>.

Scott Schachter,

Environmental Defense Section.

[FR Doc. 02-26510 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Remi Bourdeau*, Civil Action No. 1:02:CV:250 (D. Vt.), was lodged with the United States District Court for the District of Vermont on October 1, 2002. This proposed Consent Decree concerns a complaint filed by the United States of America against Remi Bourdeau, pursuant to section 301 of the Clean Water Act, 33 U.S.C.

1311(a), to obtain injunctive relief from and impose civil penalties against the Defendant for causing fill and/or dredged material to be discharged into waters of the United States at a site located in Sheldon, Vermont in Franklin County.

The proposed Consent Decree requires Remi Bourdeau to pay a \$15,000 civil penalty, complete restoration work in the wetland, and implement a monitoring plan to periodically assess the success of the restoration work. In addition, the consent decree prohibits the defendant from discharging any pollutant into waters of the United States, unless such discharge complies with the provisions of the Clean Water Act and its implementing regulations.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Joseph Perella, Assistant U.S. Attorney, P.O. Box 570, Burlington, VT 05402-0570 and refer to this case name and civil action number.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Vermont at 11 Elmwood Ave., Burlington, Vermont. In addition, the proposed Consent Decree may be viewed on the World Wide Web at <http://www.usdoj.gov/enrd/enrd-home.html>.

Joseph Perella,

Assistant United States Attorney, United States Attorney's Office, Burlington, Vermont.

[FR Doc. 02-26509 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 26, 2002, AccuStandard, Inc., 125 Market Street, New Haven, Connecticut 06513, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Fenethylamine (1503)	I
Mecloqualone (2572)	I
Alpha-Ethyltryptamine (7249)	I

Drug	Schedule	Drug	Schedule
3,4,5-Trimethoxyamphetamine (7390).	I	3-Methylthiofentanyl (9833)	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I	Thiofentanyl (9835)	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401).	I	Nabilone (7379)	II
Diethyltryptamine (7434)	I	1-Phenylcyclohexylamine (7460) ...	II
Dimethyltryptamine (7435)	I	Phenylacetone (8501)	II
Psilocybin (7437)	I	1-Piperidinocyclohexanecarbonitrile (8603).	II
Psilocyn (7438)	I	Isomethadone (9226)	II
N-Ethyl-1-phenylcyclohexylamine (7455).	I	Metopon (9260)	II
1-(1-Phenylcyclohexyl)pyrrolidine (PCPY) (7458).	I	Piminodine (9730)	II
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine TCPY (7473).	I	Racemorphan (9733)	II
N-Ethyl-3-piperidyl benzilate (7482).	I	Bezitramide (9800)	II
N-Methyl-3-piperidyl benzilate (7484).	I		
Acetyldihydrocodeine (9051)	I		
Benzylmorphine (9052)	I		
Desomorphine (9055)	I		
Codeine methylbromide (9070) ...	I		
Difenoxin (9168)	I		
Hydromorphenol (9301)	I		
Methylhydromorphenine (9304)	I		
Morphine methylbromide (9305) ..	I		
Morphine methylsulfonate (9306) ..	I		
Nicomorphine (9312)	I		
Drotebanol (9335)	I		
Allylprodine (9602)	I		
Alphamethadol (9605)	I		
Betaprodine (9611)	I		
Clonitazene (9612)	I		
Dextromoramide (9613)	I		
Diampromide (9615)	I		
Diethylthiambutene (9616)	I		
Dimenoxadol (9617)	I		
Dimepheptadol (9618)	I		
Dimethylthiambutene (9619)	I		
Dioxaphetyl butyrate (9621)	I		
Dipipanone (9622)	I		
Ethylmethylthiambutene (9623) ...	I		
Furethidine (9626)	I		
Hydromorphenol (9627)	I		
Ketobemidone (9628)	I		
Morpheridine (9632)	I		
Noracetylmethadol (9633)	I		
Normethadone (9635)	I		
Norpipanone (9636)	I		
Phenadoxone (9637)	I		
Phenampromide (9638)	I		
Phenoperidine (9641)	I		
Piritramide (9642)	I		
Proheptazine (9643)	I		
Propiridine (9644)	I		
Propiram (9649)	I		
1-Methyl-4-phenyl-4-propionoxypiperidine (9661).	I		
1-(Phenylethyl)-4-phenyl-4-acetoxypiperidine (9663).	I		
Tilidine (9750)	I		
Para-Fluorofentanyl (9812)	I		
3-Methylfentanyl (9813)	I		
Alpha-methylfentanyl (9814)	I		
Acetyl-alpha-methylfentanyl (9815).	I		
Beta-hydroxyfentanyl (9830)	I		
Beta-hydroxy-3-methylfentanyl (9831).	I		
Alpha-Methylthiofentanyl (9832) ...	I		

The firm plans to manufacture small quantities of the listed controlled substances to make reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: August 28, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02-26607 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Douglas L. Geiger, M.D.; Denial of Application

On September 24, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Douglas L. Geiger, M.D. (Dr. Geiger), proposing to deny his pending application for DEA Certificate of Registration as a practitioner, and deny any pending modifications of such application pursuant to 21 U.S.C. 823(f). As a basis for the denial of his pending application, the Order to Show Cause alleged that Dr. Geiger is not currently authorized to handle controlled substances in the State of Georgia. 21 U.S.C. 824(a)(3). The order also notified Dr. Geiger that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Geiger at a location

in Riverdale, Georgia. A second copy of the Order to Show Cause was sent by certified mail to Dr. Geiger at a location in College Park, Georgia. DEA received a signed receipt indicating that the Order to Show Cause was received on behalf of Dr. Geiger at that location. Subsequently, and at Dr. Geiger's request, a copy of the Order to Show Cause was sent to him by facsimile on October 9, 2001. DEA received a printed report indicating that the show cause order had been successfully transmitted to the number provided by Dr. Geiger. DEA has not received a request for hearing or any other reply from Dr. Geiger or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Geiger is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Geiger was issued a temporary medical license #0142 on October 6, 1994. That license was extended until December 8, 1994, and subsequently extended on separate occasions until its expiration on October 5, 1995. A second temporary medical license was issued to Dr. Geiger on December 21, 1998, and on February 4, 1999, that license also expired. According to a August 6, 2001 letter contained within the investigative file from the Executive Director of the Composite State Board of Medical Examiners, Dr. Geiger has never been issued a permanent license to practice medicine in the State of Georgia.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Carla Johnson, M.D., 66 FR 52939 (2001); Graham Travers Schuler, M.D., 65 FR 50570 (2000); Demetris A. Green, M.D., 61 FR 60,728 (1996).

DEA has also consistently held that a DEA registration may not be maintained if the applicant or registrant lacks state authority to dispense controlled substances, even if such lack of state authorization was the result of the expiration of his/her state registration without further action by the state. See e.g., Mark L. Beck, D.D.S., 64 FR 40899

(1999); Gary D. Benke, M.D. 58 FR 65734 (1993); Carlyle Balgobin, D.D.S., 58 FR 46992 (1993); Charles H. Ryan, M.D., 58 FR 14430 (1993); James H. Nickens, M.D., 57 FR 59847 (1992).

In the instant case, the Deputy Administrator finds that there is evidence demonstrating that Dr. Geiger is not authorized to handle controlled substances in Georgia, the state in which he seeks a DEA registration. Since Dr. Geiger lacks such authority, he is not entitled to a DEA registration in that state.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for DEA Certificate of Registration submitted by Douglas L. Geiger, M.D. be, and it hereby is, denied. This order is effective November 18, 2002.

Dated: September 30, 2002.

John B. Brown III,
Deputy Administrator.

[FR Doc. 02-26605 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 27, 2002, and published in the **Federal Register** on April 10, 2002, (67 FR 17468), Guilford Pharmaceuticals, Inc., 6611 Tributary Street, Baltimore, Maryland 21224, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of cocaine (9041), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture a Schedule II cocaine derivative as a final intermediate for the production of dopascan injection.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Guilford Pharmaceuticals to manufacture the listed controlled substance is consistent with the public interest at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's

compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: August 28, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02-26627 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 13, 2002, Research Triangle Institute, Kenneth H. Davis, Jr., Herman Building, P.O. Box 12194, East Institute Drive, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The institute will manufacture small quantities of cocaine derivatives and marihuana derivatives for use by their customers primarily in analytical kits, reagents and standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: August 20, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02-26606 Filed 10-17-02; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 4, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on (202) 693-4129 or e-Mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: *Office of the Secretary.*

Type of Review: Revision of a currently approved collection.

Title: Information Collection Plan for GovBenefits Online.

OMB Number: 1290-0003.

Frequency: On occasion.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 2,333,736.

Number of Annual Responses: 3,719,308.

Estimated Time Per Response: 2 minutes.

Total Burden Hours: 111,579.

Total Annualized Capital/Startup Costs: \$0.

Total Annual Costs (operating/maintaining systems or purchasing services): \$0.

Description: The President's Management Agenda for E-Government (February 27, 2002) sets forth a strategy for simplifying the delivery of services to citizens. The President's agenda outlines a Federal E-Government Enterprise Architecture that will transition the management and delivery of government services from a bureaucracy-centered to a citizen-centered paradigm. To this end, the Department of Labor serves as the managing partner of the Administration's "GovBenefits" (formerly "Eligibility Assistance Online") strategy for assisting citizens in identifying and locating information on benefits sponsored by the Federal government. This tool will greatly reduce the burden on citizens attempting to locate services available from many different government agencies by providing one-stop access to information on obtaining those services.

From time to time, the precise questions or content may require modification to accommodate additions to the GovBenefits portal as well as new or revised services.

Respondents answer a series of questions to the extent necessary for locating relevant information on Federal benefits.

Responses are used by the respondent to expedite the identification and retrieval of sought after information and resources pertaining to benefits sponsored by the Federal government.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02-26564 Filed 10-17-02; 8:45 am]

BILLING CODE 4510-23-P

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation for Grant Applications (SGA) for H-1B Technical Skills Training Grants

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice; cancellation.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** of April 13, 2001, concerning the availability of grant funds for H-1B Technical Skills Training Grants unemployed and employed American workers. This document is being cancelled. A new SGA for the H-1B Technical Skills Training Grants will be announced within 30 days from the cancellation date.

EFFECTIVE DATES: This cancellation is effective November 4, 2002.

FOR FURTHER INFORMATION CONTACT: Ella Freeman, Grants Management Specialist, Division of Federal Assistance, Telephone (202) 693-3301. (This is not a toll-free number). You must specifically ask for Ella Freeman.

SUPPLEMENTARY INFORMATION: The Department is canceling the Solicitation for Grant Applications (SGA) for H-1B Technical Skills Training Grants. These grants are financed by a user fee paid by employers to bring foreign workers into the U.S. on a temporary basis to work in high skill or speciality occupations.

Dated: October 11, 2002.

Signed in Washington, DC, this 15th day of October, 2002.

James W. Stockton,

Grant Officer.

[FR Doc. 02-26565 Filed 10-17-02; 8:45 am]

BILLING CODE 4510-30-M

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 49 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 purposes 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

None

Volume II

District of Columbia

DC020001 (MAR. 01, 2002)

DC020003 (MAR. 01, 2002)

Maryland

MD020001 (MAR. 01, 2002)

MD020011 (MAR. 01, 2002)

MD020045 (MAR. 01, 2002)

MD020048 (MAR. 01, 2002)

MD020056 (MAR. 01, 2002)

MD020058 (MAR. 01, 2002)

Volume III

None

Volume IV

Minnesota

MN020007 (Mar. 01, 2002)

MN020062 (Mar. 01, 2002)

Volume V

None

Volume VI

Oregon

OR020017 (Mar. 01, 2002)

Volume VII

California

CA020027 (Mar. 01, 2002)

CA020031 (Mar. 01, 2002)

Nevada

NV020002 (Mar. 01, 2002)

NV020005 (Mar. 01, 2002)

NV020006 (Mar. 01, 2002)

NV020009 (Mar. 01, 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 www.access.gpo.gov/davisbacon. They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 10th day of October, 2002.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 02-26391 Filed 10-17-02; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of the National Museum Services Board

AGENCY: Institute of Museum and Library Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the function of the board. Notice of this meeting is required under the Sunshine in Government Act and regulations of the Institute of

Museum and Library Services, 45 CFR 1180.84.

Date/Time: 2 p.m.-5 p.m. on Monday, October 28, 2002.

Status: Open.

ADDRESSES: The Hyatt Regency Washington on Capitol Hill, Ticonderoga Room, 400 New Jersey Avenue, NW., Washington, DC (202) 737-1234.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lyons, Special Assistant to the Director, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Room 510, Washington, DC 20506, (202) 606-4649.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94-462. The Board has responsibility for the general policies with respect to the powers, duties, authorities vested in the Institute under the Museum Services Act.

The meeting on Monday, October 28, 2002 will be open to the public. If you need special accommodations due to a disability, please contact: Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506—(202) 606-8536—TDD (202) 606-8636 at least seven (7) days prior to the meeting date.

Agenda—85th Meeting of the National Museum Services Board at the Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW, Washington, DC; Ticonderoga Room on Monday, October 28, 2002

2 p.m.-5 p.m.

I. Chairman's Welcome

II. Approval of Minutes from the 84th MMSB Meeting

III. Director's Report

IV. Staff Reports

(a) Office of Administration and Budget

(b) Office of Public and Legislative Affairs

(c) Office of Technology and Research

(d) Office of Museum Services

(e) Office of Library Services

V. Learning Opportunity Grants Program

VI. Old/New Business

Dated: October 15, 2002.

Teresa LaHaie,

National Foundation on the Arts and Humanities, Institute of Museum and Library Services.

[FR Doc. 02-26657 Filed 10-15-02; 4:33 pm]

BILLING CODE 7036-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-483]

Union Electric Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-30 issued to Union Electric Company (the licensee) for operation of the Callaway Plant located in Callaway County, Missouri.

The proposed amendment would revise the definition of steam generator (SG) tube inspection in Technical Specification 5.5.9, "Steam Generator (SDG) Tube Surveillance Program." The amendment would add a requirement for using the rotating pancake coil (RPC) to the H* depth in the tubesheet. The proposed amendment is based on the Westinghouse Topical Report WCAP-15932-P, "Improved Justification of Partial-Length RPC Inspection of Tube Joints of Model F Steam Generators of Ameren-UE Callaway Plant," Revision 0, dated September 2002.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), § 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the Callaway TS is to incorporate a SG tube inspection program based on WCAP-15932-P. The H*/P* analysis takes into account the reinforcing

effect the tubesheet has on the external surface of an expanded tube.

Tube-bundle integrity will not be adversely affected by the implementation of the H*/P* tube inspection scope. SG tube burst or collapse cannot occur within the confines of the tubesheet; therefore, the tube burst and collapse criteria of Regulatory Guide (RG) 1.121 are inherently met. Any degradation below the H*/P* distance is shown by the analysis results to be acceptable, thereby precluding an event with consequences similar to a postulated tube rupture event.

Tube burst is precluded for cracks within the tubesheet by the constraint provided by the tubesheet, therefore structural criterion is satisfied by the tubesheet constraint. However, severe degradation of the tube within the tubesheet could possibly permit severing of the tube and tube pullout from the tubesheet under the axial forces on the tube. Sections 5.0 and 7.0 of WCAP-15932-P describe the testing and structural analysis that was performed to define the H* length of non-degraded tubing that is sufficient to compensate for the axial forces on the tube to prevent pullout.

Therefore, the proposed change to incorporate the H* inspection scope into the TS maintains existing design limits and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

There are no hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. This amendment will not affect the normal method of plant operation or change any operating limits. Tube-bundle integrity will be maintained during all plant conditions upon implementation of the proposed changes to the tube inspection scope. The proposed change does not induce a new mechanism that would result in a different kind of accident from those previously analyzed. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. The proposed change does not impact the margin of safety as defined by RG 1.83 and RG 1.121 and the requirements of General Design Criteria 14, 15, 19, 31, and 32. The radiological dose consequences acceptance criteria listed in the Standard Review Plan will continue to be met.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 18, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a

petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714,¹ which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene

which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of

the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov. A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 3, 2002, which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 11th day of October, 2002.

For the Nuclear Regulatory Commission.

Jack Donohew,

Senior Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02-26554 Filed 10-17-02; 8:45 am]

BILLING CODE 7590-01-P

¹ The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714(d), please see 67 FR 20884; April 29, 2002.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46635; File No. SR-Amex-2002-74]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Extending the Pilot Program Relating to Crossing Transactions in Nasdaq Securities Until March 31, 2003

October 10, 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 September 19, 2002 the American Stock Exchange LLC ("Amex" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to extend until March 31, 2003 the existing pilot program under Commentary .06 to Amex Rule 126(g) relating to crossing procedures on the Amex in Nasdaq National Market securities.

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 Amex 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 Amex 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has implemented crossing procedures under Rule 126(g), Commentary .06 on a pilot basis extending until September 30, 2002.⁵ The Exchange proposes that the pilot program be extended for a six-month period until March 31, 2003. Proposed Rule 126(g), Commentary .06 provides that a floor broker is permitted to effect cross transactions in Nasdaq National Market securities involving 5,000 shares or more without interference by the specialist or market makers if, prior to presenting the cross transaction, the floor broker first requests a quote for the subject security. These requests place the specialist and market makers on notice that the floor broker intends to cross within the bid-offer spread. This arrangement ensures that a specialist or market maker retains the opportunity to better the cross price by updating their quote, but precludes the specialist or market maker from breaking up a cross transaction after the cross transaction is presented. The floor broker retains the ability to present both sides of the order at the post if the customers so desire.

The Exchange is making no change to Rule 126(g), Commentary .06 as filed with the Commission in SR-Amex-2002-58 other than to extend the pilot program until March 31, 2003.

2. Statutory Basis

The proposed rule change is consistent with section 6(b)⁶ of the Act in general and furthers the objectives of section 6(b)(5)⁷ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.⁸

⁵ Securities Exchange Act Release No. 46309 (August 5, 2002), 67 FR 51902 (August 9, 2002) (SR-Amex-2002-58).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not receive any written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which the proposed rule change was filed, or such shorter time as the Commission may designate. At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act,¹¹ 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.

The Exchange has requested that the Commission waive the 30-day operative date. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will permit the Exchange to continue the existing pilot program without delay. In addition, no changes to Rule 126(g), Commentary .06 are being proposed at this time. Thus, the foregoing rule change has become effective pursuant to section 19(b)(3)(A)¹² of the Act and subparagraph (f)(6) of Rule 19b-4.¹³ 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,

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6). The Exchange has requested, and the Commission agrees, to waive the pre-filing notice required by Rule 19b-4(f)(6).

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 amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR-Amex-2002-74 and should be submitted by November 8, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-26517 Filed 10-17-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46630; File No. SR-Amex-2002-82]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by the American Stock Exchange LLC to Extend for an Additional 90 Days Its Pilot Program Relating to Facilitation Cross Transactions

October 9, 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 October 7, 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 and II 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. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to extend for an additional 90 days its pilot program relating to facilitation cross transactions, described in Item II.A. below. The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend for an additional 90 days its pilot program relating to member firm facilitation cross transactions, which was originally approved by the Commission in June 2000, was most recently extended on July 9, 2002, and expired on October 4, 2002.³

Revised Commentary .02(d) to Amex Rule 950(d) establishes a pilot program to allow facilitation cross transactions in

equity options.⁴ The pilot program entitles a floor broker, under certain conditions, to cross a specified percentage of a customer order with a member firm's proprietary account before market makers in the crowd can participate in the transaction. The provision generally applies to orders of 400 contracts or more. However, the Exchange is permitted to establish smaller eligible order sizes, on a class by class basis, provided that the eligible order size is not for fewer than 50 contracts.

Under the current program, when a trade takes place at the market provided by the crowd, all public customer orders on the specialist's book or represented in the trading crowd at the time the market was established must be satisfied first. Following satisfaction of any public customer orders, the floor broker is entitled to facilitate up to 20% of the contracts remaining in the customer order. When a floor broker proposes to execute a facilitation cross at a price between the best bid and offer provided by the crowd in response to his initial request for a market—and the crowd then wants to take part or all of the order at the improved price—the floor broker is entitled to priority over the crowd to facilitate up to 40% of the contracts. If the floor broker has proposed the cross at a price between the best bid and offer provided by the crowd in response to his initial request for a market, and the trading crowd subsequently improves the floor broker's price, and the facilitation cross is executed at that improved price, the floor broker would only be entitled to priority to facilitate up to 20% of the contracts.

The program also provides that if the facilitation transaction takes place at the specialist's quoted bid or offer, any participation allocated to the specialist pursuant to Amex trading floor practices would apply only to the number of contracts remaining after all public customer orders have been filled and the member firm's crossing rights have been exercised.⁵ However, in no case could the total number of contracts guaranteed to the member firm and the

³ The pilot program, originally approved on June 2, 2000, was subsequently extended on two occasions, reinstated after a brief lapse in July 2001, and extended again in October 2001, January, April, and July 2002. See Securities Exchange Act Release Nos. 42894 (June 2, 2000), 65 FR 36850 (June 12, 2000), 43229 (August 30, 2000), 65 FR 54572 (September 8, 2000); 44019 (February 28, 2001), 66 FR 13819 (March 7, 2001); 44538 (July 11, 2001), 66 FR 37507 (July 18, 2001); 44924 (October 11, 2001), 66 FR 53456 (October 22, 2001); 45241 (January 7, 2002), 67 FR 1524 (January 11, 2002); 45703 (April 8, 2002), 67 FR 18272 (April 15, 2002); and 46176 (July 9, 2002), 67 FR 47007 (July 17, 2002).

⁴ Facilitation cross transactions occur when a floor broker representing the order of a public customer of a member firm crosses that order with a contra side order from the firm's proprietary account.

⁵ Amex trading floor practices provide specialists with a greater than equal participation in trades that take place at a price at which the specialist is on parity with registered options traders in the crowd. These practices are subject to a separate filing that seeks to codify specialist allocation practices. See Securities Exchange Act Release No. 42964 (June 20, 2000), 65 FR 39972 (June 28, 2000).

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

specialist exceed 40% of the facilitation transaction.

In the more than two years since the pilot program was first implemented, the Exchange has found it to be generally successful. The Exchange seeks to extend the pilot program for an additional 90 days, pending consideration of a related proposed rule change it has filed with the Commission⁶ concerning revisions to the program that the Amex believes will provide further incentive for price improvement by using different procedures to determine specialist and registered option trader participation. The related proposal would also make the program permanent.

In order to allow the pilot program to be extended without significant interruption, the Amex has requested that the Commission expedite review of, and grant accelerated approval to, the proposal to extend it, pursuant to section 19(b)(2) of the Act.⁷

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act⁸ in general, and furthers the objectives of section 6(b)(5) of the Act⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, 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.,

⁶ See File No. SR-Amex-2000-49, available for inspection at the Commission's Public Reference Room.

⁷ 15 U.S.C. 78s(b)(2).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

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 Exchange. All submissions should refer to File No. SR-Amex-2002-82 and should be submitted by November 8, 2002.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰ In its original approval of the pilot program,¹¹ the Commission detailed its reasons for finding its substantive features consistent with the Act, and, in particular, the requirements of sections 6(b)(5) and 6(b)(8) of the Act.¹² The Commission has previously approved rules on other exchanges that establish substantially similar programs on a permanent basis,¹³ and the extension of the pilot program on the Amex—pending review of its related proposal to revise the program and make it permanent—raises no new regulatory issues for consideration by the Commission.

The Commission finds good cause, consistent with sections 6(b) and 19(b)(2) of the Act, for approving 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 proposal will extend the pilot program without significant interruption while revisions are considered, and does not raise any new regulatory issues.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-Amex-2002-

¹⁰ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ See *supra*, note 3.

¹² 15 U.S.C. 78f(b)(5) and (b)(8).

¹³ See, e.g., Securities Exchange Act Release Nos. 42835 (May 26, 2000), 65 FR 35683 (June 5, 2000), and 42848 (May 26, 2000), 65 FR 36206 (June 7, 2000).

82) be, and hereby is, approved on an accelerated basis as a pilot program through January 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-26518 Filed 10-17-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46647; File No. SR-ISE-2002-21]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by International Securities Exchange, Inc. Relating to Listing and Maintenance Standards

October 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 October 3, 2002, the International Securities Exchange, Inc. ("Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 ISE is proposing to amend its maintenance listing criteria for underlying securities contained in ISE Rule 503 to allow the Exchange to add series on underlying securities that fail to meet the \$3 minimum trading price requirement so long as they are trading on another options exchange and met the \$3 requirement at the time they were listed. The text of the rule amendment is below; proposed new language is italicized.

Rule 503. Withdrawal of Approval of Underlying Securities

* * * * *

(c) In connection with paragraph (b)(4) of this Rule, the Exchange shall not open for trading any additional series of options contracts of the class covering an underlying security at any time (including on a next-day,

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1)

² 17 CFR 24019b-4

expiration or intra-day basis) when the market price per share of such underlying security closed less than \$3 on the last trading day preceding the day on which such series are added, as measured by the closing price reported by the primary market in which the underlying security trades. In addition to closing at or above \$3 on the last trading day preceding the day series are added, the Exchange shall not open for trading any additional series of options contracts on an intra-day basis unless the last reported trade in the primary market in which the underlying security trades is at least \$3 at the time the Exchange determines to add the series. *Notwithstanding the above, the Exchange may add a series if the additional series is traded on at least one other registered national securities exchange and, at the time the additional series was listed by such other registered national securities exchange, it met the \$3 market price requirement.*

* * * * *

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 III 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

ISE Rule 503 contains the guidelines used to determine whether an underlying individual equity security previously approved for options trading meets the requirements for continued approval. ISE Rule 503 currently provides that the Exchange may not list additional series for an options class unless the market price per share of the underlying security is at least \$3 on the last trading day preceding the day on which such series are added, as measured by the closing price reported by the primary market in which the underlying security trades. In addition to closing at or above \$3 on the last preceding trading day, the Exchange may not open any additional series on an intra-day basis unless the last reported trade in the primary market in

which the underlying security trades is at least \$3 at the time the Exchange determines to add the series.

The Exchange proposes to amend ISE Rule 503 to permit the Exchange to add additional series of options regardless of the market price per share for underlying securities that satisfy all of the maintenance listing requirements other than the \$3 per share price requirement, so long as such series are traded on at least one other registered national securities exchange, and at the time the additional series were listed by such other registered national securities exchange, the underlying security met the \$3 market price requirement. Three of the five options exchanges have already adopted this change,³ and the ISE states that it seeks to keep its rules consistent with these other options exchanges to avoid any competitive disadvantage that might arise if the Exchange were unable to list series that are permitted to be listed on another exchange. The Exchange states that when an underlying security otherwise meets the maintenance listing standards and at least one other exchange trades the options series, the options already are available to the investing public. The Exchange believes that increased competition for order flow in these additional series of approved options classes will benefit investors and the marketplace for options and the respective underlying securities.⁴ Moreover, the Exchange believes that the maintenance listing standards other than price assure that options will be listed and traded on the securities of companies that are financially sound.⁵

2. Statutory Basis

The Exchange believes the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)⁶ that an exchange have rules that are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing

³ See Securities Exchange Act Release Nos. 46375 (August 16, 2002), 67 FR 54628 (August 26, 2002) (SR-AMEX-2002-68); 46406 (August 23, 2002), 67 FR 55446 (SR-PCX-2002-51); and 46501 (September 16, 2002), 67 FR 59585 (SR-CBOE-2002-52).

⁴ The Exchange represents that this proposed rule change would not serve to introduce additional options series.

⁵ The Exchange represents that it will continue to apply the other maintenance listing guidelines in Rule 503, which assure that (1) the underlying security consists of a large number of outstanding shares held by non-affiliates of the issuer; (2) the underlying security is actively-traded; (3) there is a large number of holders of the underlying security; and (4) the underlying security continues to be listed on a national securities exchange or traded through the facilities of a national securities association.

⁶ 15 U.S.C. 78f(b)(5).

information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism for 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 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 Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 ISE. All submissions should refer to File No. SR-ISE-2002-21 and should be submitted by November 8, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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, and in particular, the requirements of Section 6(b)(5) of the

Act.⁷ The Commission believes investors benefit from the competition among options exchanges that results when options are listed on more than one options exchange; and that investors are sufficiently protected, even though ISE will be permitted to list a series of option contracts when the market price of the underlying security is below \$3, because the Exchange must comply with all of the other maintenance listing requirements, and the market price of the underlying security was at or above \$3 when the options series was listed on the first options exchange.⁸ Therefore, the Commission finds that proposed rule change will promote just and equitable principles of trade, and, in general, protect investors and the public interest consistent with Section 6(b)(5) of the Act.⁹

The ISE has requested that the proposed rule change be given accelerated approval pursuant to Section 19(b)(2) of the Act.¹⁰ The Commission believes accelerated approval of the proposal would enhance competition among the options exchanges. Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹¹ 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**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-ISE-2002-21) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-26624 Filed 10-17-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46646; File No. SR-ISE-2002-20]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by International Securities Exchange, Inc., Relating to Its Complex Order Rule

October 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 October 1, 2002, the International Securities Exchange, Inc. (the "Exchange" or the "ISE"), 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 ISE.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons described below, the Commission is granting accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing permanent approval of its complex order rule, Rule 722 (the "Rule"). The ISE also proposes to amend the Rule to delete the provisions allowing a Member to execute 40 percent of certain complex orders such Member entered without the need for the order to be exposed for 30 seconds.

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. 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission supplied additional text to the description of the proposed rule change, with the consent of the ISE, to reflect ISE's deletion of rules that otherwise permitted "crossing" of orders. Telephone conversation between Michael Simon, Senior Vice President and General Counsel, ISE, and Andrew Shipe, Special Counsel, Division of Market Regulation, Commission (October 10, 2002).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 18, 2001, the Commission approved the ISE's Complex Order Rule.⁴ The Rule established priority and order handling principles for complex orders such as spreads and straddles. By its terms, the Rule was effective for one year, or until October 18, 2002. The purpose of this proposed rule change is to adopt the Rule on a permanent basis. The ISE's complex order rule is similar to those of the other exchanges with respect to order handling and priority afforded complex orders.⁵ The one provision that is unique to the ISE permits a Member to execute 40 percent of certain complex orders as principal, or as agent against an order solicited from a Member or non-Member broker-dealer, without the need for the order to be exposed for 30 seconds. The Exchange now proposes to delete that provision.

The ISE notes the complex order rule has been effective in providing a framework for the trading of complex orders. While the ISE continues to consider ways to improve upon the handling of complex orders, over the last year the basic trading mechanism and complex order priority structure have proven sound. The ISE therefore seeks approval of this rule on a permanent basis.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for 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 proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

⁴ File No. SR-ISE-2002-18; Release No. 34-44955 (October 18, 2001); 66 FR 53819 (October 24, 2001).

⁵ Chicago Board Options Exchange ("CBOE") Rule 6.45; American Stock Exchange ("Amex") Rule 950(d), Commentary .01; Philadelphia Stock Exchange ("Phlx") Rule 1033; Pacific Exchange Rule 6.75.

⁷ *Id.*

⁸ The Commission notes that such series must have been properly listed by the original options exchange.

⁹ 15 U.S.C. 78f(b)(5). 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).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ *Id.*

¹² *Id.*

¹³ 17 CFR 240.30-3(a)(12).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 ISE. All submissions should refer to File No. SR-ISE-2002-20 and should be submitted by November 8, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

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, and in particular, with the requirements of Section 6(b)(5).⁶ The Commission did not receive comments on the proposed rule change when the pilot was first proposed.⁷ Pursuant to Section 19(b)(2) of the Act,⁸ the Commission further finds good cause to approve the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The proposed rule change would eliminate the provisions of the Rule that permit members to execute 40% of certain complex orders without prior exposure to the market.

⁶ 15 U.S.C. 78f(b)(5).

⁷ See fn. 4, *supra*.

⁸ 15 U.S.C. 78s(b)(2).

The Commission believes that limiting such facilitation or crossing rights helps to adequately protect competitive pricing for all orders. Furthermore, this change makes the rule consistent with the rules of CBOE, Amex and Phlx. The Commission also believes that it is appropriate to permanently approve this heretofore-pilot program on an accelerated basis in order to ensure continuous operation of the ISE's framework for trading complex orders.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-ISE-2002-20) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-26625 Filed 10-17-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46638; File No. SR-MSRB-2002-13]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Municipal Fund Securities Limited Principal Qualification Examination (Series 51) and Rule G-3 on Professional Qualifications

October 10, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 30, 2002 the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-2002-13). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

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 MSRB has filed with the SEC a proposed rule change consisting of the test specifications and the study outline for the MSRB's new Municipal Fund Securities Limited Principal Qualification Examination (Test Series 51), as well as an amendment to Rule G-3, on professional qualifications (hereafter referred to as "the proposed rule change"). The amendment to Rule G-3 will extend to March 31, 2003 the period during which certain categories of principals may continue to act as municipal fund securities limited principals without taking and passing the new Series 51 examination. The proposed rule change will become operative on November 1, 2002.

A description of the new Series 51 examination is included in the study outline. Confidential information on the examination is included in the test specifications and has been filed with the Secretary of the SEC pursuant to Rule 24b-2 under the Exchange Act for confidential treatment. Below is the text of the amendment to Rule G-3. New language is italicized; deletions are in brackets.

Rule G-3. Classification of Principals and Representatives; Numerical Requirements; Testing; Continuing Education Requirements

(a) No change.

(b) Municipal Securities Principal; Municipal Fund Securities Limited Principal.

(i)-(iii) No change.

(iv) Municipal Fund Securities Limited Principal.

(A)-(D) No change.

(E) Temporary Provisions for Municipal Fund Securities Limited Principal. Notwithstanding any other provision of this rule, until *March 31, 2003*, [December 31, 2002,] the following provisions shall apply to any broker, dealer or municipal securities dealer whose municipal securities activities are limited exclusively to municipal fund securities:

(1)-(3) No change.

(4) On and after *April 1, 2003*, [January 1, 2003,] all municipal fund securities limited principals (including any municipal fund securities limited principals designated as provided in clause (b)(iv)(E)(1)) must be qualified as provided in subparagraph (b)(iv)(B).

(c)-(h) 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 MSRB 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 texts of these statements may be examined at the places specified in Item IV below. The MSRB 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

(a) Under section (b)(iv) of Rule G-3, on professional qualifications, an associated person of a broker, dealer or municipal securities dealer ("dealer") may undertake supervisory activities with respect to the dealer's municipal fund securities activities by qualifying as a municipal fund securities limited principal. Current rule G-3(b)(iv)(E)(4) provides that, on and after January 1, 2003, all municipal fund securities limited principals must be qualified by taking and passing the new Series 51 examination.³

The Series 51 examination will qualify an associated person of a dealer to manage, direct or supervise certain specified activities, but solely as such activities relate to transactions in municipal fund securities.⁴ The examination will be a 90-minute, 60

³ Prior to this date, a general securities principal (Series 24) or investment company/variable contracts limited principal (Series 26) may act as a municipal fund securities limited principal without further qualification.

⁴ These activities consist of (A) underwriting, trading or sales of municipal fund securities; (B) financial advisory or consultant services for issuers in connection with the issuance of municipal fund securities; (C) processing, clearance, and (in the case of non-bank dealers) safekeeping of municipal fund securities; (D) research or investment advice with respect to municipal fund securities (but only to the extent related to the activities described in (A) or (B)); (E) any other activities which involve communication, directly or indirectly, with public investors in municipal fund securities (but only to the extent related to the activities described in (A) or (B)); (F) maintenance of records with respect to the activities described in (A) through (E); and (G) training of municipal securities principals, municipal fund securities limited principals or municipal securities representatives with respect to municipal fund securities. Municipal securities principals (Series 53) will continue to be qualified to manage, direct or supervise such activities, as they relate to municipal fund securities or to any other type of municipal securities. Municipal securities sales principal (Series 9/10) will continue to be qualified to supervise sales to and purchases from customers of municipal securities, including municipal fund securities.

multiple choice question examination with 70% as the passing score. It will measure a candidate's knowledge of municipal fund securities and the securities industry rules and regulations pertinent to such products. The examination will require that the individual taking it have previously or concurrently taken and passed the general securities principal qualification examination (Series 24) or investment company and annuity principal qualification examination (Series 26).

A subcommittee of the MSRB's Professional Qualifications Advisory Committee consisting of industry representatives, working with MSRB staff in consultation with NASD staff, developed the Series 51 study outline and test specifications. The examination will be divided into seven topical sections. The topical sections and the percent of questions designated for each such section are as follows: Regulatory Structure (5%); Product Knowledge (20%); General Supervision (20%); Fair Practice and Conflicts of Interest (15%); Sales Supervision (20%); Underwriting and Disclosure Obligations (10%); and Operations (10%). The specifications for the Series 51 examination specify how the questions asked on each examination are to be allocated among the various subtopics within these topical sections.

Rule G-3 currently allows general securities principals (Series 24) and investment company limited principals (Series 26) to supervise municipal fund securities activities during a transition period that ends on December 31, 2002. On and after January 1, 2003, all municipal fund securities limited principals must be qualified by taking and passing the new Series 51 examination. However, administration of this examination will not begin until on or about January 1, 2003. Thus, the MSRB is extending the period during which Series 24 and 26 principals may continue to supervise municipal fund securities activities without further qualification. The amendment to Rule G-3 will accomplish this by extending the transition period to March 31, 2003. This extension will provide a three-month period during which candidates can take and pass the examination. Under the amendment, all municipal fund securities limited principals will be required to have taken and passed the Series 51 examination by April 1, 2003.

(b) The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(A) of the Exchange Act, which provides that it is the MSRB's responsibility to propose and adopt rules which:

provide that no municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security unless * * * such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer meets such standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors.

Section 15B(b)(2)(A) of the Exchange Act also provides that the MSRB may appropriately classify municipal securities brokers and municipal securities dealers and their associated personnel and require persons in any such class to pass tests prescribed by the MSRB.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB 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 Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the SEC for its review at least five business days prior to the filing date; and (iv) does not become operative until November 1, 2002, which is more than thirty (30) days after the date of its filing, the MSRB has submitted this proposed rule change to become effective pursuant to section 19(b)(3)(A) of the Exchange Act and Rule 19b-4(f)(6) thereunder. In particular, the MSRB believes the proposed rule change qualifies as a "non-controversial filing" in that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. The Commission has determined that acceleration of the proposed filings is consistent with the protection of investors and the public

interest.⁵ At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange 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 submissions, 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 Board's offices. All submissions should refer to File No. SR-MSRB-2002-13 and should be submitted by November 8, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-26513 Filed 10-17-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46639; File No. SR-MSRB-2002-11]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Application of Rule G-19, on Suitability of Recommendations, to Online Communications

October 10, 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 September 25, 2002, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") an interpretive notice regarding the application of Rule G-19, on suitability of recommendations, to online communications (the "Online Suitability Notice") as described in Items I, II, and III below, which Items have been prepared by the Board. The Online Suitability Notice is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(1) of Rule 19b-4 thereunder, in that the Online Suitability Notice is a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. For the reasons discussed below, the Commission is granting accelerated approval of the Online Suitability Notice.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is issuing this Online Suitability Notice to remind brokers, dealers, and municipal securities dealers ("dealers") that they have suitability obligations when they make recommendations to customers online. The text of the Online Suitability Notice is provided below.

Notice Regarding Application of Rule G-19, on Suitability of Recommendations and Transactions, to Online Communications

Background

In the municipal securities markets, dealers³ typically communicate with

investors one-on-one, in person, or by telephone. These dealer/customer communications are made to provide the investor with information concerning the municipal securities the dealer wants to sell and to allow the dealer to find out about the customer's investment objectives. Over the last few years there has been a dramatic increase in the use of the Internet for communication between dealers and their customers. Dealers are looking to the Internet as a mechanism for offering customers new and improved services and for enhancing the efficiency of delivering traditional services to customers. For example, dealers have developed online search tools that computerize the process by which customers can obtain and compare information on the availability of municipal securities of a specific type that are offered for sale by a particular dealer.⁴ Technological advancements have provided many benefits to investors and the brokerage industry. These technological innovations, however, also have presented new regulatory challenges, including those arising from the application of the suitability rule to online activities. In consideration of this, the MSRB is issuing this notice to provide dealers with guidance concerning their obligations under MSRB Rule G-19, relating to suitability of recommendations,⁵ in the electronic environment.⁶

Rule G-19 prohibits a dealer from recommending transactions in municipal securities to a customer

Act. The use of the term in this notice does not imply that the entity is necessarily taking a principal position in a municipal security.

⁴ The Bond Market Association's ("TBMA") 2001 Review of Electronic Transaction Systems found that at the end of 2001, there were at least 23 systems based in the United States that allow dealers or institutional investors to buy or sell municipal securities electronically compared to just 3 such systems in 1997. While dealers are also developing electronic trading platforms that allow retail customers to buy or sell municipal securities online, the development of online retail trading systems for municipal securities lags far behind that for equities.

⁵ Rule G-19 provides in pertinent part:

(c) *Suitability of Recommendations.* In recommending to a customer any municipal security transaction, a [dealer] shall have reasonable grounds:

(i) Based upon information available from the issuer of the security or otherwise, and

(ii) Based upon the facts disclosed by such customer or otherwise known about such customer,

For believing that the recommendation is suitable.

⁶ Although the focus of this notice is on the application of the suitability rule to electronic communications, much of the discussion is also relevant to more traditional communications, such as discussions made in person, over the telephone, or through postal mail.

⁵ For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term "dealer" is used in this notice as shorthand for "broker," "dealer" or "municipal securities dealer," as those terms are defined in the

unless the dealer makes certain determinations with respect to the suitability of the transactions.⁷ Specifically, the dealer must have reasonable grounds for believing that the recommendation is suitable based upon information available from the issuer of the security or otherwise and the facts disclosed by the customer or otherwise known about such customer.

As the rule states, a dealer's suitability obligation only applies to securities that the dealer recommends to a customer.⁸ A dealer or associated person who simply effects a trade initiated by a customer without a related recommendation from the dealer or associated person is not required to perform a suitability analysis. However, under MSRB Rules, even when a dealer does not recommend a municipal security transaction to a customer but simply effects or executes the transaction, the dealer is obligated to fulfill certain other important fair practice obligations. For example, under Rule G-17, when effecting a municipal security transaction for a customer, a dealer is required to disclose all material facts about a municipal security that are known by the dealer and those that are reasonably accessible.⁹ In addition, Rule G-18 requires that each dealer, when executing a municipal securities

transaction for or on behalf of a customer as agent, make a reasonable effort to obtain a price for the customer that is fair and reasonable in relation to prevailing market conditions. Similarly, under Rule G-30, if a dealer engages in principal transactions with a customer, the dealer is responsible for ensuring that it is charging a fair and reasonable price. The MSRB wishes to emphasize the importance of these fair practice obligations even when a dealer effects a non-recommended transaction online.¹⁰

Applicability of the Suitability Rule to Electronic Communications—General Principles

There has been much debate about the application of the suitability rule to online activities.¹¹ Industry commentators and regulators have debated two questions: first, whether the current suitability rule should even apply to online activities, and second, if so, what types of online communications constitute recommendations for purposes of the rule. The NASD published *NASD Notice to Members 01-23, Online Suitability-Suitability Rule and Online Communication* (the "NASD Online Suitability Notice") (April 2001) to provide guidance to its members in April 2001.¹² In answer to the first question, the MSRB, like the NASD, believes that the suitability rule applies to all recommendations made by dealers

to customers—including those made via electronic means—to purchase, sell, or exchange a security. Electronic communications from dealers to their customers clearly can constitute recommendations. The suitability rule, therefore, remains fully applicable to online activities in those cases where the dealer recommends securities to its customers.

With regard to the second question, the MSRB does not seek to identify in this notice all of the types of electronic communications that may constitute recommendations. As the MSRB has often emphasized, "[w]hether a particular transaction is in fact recommended depends on an analysis of all the relevant facts and circumstances."¹³ That is, the test for determining whether any communication (electronic or traditional) constitutes a recommendation remains a "facts and circumstances" inquiry to be conducted on a case-by-case basis.

The MSRB also recognizes that many forms of electronic communications defy easy characterization. The MSRB believes this is especially true in the online municipal securities market, which is in a relatively early stage of development. Nevertheless, the MSRB offers as guidance the following general principles for dealers to use in determining whether a particular communication could be deemed a recommendation.¹⁴ The "facts and circumstances" determination of whether a communication is a recommendation requires an analysis of the content, context, and presentation of the particular communication or set of communications. The determination of whether a recommendation has been made, moreover, is an objective rather than a subjective inquiry. An important factor in this regard is whether—given its content, context, and manner of presentation—a particular communication from a dealer to a customer reasonably would be viewed as a "call to action," or suggestion that the customer engage in a securities transaction. Dealers should bear in mind that an analysis of the content, context, and manner of presentation of a communication requires examination of the underlying substantive information transmitted to the customer and consideration of any other facts and circumstances, such as any accompanying explanatory message

⁷ This notice focuses on customer-specific suitability under Rule G-19. Under Rule G-19, a dealer must also have a reasonable basis to believe that the recommendation could be suitable for at least some customers. See e.g., Rule G-19 Interpretation—Notice Concerning the Application of Suitability Requirements to Investment Seminars and Customer Inquiries Made in Response to a Dealer's Advertisement, May 7, 1985, *MSRB Rule Book* (July 1, 2002) at 143; *In re F.J. Kaufman and Company of Virginia*, 50 S.E.C. 164, 168, 1989 SEC LEXIS 2376, *10 (1989) (the "reasonable basis" obligation relates only to the particular recommendation, rather than to any particular customer). The SEC, in its discussion of municipal underwriters' responsibilities in a 1988 Release, noted that "a broker-dealer recommending securities to investors implies by its recommendation that it has an adequate basis for the recommendation." *Municipal Securities Disclosure*, Release No. 34-26100 (September 22, 1988) (the "1988 SEC Release") at text accompanying note 72.

⁸ Similarly, the suitability rule does not apply where a dealer merely gathers information on a particular customer, but does not make any recommendations. This is true even if the information is the type of information generally gathered to satisfy a suitability obligation. Dealers should nonetheless remember that regardless of any determination of whether the dealer is making a recommendation and subject to the suitability requirement, the dealer is required to make reasonable efforts to obtain certain customer specific information pursuant to rule G-8(a)(xi) so that dealers can protect themselves and the integrity of the securities markets from customers who do not have the financial means to pay for transactions.

⁹ See Rule G-17 Interpretation—Notice Regarding Rule G-17, on Disclosure of Material Facts, March 20, 2002, *MSRB Rule Book* (July 1, 2002) at 135.

¹⁰ On April 30, 2002, the Commission approved a proposed rule change relating to the manner in which dealers fulfill their fair practice obligations to certain institutional customers. Release No. 34-45849 (April 30, 2002), 67 FR 30743. See Rule G-17 Interpretation—Notice Regarding the Application of MSRB Rules to Transactions With Sophisticated Municipal Market Professionals ("SMMPs") (the "SMMP Notice"), *MSRB Rule Book* (July 1, 2002) at 136. The SMMP Notice recognizes the different capabilities of SMMPs and retail or non-sophisticated institutional customers and provides that dealers may consider the nature of the institutional customer when determining what specific actions are necessary to meet the dealer's fair practice obligations to such customers. The SMMP Notice provides that, while it is difficult to define in advance the scope of a dealer's fair practice obligations with respect to a particular transaction, by making a reasonable determination that an institutional customer is an SMMP, then certain of the dealer's fair practice obligations remain applicable but are deemed fulfilled.

¹¹ See generally Report of Commissioner Laura S. Unger to the SEC, *On-Line Brokerage: Keeping Apace of Cyberspace*, at n. 64 (Nov. 1999) ("Unger Report") (discussing various views espoused by online brokerage firms, regulators and academics on the topic of online suitability); *Developments in the Law—The Law of Cyberspace*, 112 Harv. L. Rev. 1574, 1582-83 (1999) (The article highlights the broader debate by academics and judges over whether "to apply conventional models of regulation to the Internet.").

¹² The guidance contained in this notice is intended to be consistent with the general statements and guidelines contained in the NASD Online Suitability Notice.

¹³ See e.g., Rule G-19 Interpretive Letter dated February 17, 1998, *MSRB Rule Book* (July 1, 2002) at 144.

¹⁴ These general principles were first enunciated in the NASD Online Suitability Notice.

from the dealer.¹⁵ Another principle that dealers should keep in mind is that, in general, the more individually tailored the communication is to a specific customer or a targeted group of customers about a security or group of securities, the greater the likelihood is that the communication may be viewed as a recommendation.

Scope of the Term Recommendation

As noted earlier, the MSRB agrees with and has in this guidance adopted the general principles enunciated in the NASD Online Suitability Notice as well as the NASD guidelines for evaluating suitability obligations discussed below. While the MSRB believes that the additional examples of communications that do not constitute recommendations provided by the NASD in its Online Suitability Notice are useful instruction for dealers who develop equity trading web sites, as the examples are based upon communications that exist with great regularity in the Nasdaq market, the MSRB believes that the examples have limited application to the types of information and electronic trading systems that are present in the municipal securities market.

For example, the NASD's third example of a communication that is not a recommendation describes a system that permits customer-directed searches of a "wide-universe" of securities and references all exchange-listed or Nasdaq securities, or externally recognized indexes.¹⁶ The NASD example therefore applies to dealer web sites that effectively allow customers to request lists of securities that meet broad objective criteria from a list of all the securities available on an exchange or Nasdaq. These are examples of groups of securities in which the dealer does not exercise any discretion as to which securities are contained within the group of securities shown to customers. This example makes sense in the equity market where there are centralized exchanges and where electronic trading platforms routinely utilize databases that provide customer access to all of the approximately 7,300 listed securities on Nasdaq, the NYSE and Amex. However, no dealer in the municipal securities market has the ability to offer all of the approximately 1.3 million outstanding municipal securities for

sale or purchase. The municipal securities market is a fragmented dealer market. Municipal securities do not trade through a centralized exchange and only a small number of securities (approximately 10,000) trade at all on any given day. Therefore, there is no comparable central exchange that could serve as a reference point for a database that is used in connection with municipal securities research engines. The databases used by dealer systems typically are limited to the municipal securities that a dealer, or a consortium of dealers, holds in inventory. In these types of systems the customer's ability to search for desirable securities that meet the broad, objective criteria chosen by the customer (e.g., all insured investment grade general obligation bonds offered by a particular state) is limited. The concept of a wide universe of securities, which is central to all of the NASD's examples, is thus difficult to define and has extremely limited, or no, application in the municipal securities market.

Given the distinct features of the municipal securities market and the existing online trading systems, the MSRB believes it would be impractical to attempt to define the features of an electronic trading system that would have to be present for the system transactions to not be considered the result of a dealer recommendation. The online trading systems for municipal securities that are in place today limit customer choices to the inventory that the dealer or dealer consortium hold, and therefore, the dealer will always have a significant degree of discretion over the securities offered to the customer. A system that allows this degree of dealer discretion is a dramatic departure from the types of no recommendation examples provided by the NASD guidance, and thus, these communications must be carefully analyzed to determine whether or not a recommendation has been made.

The MSRB, however, does believe that the examples of communications that are recommendations provided in the NASD Online Suitability Notice are communications that take place in the municipal securities market. Therefore, the MSRB has adopted these examples and generally would view the following communications as falling within the definition of recommendation:

- A dealer sends a customer-specific electronic communication (e.g., an e-mail or pop-up screen) to a targeted customer or targeted group of customers

encouraging the particular customer(s) to purchase a municipal security.¹⁷

- A dealer sends its customers an e-mail stating that customers should be invested in municipal securities from a particular state or municipal securities backed by a particular sector (such as higher education) and urges customers to purchase one or more stocks from a list with "buy" recommendations.

- A dealer provides a portfolio analysis tool that allows a customer to indicate an investment goal and input personalized information such as age, financial condition, and risk tolerance. The dealer in this instance then sends (or displays to) the customer a list of specific municipal securities the customer could buy or sell to meet the investment goal the customer has indicated.¹⁸

- A dealer uses data-mining technology (the electronic collection of information on Web Site users) to analyze a customer's financial or online activity—whether or not known by the customer—and then, based on those observations, sends (or "pushes") specific investment suggestions that the customer purchase or sell a municipal security.

Dealers should keep in mind that these examples are meant only to provide guidance and are not an exhaustive list of communications that the MSRB does consider to be recommendations. As

¹⁷ Note that there are instances where sending a customer an electronic communication that highlights a particular municipal security (or securities) will not be viewed as a recommendation. For instance, while each case requires an analysis of the particular facts and circumstances, a dealer generally would not be viewed as making a recommendation when, pursuant to a customer's request, it sends the customer (1) electronic "alerts" (such as account activity alerts, market alerts, or rating agency changes) or (2) research announcements (e.g., sector reports) that are not tailored to the individual customer, as long as neither given their content, context, and manner of presentation would lead a customer reasonably to believe that the dealer is suggesting that the customer take action in response to the communication.

¹⁸ Note, however, that a portfolio analysis tool that merely generates a suggested mix of general classes of financial assets (e.g., 60 percent equities, 20 percent bonds, and 20 percent cash equivalents), without an accompanying list of securities that the customer could purchase to achieve that allocation, would not trigger a suitability obligation. On the other hand, a series of actions which may not constitute recommendations when considered individually, may amount to a recommendation when considered in the aggregate. For example, a portfolio allocator's suggestion that a customer could alter his or her current mix of investments followed by provision of a list of municipal securities that could be purchased or sold to accomplish the alteration could be a recommendation. Again, however, the determination of whether a portfolio analysis tool's communication constitutes a recommendation will depend on the content, context, and presentation of the communication or series of communications.

¹⁵ For example, if a dealer transmitted a rating agency research report to a customer at the customer's request, that communication may not be subject to the suitability rule; whereas, if the same dealer transmitted the very same research report with an accompanying message, either oral or written, that the customer should act on the report, the suitability analysis would be different.

¹⁶ NASD Online Suitability Notice at 3.

stated earlier, many other types of electronic communications are not easily characterized. In addition, changes to the factual predicates upon which these examples are based (or the existence of additional factors) could alter the determination of whether similar communications may or may not be viewed as recommendations. Dealers, therefore, should analyze all relevant facts and circumstances, bearing in mind the general principles noted earlier and discussed below, to determine whether a communication is a recommendation, and they should take the necessary steps to fulfill their suitability obligations. Furthermore, these examples are based on technological services that are currently used in the marketplace. They are not intended to direct or limit the future development of delivery methods or products and services provided online.

Guidelines for Evaluating Suitability Obligations

Dealers should consider, at a minimum, the following guidelines when evaluating their suitability obligations with respect to municipal securities transactions.¹⁹ None of these guidelines is determinative of whether a recommendation exists. However, each should be considered in evaluating all of the facts and circumstances surrounding the communication and transaction.

- A dealer cannot avoid or discharge its suitability obligation through a disclaimer where the particular communication reasonably would be viewed as a recommendation given its content, context, and presentation.²⁰

¹⁹ These guidelines were originally set forth in the NASD Online Suitability Notice.

²⁰ Although a dealer cannot disclaim away its suitability obligation, informing customers that generalized information provided is not based on the customer's particular financial situation or needs may help clarify that the information provided is not meant to be a recommendation to the customer. Whether the communication is in fact a recommendation would still depend on the content, context, and presentation of the communication. Accordingly, a dealer that sends a customer or group of customers information about a security might include a statement that the dealer is not providing the information based on the customers' particular financial situation or needs. Dealers may properly disclose to customers that the opinions or recommendations expressed in research do not take into account individual investors' circumstances and are not intended to represent recommendations by the dealer of particular municipal securities to particular customers.

Dealers, however, should refer to previous guidelines issued by the SEC that may be relevant to these and/or related topics. For instance, the SEC has issued guidelines regarding whether and under what circumstances third-party information is attributable to an issuer, and the SEC noted that the guidance also may be relevant regarding the responsibilities of dealers. See SEC Guidance on the

The MSRB, however, encourages dealers to include on their web sites (and in other means of communication with their customers) clear explanations of the use and limitations of tools offered on those sites.²¹

- Dealers should analyze any communication about a security that reasonably could be viewed as a "call to action" and that they direct, or appear to direct, to a particular individual or targeted group of individuals' as opposed to statements that are generally made available to all customers or the public at large to determine whether a recommendation is being made.²²

- Dealers should scrutinize any communication to a customer that suggests the purchase, sale, or exchange of a municipal security' as opposed to simply providing objective data about a security' to determine whether a recommendation is being made.²³

- A dealer's transmission of unrequested information will not necessarily constitute a recommendation. However, when a dealer decides to send a particular customer unrequested information about a security that is not of a generalized or administrative nature (e.g., notification of an official communication), the dealer should carefully review the circumstances under which the information is being provided, the manner in which the information is delivered to the customer, the content of the communication, and the original source of the information. The dealer should perform this review regardless of whether the decision to send the information is made by a representative employed by the dealer or by a computer software program used by the dealer.

Use of Electronic Media, Release Nos. 34-7856, 34-42728, IC-24426, 65 FR 25843 at 25848-25849 (April 28, 2000).

²¹ The MSRB believes that a dealer should, at a minimum, clearly explain the limitations of its search engine and the decentralized nature of the municipal securities market. The dealer should also clearly explain that securities that meet the customer's search criteria might be available from other sources.

²² The MSRB notes that there are circumstances where the act of sending a communication to a specific group of customers will not necessarily implicate the suitability rule. For instance, a dealer's business decision to provide only certain types of investment information (e.g., research reports) to a category of "premium" customers would not, without more, trigger application of the suitability rule. Conversely, dealers may incur suitability obligations when they send a communication to a large group of customers urging those customers to invest in a municipal security.

²³ As with the other general guidelines discussed in this notice, the presence of this factor alone does not automatically mean that a recommendation has been made.

- Dealers should be aware that the degree to which the communication reasonably would influence an investor to trade a particular municipal security or group of municipal securities' either through the context or manner of presentation or the language used in the communication' may be considered in determining whether a recommendation is being made to the customer.

The MSRB emphasizes that the factors listed above are guidelines that may assist dealers in complying with the suitability rule. Again, the presence or absence of any of these factors does not by itself control whether a recommendation has been made or whether the dealer has complied with the suitability rule. Such determinations can be made only on a case-by-case basis taking into account all of the relevant facts and circumstances.

Conclusion

The foregoing discussion highlights some suggested principles and guidelines to assist in determining when electronic communications constitute recommendations, thereby triggering application of the MSRB's suitability rule. The MSRB acknowledges the numerous benefits that may be realized by dealers and their customers as a result of the Internet and online brokerage services. The MSRB emphasizes that it neither takes a position on, nor seeks to influence, any dealer's or customer's choice of a particular business model in this electronic environment. At the same time, however, the MSRB urges dealers both to consider carefully whether suitability requirements are adequately being addressed when implementing new services and to remember that customers' best interests must continue to be of paramount importance in any setting, traditional or online.

As new technologies and/or services evolve, the MSRB will continue to work with regulators, members of the industry and the public on these and other important issues that arise in the online trading environment.

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 Board included statements concerning the purpose of and basis for the Online Suitability Notice. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section (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

Dealers are increasingly offering online brokerage services to their retail customers. The Internet gives retail customers the tools to manage their own accounts and the ability to obtain access to investment information. Online trading offers many benefits to dealers and retail customers, but dealers must continue to fulfill their suitability obligations in the online environment whenever they recommend to a customer the purchase, sale or exchange of a municipal security.

The Online Suitability Notice states that the suitability rule (MSRB Rule G-19) remains fully applicable to online activities where a dealer recommends a municipal securities transaction to its customers. The Online Suitability Notice does not expand or create new obligations under the suitability rule, nor does it establish a "bright line" test for determining whether a particular communication constitutes a recommendation for purposes of the suitability rule. The MSRB instead articulates several broad principles that dealers can use in evaluating whether a particular online communication could fall within the definition of recommendation for purposes of the suitability rule. The Online Suitability Notice also provides guidance to members through the use of examples of communications that the MSRB believes fall within the definition of recommendation.

(2) Statutory Basis

The Board believes the proposed rule change is consistent with section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade * * * to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The Board believes that dealers that make recommendations to customers in the online environment have an obligation to determine whether recommendations are suitable for such customers. The MSRB believes that this Online Suitability Notice is necessary to protect investors and the public interest with respect to online trading.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Board 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, since it would apply equally to all brokers, dealers and municipal securities dealers.

(C) Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Online Suitability Notice is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(1) thereunder, in that it is a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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 submissions, 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 Board's principal offices. All submissions should refer to File No. SR-MSRB-2002-11 and should be submitted by November 8, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-26514 Filed 10-17-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46636; File No. SR-MSRB-2002-10]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Relating to Rule G-14, on Reports of Sales or Purchases

October 10, 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 September 24, 2002 the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-2002-10) as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB has filed with the Commission a proposed rule change with regard to Rule G-14, on reports of sales or purchases, to increase transparency in the municipal securities market. The proposed rule change would not change the wording of Rule G-14.

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 MSRB 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 texts of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

(a) The Board has a long-standing policy to increase price transparency in the municipal securities market, with the ultimate goal of disseminating comprehensive and contemporaneous pricing data. One product of the Board's Transaction Reporting Program is its Daily Transaction Report, which has been provided to subscribers each day since January 2000. The report is made available each morning by 7 a.m. and includes details of transactions in municipal securities which were "frequently traded" the previous business day. From the beginning of the Transaction Reporting Program in 1994 through the spring of 2002, "frequently traded" securities were defined as those that were traded four or more times on a given business day. In May 2002, the Board defined "frequently traded" securities as those that were traded three or more times on a given day.³

When transparency was initially being introduced into the municipal securities market, the Board was concerned that an observer unfamiliar with the market might mistake an isolated reported transaction or pair of transactions as providing a reliable indicator of "market price." Because of this concern, the Board adopted the "frequently traded" threshold of four trades. At the same time, the Board has made a commitment to review the use of these reports as experience is obtained and eventually to move to transparency reporting on a more contemporaneous and comprehensive basis.⁴

Since 1994, the Board has made ongoing efforts to increase price transparency in the municipal securities market in measured steps, culminating in comprehensive, real-time price transparency. The first price transparency report, begun in 1995, was

³ See Release No. 34-45861 (May 1, 2002) 67 FR 30989-30990.

⁴ See, e.g., "Board to Proceed with Pilot Program to Disseminate Inter-Dealer Transaction Information," *MSRB Reports*, Vol. 14, No. 1 (January 1994). In its approval order for the Inter-Dealer Daily Report, the Securities and Exchange Commission noted that the Board, in proceeding to subsequent levels of transparency, "should continue to work toward publicly disseminating the maximum level of useful information to the public while ensuring that the information and manner in which it is presented is not misleading." See Release No. 34-34955 (November 9, 1994) 59 FR 59810.

a report, published the day after trading ("T+1"), that summarized inter-dealer trades in frequently traded municipal securities. In 1998, the Board added customer trades to the T+1 summary reports, and in January 2000 began, as well, to publish individual transaction data on frequently traded securities. The Board has also introduced "comprehensive" transaction reports for this market, which list all municipal securities transactions (regardless of frequency of trading), but which are available no less than one week after trade date.⁵

At this time, the Board believes that the next appropriate step in this process is to change the threshold for determining that information about a municipal security is to be disseminated in the T+1 Daily Transaction Report. The proposed rule change would lower the threshold from three to two trades per day.

Impact of Proposed Report on Transparency

The proposed threshold would increase substantially the proportion of municipal securities market activity that is reported on the day after trading. On a typical day, there are approximately 26,000 transactions in about 10,000 issues, with a total par value traded of about \$9.5 billion. The present Daily Transaction Report, with a threshold of three or more trades per day, includes an average of 14,400 trades in 2,600 different issues, with a total par value of about \$5.2 billion. Under the proposed threshold, the report is expected to include an average of 19,760 trades in 5,600 issues, with a total par value of about \$7.7 billion. This represents a 37 percent increase in the number of trades reported, a more-than-twofold increase in the number of issues reported, and a 48 percent increase in par value reported.⁶

Description of Service

The enhanced Daily Transaction Report with the two-trade threshold will replace the current report and will be made available each day to subscribers via the Internet. Subscribers to the current Service receive the report free of charge, and their subscriptions will continue should the proposed Service be implemented. New subscriptions will be available free to parties who sign a

⁵ The first comprehensive report was introduced in October 2000 and listed all trades after a one-month delay. The latest comprehensive report began operation in August 2002 and has a one-week delay. See Release No. 34-46380 (August 19, 2002) 67 FR 54831-54832.

⁶ Data is based upon market activity from April 1, 2001 through July 31, 2001.

subscription agreement. In addition, recent reports will continue to be available for examination, also free of charge, at the Board's Public Access Facility in Alexandria, VA.

Implementation Schedule

The enhanced report will be available to subscribers as soon as practical after Commission approval of the proposed rule change. It is estimated that the period between approval and implementation will not exceed two weeks.

2. Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(I) of the Act, which authorizes the MSRB to adopt rules that provide for the operation and administration of the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition in that it applies equally to all dealers in municipal securities.

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 not solicited, but the Board had earlier received a comment letter from The Bond Market Association ("TBMA") in reference to the August 2002 change to the comprehensive daily report, in which TBMA also commented on the Board's announced plan to lower the threshold to two trades.⁷ In its letter, TBMA expressed its continued support for the Board's steps to expand transparency in the municipal securities market. TBMA also stated its belief that T+1 dissemination of information on bonds that have traded at least twice a day "would provide useful information to investors and other market participants and is not likely to have a deleterious impact on the market for such bonds or mislead investors."⁸

TBMA did state a reservation regarding the method of counting trades toward the reporting threshold. TBMA believes that when a dealer "matches or crosses purchase and sale transactions," this constitutes a single trade because this is the economic reality of such

⁷ See letter from Frank Chin, Chair, Municipal Executive Committee, The Bond Market Association, to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, dated August 8, 2002.

⁸ *Id.*, at 2.

transactions, regardless of whether dealers report two transactions to the MSRB.⁹

Consistent with the Board's previous decisions,¹⁰ the transaction reporting system will continue to treat two transactions that constitute "matched" or "crossed" transactions like other trades. In the general case, only the dealer that effects a purchase and subsequent sale could identify the two trades as crossed agency trades or matched riskless principal transactions. The transaction reporting system does not require dealers to match the two sides of agency trades nor specifically to match or identify riskless principal transactions. Therefore, it is not possible to count those trades differently in the current system for purposes of the T+1 reporting threshold.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) by order approve such proposed rule change, or
- (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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 submissions, 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 MSRB's principal offices. All submissions should refer to File No. SR-MSRB-2002-10 and should be submitted by November 8, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-26515 Filed 10-17-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46632; File No. SR-NASD-2002-96]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to Computer-to-Computer Interface Fees

October 9, 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 July 17, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On September 27, 2002, Nasdaq filed Amendment No. 1 to the proposed rule change.³ Amendment No. 1 requested that the proposed rule change be considered filed pursuant to Section 19(b)(3)(A) of the Act⁴ and Rule 19b-4(f)(6) thereunder,⁵ which renders a proposed rule change effective upon filing with the Commission.⁶ 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

Nasdaq proposes to amend Rule 7010 to implement a retroactive reduction in the fees assessed on NASD members and non-members that used x.25 Computer-to-Computer Interface ("CTCI") lines after January 31, 2002. Nasdaq will implement the proposed rule change 30 days after the date of filing.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

Rule 7010. System Services

* * * * *

(f) Nasdaq Workstation™ Service

* * * * *

(3) The following charges shall apply for each CTCI subscriber*:

Options	Price
Option 1: Dual 56kb lines (one for redundancy) and single hub and router.	\$1275/month.
Option 2: Dual 56kb lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy).	\$1600/month.

⁹ *Id.*

¹⁰ In 1994, a commentator made a similar suggestion with reference to the Board's filing that initiated the transaction reporting program. The commentator a brokers' broker, suggested that the Board should count as one transaction the situation in which a brokers' broker purchases securities from a dealer and sells them to another dealer. The Board noted in its reply that these are "riskless principal" transactions and that other dealers may also riskless principal transactions. The Board noted that its transaction reporting system would treat the sale to the intermediate dealer (e.g., the brokers' broker) and the intermediate dealer's

subsequent sale as two transactions, and that it would treat these trades like any other trades.

¹¹ 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 Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated September 27, 2002 ("Amendment No. 1"). The proposal was originally filed for notice and comment under Section 19(b)(2) of the Act. In Amendment No. 1, NASD revised its proposal to

stipulate that all subscribers would receive a credit of \$625 per month per .25 computer-to-computer circuit between February 1, 2002 and the date that circuits were terminated. Amendment No. 1 also clarified how the credits would be provided to subscribers.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

⁶ For purposes of calculating the 30-day delayed operative date and the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on September 27, 2002, when Amendment No. 1 was filed.

Options	Price
Option 3: Dual T1 lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy). Includes base bandwidth of 128kb.	\$8000/month.
Option 1, 2, or 3 with Message Queue software enhancement	Fee for Option 1, 2, or 3 (including any Bandwidth Enhancement Fee) plus 20%.
Disaster Recovery Option: Single 56kb line with single hub and router. (For remote disaster recovery sites only).	\$975/month.
Bandwidth Enhancement Fee (for T1 subscribers only)	\$4000/month per 64kb increase above 128kb T1 base.
Installation Fee	\$2000 per site for dual hubs and routers.
	\$1000 per site for single hub and router.
Relocation Fee (for the movement of TCP/IP—capable lines within a single location).	\$1700 per relocation.

* As reflected in SR–NASD–00–80 and SR–NASD–00–81, *Nasdaq began replacing x.25 CTCI circuits [are being replaced] with TCP/IP CTCI circuits in January 2001.* Pursuant to SR–NASD–2001–87 and SR–NASD–2001–88, the fee for x.25 CTCI circuits—which [has] had remained \$200 per month per circuit—[is] was increased to \$1,275 per month per circuit from February 1, 2002 until the date of the termination of such circuits. Pursuant to SR–NASD–2002–96, users of x.25 CTCI circuits will receive a credit of \$625 per month per circuit from February 1, 2002 until the date of circuit termination.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq's CTCI network is a point-to-point dedicated circuit connection from the premises of brokerages and service providers to Nasdaq's Trumbull, Connecticut processing facilities. Through CTCI, firms are able to enter trade reports into Nasdaq's Automated Confirmation Transaction Service and orders into Nasdaq's transaction execution systems.

In response to numerous requests from market participants that Nasdaq upgrade the speed and reliability of its CTCI data transmission environment, Nasdaq began the process in January 2001 of "sunsetting" its CTCI x.25/bisynch network in favor of a new

network that provides greater capacity and a more efficient transmission protocol. The new CTCI network operates over the Enterprise Wide Network II ("EWN II") and provides connectivity over more powerful 56kb and T1 data lines. In addition, the new CTCI network uses the industry-standard Transmission Control Protocol/Internet Protocol ("TCP/IP"), a transmission protocol that is robust, efficient, and well known among the technical community.

In December 2001, Nasdaq filed proposed rule changes to increase the monthly charge for x.25 CTCI circuits that remained in use from \$200 to \$1,275 per circuit per month, from February 1, 2002 until the date of circuit termination.⁷ The fee increase was designed to provide users that had failed to convert from x.25 CTCI circuits to TCP/IP circuits with a financial incentive to complete conversions in a timely fashion and to pass through the increasing per circuit costs of the obsolete x.25 CTCI network to firms that had failed to transition. In May 2002, Nasdaq completed the process of "sunsetting" all x.25 CTCI circuits: All members and non-members that access Nasdaq through CTCI have now been transitioned to TCP/IP lines.

During the process of transitioning from x.25 CTCI to TCP/IP, several member firms approached Nasdaq to request that it support the use of Message Queue Series ("MQ Series") software over the TCP/IP lines. MQ Series is a commercially available messaging product that provides firms with the ability to integrate disparate systems over a common application

programming interface ("API") messaging infrastructure. There are over twenty operating systems that are supported by MQ Series, including Windows, Solaris, Mac OS, and Linux. Firms that use MQ Series are able to establish networks with less effort, skill, and resources, thereby achieving a seamless interconnection of disparate communications systems, and can make use of a comprehensive family of APIs designed to make coding for any messaging task straightforward. Because it believed that offering MQ Series would be a significant benefit to firms that use TCP/IP lines, Nasdaq agreed to work with a pilot group of five member firms to test lines that use the software before making it available to all members and non-members.

Unfortunately, Nasdaq experienced numerous delays in scheduling time to establish and test the lines using MQ Series, largely as a result of the need to devote resources to restoring primary CTCI service to firms following the September 11 terrorist attacks. As a result, Nasdaq could not make the TCP/IP lines that it had promised to the pilot firms available in a timely fashion, and these firms continued to use x.25 CTCI lines after the higher prices established by SR–NASD–2001–87 went into effect. TCP/IP lines using MQ Series began to go into production for the pilot firms during the period from April to May 2002. As of June 2002, Nasdaq began making lines using MQ Series available to all users of TCP/IP CTCI lines.⁸

⁷ Securities Exchange Act Release No. 45264 (January 10, 2002), 67 FR 2942 (January 22, 2002) (SR–NASD–2001–87) (notice of filing and immediate effectiveness of proposal related to CTCI fees assessed on members); Securities Exchange Act Release No. 45411 (February 6, 2002), 67 FR 6776 (February 13, 2002) (SR–NASD–2001–88) (order approving proposal to increase CTCI fees assessed on non-members). As indicated, the fee increase for members was effective immediately upon filing, and the increase for non-members was approved by the Commission.

⁸ See Securities Exchange Act Release No. 46111 (June 25, 2002), 67 FR 44490 (July 2, 2002) (SR–NASD–2002–82) (notice of filing and immediate effectiveness of proposal to establish fees assessed on members for TCP/IP lines using MQ Series software); Securities Exchange Act Release No. 46112 (June 25, 2002), 67 FR 44488 (July 2, 2002) (SR–NASD–2002–83) (notice of filing of proposal to establish fees assessed on non-members for TCP/IP lines using MQ Series software); Securities Exchange Act Release No. 46356 (Aug. 15, 2002), 67 FR 54249 (Aug. 21, 2002) (SR–NASD–2002–83) (order approving proposal to establish fees assessed on non-members for TCP/IP lines using MQ Series software).

Nasdaq believes that the pilot firms' agreement to provide valuable support to Nasdaq's effort in establishing infrastructure, testing, and support processes for TCP/IP lines using MQ Series will benefit all other firms that choose to make use of this software enhancement. Moreover, the fact that these firms continued to use x.25 CTCL lines after January 31, 2002 was attributable to delays on Nasdaq's part. Accordingly, Nasdaq believes that the pilot firms should receive a reduction in the charges assessed for x.25 CTCL after January 31, 2002. In accordance with guidance received from Commission staff, however, Nasdaq will provide a fee reduction not only to the MQ pilot firms, but also to all other members and non-members that used x.25 CTCL after January 31, 2002. The fee reduction will be provided by means of a credit that will appear on the bills mailed to subscribers in November 2002 (and/or a direct payment, to the extent that the amount of the credit exceeds the amount of charges).⁹

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,¹⁰ including Section 15A(b)(5) of the Act,¹¹ which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and Section 15A(b)(6) of the Act,¹² which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) Impose any significant burden on competition; and
- (iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)¹³ of the Act and Rule 19b-4(f)(6) thereunder.¹⁴

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.¹⁵

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the amended 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 NASD. All submissions should refer to file number SR-NASD-2002-96 and should be submitted by November 8, 2002.

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ For purposes of calculating the 30-day delayed operative date and the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on September 27, 2002, when Amendment No. 1 was filed.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-26516 Filed 10-17-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46648; File No. SR-NASD-2002-135]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish Maximum Execution Fees and Liquidity Provider Rebates for SuperMontage Transactions in Low-Priced Securities

October 11, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on October 2, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), submitted to the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to establish caps on the SuperMontage order execution charges and liquidity provider credits applicable to Non-Directed and Preferred Orders for securities that are priced at \$1.00 or less per share. Nasdaq will begin implementation of the rule change in conjunction with the initiation of trading on SuperMontage (currently scheduled for October 14, 2002). Because the transition from the current SuperSOES, SOES, and SelectNet environment to SuperMontage will occur over the course of several weeks, with stocks moving from one system to the other in stages, Nasdaq will continue to charge its filed prices for SuperSOES, SOES, SelectNet, and quotation updates for stocks that have

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁹ Telephone conversation between John Yetter, Assistant General Counsel, Nasdaq, and Jennifer Colihan, Special Counsel, Division, Commission, October 9, 2002.

¹⁰ 15 U.S.C. 78o-3.

¹¹ 15 U.S.C. 78o-3(b)(5).

¹² 15 U.S.C. 78o-3(b)(6).

not transitioned, while charging the SuperMontage prices established through SR-NASD-2002-44,³ SR-NASD-2002-91,⁴ and SR-NASD-2002-135 for stocks that have transitioned. Nasdaq has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii) of the Act,⁵ which renders the rule effective upon the Commission's receipt of this filing.

The text of the proposed rule change appears below. New text is in italics.

Rule 7010. System Services

(a)–(h) No change.

(i) Nasdaq National Market Execution System (SuperMontage)

The following charges shall apply to the use of the Nasdaq National Market Execution System (commonly known as SuperMontage) by members:

Order Entry

Non-Directed Orders (excluding Preferred Orders)—No charge.

Preferred Orders:

Preferred Orders that access a Quote/Order of the member that entered the Preferred Order)—No charge.

Other Preferred Orders—\$0.02 per order entry.

Directed Orders—\$0.10 per order entry.

Order Execution

Non-Directed or Preferred Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the NNMS:

Charge to member entering order—\$0.002 per share executed (*but no more than \$75 per trade for trades in securities executed at \$1.00 or less per share*).

Credit to member providing liquidity—\$0.001 per share executed (*but no more than \$37.50 per trade for trades in securities executed at \$1.00 or less per share*).

Non-Directed or Preferred Order that accesses the Quote/Order of a market participant that charges an

access fee to market participants accessing its Quotes/Orders through the NNMS—\$0.001 per share executed (*but no more than \$37.50 per trade for trades in securities executed at \$1.00 or less per share*).

Directed Order—\$0.0025 per share executed.

Non-Directed or Preferred Order entered by a member that accesses a Quote/Order of such member—No charge.

Order Cancellation

Non-Directed Orders (excluding Preferred Orders)—\$0.01 per order cancelled.

Preferred Orders—\$0.01 per order cancelled.

Directed Orders—\$0.10 per order cancelled.

Entry and Maintenance of Quotes/Orders by Nasdaq Quoting Market Participants

Initial entry of Quote/Order—No charge.

Change of Quote/Order due to order execution through SuperMontage—No charge.

Cancel/replace of Quote/Order to increase size—No charge.

Cancel/replace of Quote/Order to change price—\$0.01.

Cancel/replace of Quote/Order to decrease size manually—\$0.01.

Cancellation of Quote/Order—\$0.01.

Cancellation of Quote/Order due to order purge or timeout—\$0.0075.

(j)–(s) 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 Nasdaq 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. Nasdaq 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

Earlier this year, Nasdaq filed a proposed rule change to control trading costs for low-priced securities traded through its SuperSOES transaction

execution system.⁶ Specifically, SR-NASD-2002-106 established a maximum SuperSOES execution fee of \$75 per trade and a liquidity provider rebate cap of \$37.50 per trade for securities trading at \$1.00 or less per share. Nasdaq is now proposing to establish substantively identical limits for Non-Directed and Preferred Orders executed through SuperMontage.

Under the fee schedule established for SuperMontage by SR-NASD-2002-44, a member that enters a Non-Directed or Preferred Order will pay \$0.002 per share executed if the order is executed against the Quote/Order of a market participant that does not charge an access fee, and the liquidity provider will receive a \$0.001 credit. By contrast, the member will pay \$0.001 per share if the order is executed against the Quote/Order of a market participant that charges an access fee, and the liquidity provider will not receive a credit.⁷

Nasdaq represents that recent market activity has caused the prices of many Nasdaq securities to fluctuate, and in some cases lose significant value. As the prices of these securities decline, market participants generally need to purchase or sell an increasing number of total shares to participate actively in the market for these issues. This increase in the size of individual transactions, when combined with an unlimited per share fee and credit structure, will raise execution costs to market participants and result in disproportionate credits to liquidity providers.

In response, Nasdaq will establish caps on the order execution fees and liquidity provider credits for Non-Directed and Preferred Orders that execute at prices of \$1.00 or less. The maximum fee for such an order will be \$75 if the order is executed against the Quote/Order of a market participant that does not charge an access fee, and \$37.50 if the order is executed against the Quote/Order of a market participant that charges an access fee. Similarly, the maximum credit to a liquidity provider

⁶ See Securities Exchange Act Release No. 46456 (September 3, 2002), 67 FR 57470 (September 10, 2002) (SR-NASD-2002-106). SR-NASD-2002-106 was effective upon filing. Nasdaq also filed with the Commission a proposed rule change to apply the fee and rebate limits established by SR-NASD-2002-106 retroactively, as of July 1, 2002. See SR-NASD-2002-107 (August 5, 2002).

⁷ Nasdaq represents that the fee structure is economically identical to the current SuperSOES fee structure, under which a member pays \$0.002 per share executed but receives a \$0.001 rebate if its order executes against the quotation of a market participant that charges an access fee, and liquidity providers that do not charge an access fee receive a \$0.001 rebate.

³ See Securities Exchange Act Release No. 45906 (May 10, 2002), 67 FR 34965 (May 16, 2002) (SR-NASD-2002-44). SR-NASD-2002-44 established a fee scheduled for members' use of SuperMontage.

⁴ See Securities Exchange Act Release No. 46343 (August 13, 2002), 67 FR 53822 (August 19, 2002) (SR-NASD-2002-91). SR-NASD-2002-91 provided that the fees for the use of SuperMontage by a national securities exchange trading Nasdaq securities on an unlisted trading privileges basis ("UTP Exchange") may be established by means of an agreement between Nasdaq and the UTP Exchange.

⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

for a transaction in a low-priced security would be \$37.50.⁸

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,⁹ in general, and with Section 15A(b)(5) of the Act,¹⁰ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers, and other persons using any facility or system which the association operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹¹ and Rule 19b-4(f)(2)¹² thereunder because it establishes or changes a due, fee, or charge imposed by the self-regulatory organization. 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

⁸Nasdaq represents that the caps are economically identical to the caps currently applicable to SuperSOES, under which a member could pay up to \$75 per trade but could receive a rebate of up to \$37.50 if its order executes against the quotation of a market participant that charges an access fee, while a liquidity provider that does not charge an access fee could receive a rebate of up to \$37.50.

⁹ 15 U.S.C. 78o-3.

¹⁰ 15 U.S.C. 78o-3(b)(5).

¹¹ 15 U.S.C. 78s(b)(1).

¹² 17 CFR 240.19b-4.

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 Association. All submissions should refer to File No. SR-NASD-2002-135 and should be submitted by November 8, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-26626 Filed 10-17-02; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3453]

State of California

Santa Clara County and the contiguous counties of Alameda, San Mateo, San Joaquin, Stanislaus, San Benito, Santa Cruz and Merced in the State of California constitute a disaster area as a result of a wildfire that began on September 23, 2002 in the Santa Cruz Mountains. The wildfire consumed over 3,100 acres and damaged residences and businesses in the Croy Ridge and surrounding area. The wildfire was fully contained by October 5, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 9, 2002 and for economic injury until the close of business on July 10, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853-4795.

The interest rates are:

	Percent
For Physical Damage: Homeowners with credit available elsewhere	6.625

¹³ 17 CFR 200.30-3(a)(12).

	Percent
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury: Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 345305 and for economic damage is 9R9700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 10, 2002.

Hector V. Barreto,
Administrator.

[FR Doc. 02-26548 Filed 10-17-02; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3449; Amendment #1]

State of Louisiana

In accordance with a notice received from the Federal Emergency Management Agency, dated October 1, 2002, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on September 21, 2002, and continuing through October 1, 2002.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 26, 2002, and for economic injury the deadline is June 27, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 10, 2002.

Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.

[FR Doc. 02-26547 Filed 10-17-02; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3366; Amendment #2]

Commonwealth of Virginia

The above-numbered declaration is hereby amended to extend the deadline

for filing applications for economic injury as a result of this disaster to January 31, 2003. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 9, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02-26549 Filed 10-17-02; 8:45 am]

BILLING CODE 8025-01-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Initiation of a Review To Consider the Designation of Afghanistan as a Least-Developed Beneficiary Developing Country Under the GSP; Solicitation of Public Comments Relating to the Designation Criteria

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation of public comment with respect to the eligibility of Afghanistan for the GSP program.

SUMMARY: This notice announces the initiation of a review to consider the designation of Afghanistan as a least-developed beneficiary developing country under the GSP program and solicits public comment relating to the designation criteria. Comments are due by November 22, 2002, in accordance with the requirements for submission explained below.

FOR FURTHER INFORMATION: Contact the GSP Subcommittee, Office of the United States Trade Representative (USTR), 1724 F Street, NW., Room F-220, Washington, DC 20508. The telephone number is (202) 395-6791 and the facsimile number is (202) 395-9481.

SUPPLEMENTARY INFORMATION: The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has initiated a review to determine if Afghanistan meets the designation criteria of the GSP law and should be designated as a least-developed beneficiary developing country for purposes of the GSP, which is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461, *et seq.*) (the Act). Interested parties are invited to submit comments regarding the eligibility of Afghanistan for designation as a GSP least-developed beneficiary developing country. Submissions should comply with 15 CFR Part 2007 and the specific instructions that follow.

Eligibility Criteria

The trade benefits under the GSP are available to any country that the President designates as a GSP "beneficiary developing country." Additional trade benefits under the GSP are available to any country that the President designates as a GSP "least-developed beneficiary developing country." The criteria that the President must consider in designating countries as GSP beneficiary developing countries include the criteria in sections 502(b)(2) (19 U.S.C. 2462(b)(2)) and 502(c) (19 U.S.C. 2462(c)) of the Act, as amended by the Trade Act of 2002 (Pub. L. 107-210). To designate a country as a least-developed beneficiary developing country, the President must consider the criteria in section 502(c), as well as the criteria in section 501 of the Act.

Section 501 provides that, in extending preferences under the GSP, the President shall have due regard for:

1. The effect such action will have on furthering the economic development of developing countries through the expansion of their exports.

2. The extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries.

3. The anticipated impact of such action on United States producers of like or directly competitive products.

4. The extent of the beneficiary developing country's competitiveness with respect to eligible articles.

Section 502(b)(2) provides that a country is ineligible for designation if:

1. Such country is a Communist country, unless—

a. The products of such country receive nondiscriminatory treatment,

b. Such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

c. Such country is not dominated or controlled by international communism.

2. Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

a. To withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

b. To cause serious disruption of the world economy.

3. Such country affords preferential treatment to the products of a developed country, other than the United States,

which has, or is likely to have, a significant adverse effect on United States commerce.

4. Such country—

a. Has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

b. Has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

c. Has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copy rights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

i. Prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to above,

ii. Good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

iii. A dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in other mutually agreed upon forum, and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

5. Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

6. Such country aids or abets, by granting sanctuary from prosecution to,

any individual or group which has committed an act of international terrorism or the Secretary of State makes a determination with respect to such country under section 6(j)(1)(A) of the Export Administration Act of 1979 [50 U.S.C.S. Appx. 2405(j)(1)(A)] or such country has not taken steps to support the efforts of the United States to combat terrorism.

7. Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

8. Such country has not implemented its commitments to eliminate the worst forms of child labor.

Section 502(c) provides that, in determining whether to designate any country as a GSP beneficiary developing country, the President shall take into account:

1. An expression by such country of its desire to be so designated;

2. The level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

3. Whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

4. The extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

5. The extent to which such country is providing adequate and effective protection of intellectual property rights;

6. The extent to which such country has taken action to—

a. Reduce trade distorting investment practices and policies (including export performance requirements); and

b. Reduce or eliminate barriers to trade in services; and

7. Whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

Note that the Trade Act of 2002 amended paragraph (D) of the definition of the term “internationally recognized worker rights,” which now includes: (A) The right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a

minimum age for the employment of children and a prohibition on the worst forms of child labor as defined in paragraph (6) of section 507(4) of the Act; and (E) acceptable conditions of work with respect to minimum wages, hours or work, and occupational safety and health.

Requirements for Submissions

Comments must be submitted, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee. Comments must be received no later than 5 p.m. on Monday, November 22, 2002. Information and comments submitted regarding Afghanistan will be subject to public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted “business confidential” staff pursuant to 15 CFR 2003.6. If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicated where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked “BUSINESS CONFIDENTIAL” at the top and bottom of each and every page of the document. The public version which does not contain business confidential information must also be clearly marked at the top and bottom of each and every page (either “PUBLIC VERSION” or “NON-CONFIDENTIAL”).

In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic e-mail submissions in response to this notice. In the event that an e-mail submission is impossible, submission should be made by facsimile. These submissions should be single copy transmission in English with the total submission not to exceed 50 single-spaced pages and 3 megabytes as a digital file attached to an e-mail transmission. Persons making submissions by e-mail should use the following subject line: “Afghanistan GSP Eligibility Review”. Documents must be submitted, in English, as either WordPerfect (“.WPD”), MSWord (“.DOC”), or text (“.TDXT”) files. Documents should not be submitted as electronic image files or contain imbedded images (for example, “.JPG”, “.PDG”, “.BMP”, or “.GIF”) as these types files are generally excessive large. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel, pre-formatted for printing on 8½ x 11 inch paper. To the extent possible, any data attachments to the submission should be included in the

same file as the submission itself, and not as separate files. Facsimile submissions should include, among other identifying information specified in the regulations, the following information at the top of the first page: “Afghanistan GSP Eligibility Review”.

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, the file name of the business confidential version should begin with the character in “BC-”, and the file name of the public version should begin with the characters “P-”. The “P-” or “BC-” should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself. The e-mail address for these submission is *FR0045@USTR.GOV*. Documents not submitted in accordance with these instructions might not be considered in this review.

Public versions of all documents relating to this review will be available for review shortly after the due date by appointment in the USTR public reading room, 1724 F Street NW., Washington, DC. Appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday by calling (202) 395-6186.

Steven Falken,

Executive Director for GSP, Chairman, GSP Subcommittee.

[FR Doc. 02-26520 Filed 10-17-02; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG-2002-13486]

Towing Safety Advisory Committee; Vacancy

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Towing Safety Advisory Committee (TSAC). TSAC provides advice and makes recommendations to the Department of Transportation on matters relating to shallow-draft inland and coastal waterway navigation and towing safety.

DATES: Application forms should reach us on or before December 23, 2002.

ADDRESSES: You may request an application form by writing to TSAC Application; Commandant (G-MSO-1), Room 1210; U.S. Coast Guard; 2100 Second Street SW.; Washington, DC 20593-0001; by calling 202-267-0214; or by faxing 202-267-4570. Send your original completed and signed application in written form to the above street address. This notice is available on the Internet at <http://dms.dot.gov> and the application form is available at <http://www.uscg.mil/hq/g-m/advisory/index.htm> (Click on "ACM Application".)

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Miente; Assistant Executive Director of TSAC, telephone 202-267-0214, fax 202-267-4570, or e-mail gmiante@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION: The Towing Safety Advisory Committee (TSAC) is a Federal advisory committee mandated by Congress and operates under 5 U.S.C. App. 2. It advises the Secretary of Transportation on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. This advice also assists the Coast Guard in formulating the position of the United States in advance of meetings of the International Maritime Organization.

TSAC meets at least once a year at Coast Guard Headquarters, Washington, DC, or another location selected by the Coast Guard. It may also meet for extraordinary purposes. Its working groups may meet to consider specific issues as required. The 16 person membership includes 7 representatives of the barge and towing industry reflecting a regional geographical balance; 1 member from the offshore mineral and oil supply vessel industry; and 2 members from each of the following areas: Maritime labor; shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge); port districts, authorities, or terminal operators; and the general public.

We are currently considering applications for only one position that became vacant in September 2002: A member from the general public to provide a perspective that is not representative of the towing or maritime industry. Examples of perspectives we are looking for would include those with an occupational safety and health, environmental protection, general business operations, public advocacy, or education background. Each member serves for a term of 3 years. A few members may serve consecutive terms. All members serve at their own expense and receive no salary, reimbursement of

travel expenses, or other compensation from the Federal Government.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

If you are selected for appointment, we will require you to complete a Confidential Financial Disclosure Report (OGE Form 450). We may not release the report or the information in it to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: October 4, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 02-26550 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08-02-032]

Lower Mississippi River Waterway Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) will meet to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. The meeting will be open to the public.

DATES: The next meeting of LMRWSAC will be held on Tuesday, November 12, 2002, from 9 a.m. to 12 noon. This meeting may adjourn early if all business is finished.

ADDRESSES: The meeting will be held on the 18th floor of the World Trade Center Building, 2 Canal Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: LT Ricardo Alonso, Committee Administrator, telephone (504) 589-4222, Fax (504) 589-4241. This notice is available on the Internet at <http://dms.dot.gov>.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC)

The agenda includes the following:

(1) Introduction of committee members.

(2) Remarks by CAPT R. Branch, Executive Director.

(3) Approval of the May 7, 2002 minutes.

(4) Old Business:

(a) Captain of the Port status report.

(b) Vessel Traffic Service (VTS) update report.

(c) Physical Oceanographic Real Time System (PORTS) update report.

(5) New Business.

(6) Next meeting.

(7) Adjournment.

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.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the Committee Administrator at the location indicated under **ADDRESSES** as soon as possible.

Dated: October 9, 2002.

Roy J. Casto,

Rear Admiral, Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 02-26519 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Palm Beach International Airport, West Palm Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Palm Beach International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 18, 2002.

ADDRESSES: Comments on this application may be mailed or delivered

in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Bruce V. Pelly, Director of Airports of the Palm Beach County Department of Airports at the following address: Palm Beach County Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406-1470.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Palm Beach County Department of Airports under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Matthew J. Thys, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822, (407) 812-6331. 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 Palm Beach International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 10, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by Palm Beach County 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 January 22, 2003.

The following is a brief overview of the application.

PFC Application No.: 03-07-C-00-PBI.

Level of the proposed PFC: \$3.00.

Proposed charge effective date: August 1, 2004.

Proposed charge expiration date: January 1, 2007.

Total estimated net PFC revenue: \$22,400,000.

Brief description of proposed project(s): Terminal Signage, Rehabilitate Cabin Air System (Terminal), Acquire Noise Land within 65-69 DNL, Expand Terminal Concourse "C", Security Facilities (Terminal Expansion), Demolish Delta Terminal Building, Apron "A" Expansion, Replace Concourses "B" Loading Bridges, Replace Concourse "C" Loading Bridges.

Class or classes of air carriers which the public agency has requested not be

required to collect PFCs: Air Taxi/ Commercial Operators filing FAA Form 1800-31.

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 Palm Beach County Department of Airports.

Issued in Orlando, FL, on October 10, 2002.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 02-26585 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at Reno/Tahoe International Airport, Reno, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: This correction revises information from previously published notice.

In notice document 97-6326 beginning on page 55911 in the issue Friday, August 30, 2002, under Supplementary Information, the proposed charge effective date should be October 1, 2003.

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

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010-1303, Telephone: (650) 876-2806. The application may be reviewed in person at this same location.

Issued in Lawndale, California, on October 8, 2002.

Mia Paredes Ratcliff,

Manager, Planning and Programming Branch, Airports Division, Western-Pacific Region.

[FR Doc. 02-26466 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety regulations. The individual petition is described below including, the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Arizona Eastern Railway

Rail America, Inc

[Docket Number FRA-2002-13251]

The Arizona Eastern Railway (AE) seeks a permanent waiver of compliance from certain provisions of the Power Brakes and Drawbars regulations, 49 CFR part 232, regarding initial terminal road train air brake tests. Specifically, AE requests permission to perform the required initial terminal air brake test at a location two miles east of the Claypool, Arizona yard, where the test is currently being performed. This would require trains to travel a distance of two miles on the main line that includes public road crossings, with only a train-line continuity check prior to performing the initial terminal air brake test.

AE is making this request because its carloads have increased from 330 to over 600 carloads a month. AE claims that this increase of carloads is creating a safety and operational problem at the Claypool yard. The yard and the mainline are located between Highway 60 and a residential area. The residential area is accessed from the highway by six grade crossings. In the past, when the brake tests were performed on the shorter trains, only 2 to 3 crossings were blocked. Now that train lengths have increased, 4 to 5 crossings are blocked for an hour or longer for each brake test. AE has experienced incidents where members of the general public try to cross over or crawl under standing trains during the air brake tests. Additionally, AE is concerned about blocking emergency vehicles that may need to respond to incidents in the area.

Therefore, AE would like to perform a train line continuity test at the current location where the trains are made up and move the trains approximately two miles east to a non-congested area where the initial terminal brake test would be performed. The trains would

operate over two additional road crossings, Ragus Road and Highway 60, at less than ten (10) mph prior to performing the initial terminal brake test.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2002-13251) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Issued in Washington, DC, on October 10, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02-26468 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety regulations. The individual petition is described below including, the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Burlington Northern Sante Fe Railway

[Docket Number FRA-2002-13399]

Burlington Northern Sante Fe Railway (BNSF) seeks a waiver of compliance from certain provisions of the *Power Brakes and Drawbars* regulations, 49 CFR part 232, regarding initial terminal road train air brake tests. Specifically, BNSF requests permission to perform the required initial terminal air brake test at a location approximately three miles east of where the train is presently tested, which would require the train to move the three miles without the required air brake test.

BNSF is working with Southeast Nebraska Cooperative (SE Coop) at Beatrice, Nebraska to establish a 110-car grain shuttle facility. The site of this facility is the present SE Coop elevator. The elevator tracks will have to be upgraded to function as a shuttle load-out. The shuttles will be loaded on the elevator's private track and then shoved on additional trackage leased by BNSF to SE Coop. This additional trackage consists of the former BNSF main track, which is now operated as "other than main track" (GCOR Rule 6.28). The trackage to be leased extends from former MP30.5, south of Highway 136, to just short of a road crossing at former MP 31.9. This leased trackage will be protected from the BNSF environment by derails fitted with private industry locks. As the cars are loaded and shoved out onto the leased trackage, SE Coop will be responsible by contract to ensure that air hoses are coupled and angle cocks are properly positioned. When BNSF train crews come on duty after a train is loaded, they will couple the outbound locomotives for the eastbound movement to Lincoln, Nebraska. The conductor will be transported by vehicle to the rear of the train to install and arm the end-of-train device and check for air continuity by an application and release of air brakes.

At the above location between MP 31 and 31.9, an extreme slope of the shoulder exists with water draining into a deep ditch from the adjacent slopes. Within this mile of track there are a bridge over the Blue River and a relief bridge without adequate walking surfaces. Two overpasses and heavy ballast also present walking problems. BNSF does not believe this site is suitable for a train inspection and initial terminal air brake test. BNSF is requesting an exemption to move these trains to a more desirable location to perform the required inspections and tests. Due to crossings, the best location is approximately three miles east on the former main track between MP 28.7 and MP 27.5 on "other than main track"

with a maximum speed limit of 10 mph. All trains moving to this location from the elevator will have been continuity tested by an application and release of the air brakes as previously stated. The testing site will be graded to ensure that walking conditions will allow for quality train inspections and tests to be performed in a safe and efficient manner. BNSF will have all requirements written into the general orders.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2002-13399) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at <http://dms.dot.gov>.

Issued in Washington, DC, on October 10, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02-26467 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is

described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Paducah & Louisville Railway, Inc.

[Docket Number FRA-2002-13309]

The Paducah & Louisville Railway, Inc (P&L), located in Paducah, KY, seeks a waiver of compliance from the requirements of the Locomotive Safety Standards, 49 CFR part 229. Section 229.27(a) of the standards requires the filtering devices located in the main reservoir supply line to the airbrake system to be cleaned, repaired, or replaced at intervals that do not exceed 368 calendar days. The P&L states that they are operating eleven (11) sets of newly refurbished GP40-3 and GP35 locomotives converted as power mates. During the most recent annual test, the main reservoir filters being replaced were identical to the new filters being applied. If the waiver is granted, P&L would change the main reservoir filters at the Biennial Test (49 CFR 229.29) required to be performed every 1,104 days on these locomotives.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2002-13309) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401, (Plaza Level), 400 Seventh Street SW., Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Issued in Washington, DC on September 10, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02-26469 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Pipeline Safety: Definition of Onshore Gas Gathering Lines

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: RSPA is issuing this advisory bulletin to owners and operators of natural gas pipeline facilities to confirm the standards the Research and Special Programs Administration Office of Pipeline Safety (OPS) uses to classify natural gas gathering lines.

ADDRESSES: This document can be viewed at the OPS home page at: <http://ops.dot.gov>.

FOR FURTHER INFORMATION CONTACT: L.E. Herrick, (202) 366-5523, or by e-mail at: le.herrick@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 11, 1999, OPS announced an electronic public discussion forum and subsequent written comment period to provide OPS public input in deciding whether and how to modify the definition in 49 CFR 192 of a natural gas gathering line. (Docket No. RSPA-98-4868, Notice 1: 64 FR 12147.) A coalition lead by the American Petroleum Institute (API) submitted a proposed definition, which was supplemented by API Recommended Practices 80; Guidelines for the Definition of Onshore Gas Gathering Lines (RP-80).

OPS has reviewed the document but has not yet determined whether it will adopt the recommended practices into regulation. Until OPS re-defines a gas gathering line, it will continue to classify those lines according to the standards it has used in the past.

II. Advisory Bulletin (ADB-02-06)

To: Owners and Operators of Natural Gas Pipeline Facilities.

Subject: Standards for classifying natural gas gathering lines.

Purpose: To inform operators of the standards OPS currently uses to classify natural gas gathering lines.

Advisory: Standards for classification of natural gas gathering lines.

Until OPS completes its rulemaking to better define natural gas gathering lines (Docket No. RSPA-98-4868), OPS will continue to classify lines according to the four-point standard established through court precedent and historical interpretation. OPS will also continue to classify lines that pose unique difficulties of classification on a case-by-case basis. In brief, in the most common situation, gathering begins at or near the well head. In most cases, the gathering process terminates at the outlet of a processing plant. A processing plant is defined by the extraction of heavy ends from the natural gas. If there is no upstream processing plant, the gathering process terminates at the outlet of a pipeline compressor. For the purposes of determining the termination point of the gas gathering process, OPS does not consider a well head compressor (field compressor) to be a pipeline compressor. If there is no processing plant or pipeline compressor, the point at which the gathering process ends is where two or more well pipelines converge. If none of these points applies, the gas gathering termination point is where there is a change in ownership of the pipeline. These points are determined on a case-by-case basis considering the location of the pipeline in relation to population density, major traffic areas, and environmentally sensitive areas.

To summarize, OPS considers the termination of gas gathering to be:

(1) The outlet of a processing plant that extracts heavy ends from the natural gas;

(2) The outlet of a pipeline compressor (not including a well head compressor);

(3) The point where two or more well pipelines converge; or

(4) The point where there is a change in ownership of the pipeline.

Issued in Washington, D.C. on October 10, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 02-26464 Filed 10-17-02; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2002-69

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2002-69, Interest Rates and Appropriate Foreign Loss Payment Patterns For Determining the Qualified Insurance Income of Certain Controlled Corporations under Section 954(j).

DATES: Written comments should be received on or before December 17, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Carol Savage, (202) 622-3945, or through the internet (CAROL.A.SAVAGE@irs.gov), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Interest Rates and Appropriate Foreign Loss Payment Patterns For Determining the Qualified Insurance Income of Certain Controlled Corporations under Section 954(j).

OMB Number: 1545-1799.

Notice Number: Notice 2002-69.

Abstract: Notice 2002-69 allows U.S. shareholders of a foreign insurance company to use the foreign insurance company's historical loss payment patterns in computing the company's insurance reserves provided the company has a certain number of years of data and makes an election to use that data. A domestic insurance company can elect to use its own historical data in computing its reserves provided certain requirements are satisfied and an election is made. This notice allows a foreign insurance company to elect to calculate its insurance reserves in a manner similar to a domestic insurance company. Also, this notice provides guidance on how to determine a foreign insurance company's foreign loss payment patterns.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 300.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 15, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02-26609 Filed 10-17-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE-147-87]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort

to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE-147-87 (TD 8376), Qualified Separate Lines of Business (§§ 1.414(r)-3, 1.414(r)-4, and 1.414(r)-6).

DATES: Written comments should be received on or before December 17, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to Carol Savage, (202) 622-3945, or through the internet (CAROL.A.SAVAGE@irs.gov), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualified Separate Lines of Business.

OMB Number: 1545-1221.

Regulation Project Number: EE-147-87.

Abstract: Section 414(r) of the Internal Revenue Code requires that employers who wish to test their qualified retirement plans on a separate line of business basis, rather than on a controlled group basis, provide notice to the IRS that the employer treats itself as operating qualified separate lines of business. Additionally, an employer may request an IRS determination that such lines satisfy administrative scrutiny. This regulation elaborates on the notice requirement and the determination process.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 253.

Estimated Time Per Respondent: 3 hours, 27 minutes.

Estimated Total Annual Burden Hours: 899.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 15, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02-26610 Filed 10-17-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of establishment of new system of records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e) (4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records entitled "Education Debt Reduction Program—VA" (115VA10).

DATES: Comments on the establishment of this system of records must be received no later than November 18, 2002. If no public comment is received, the new system will become effective November 18, 2002.

ADDRESSES: You may mail or hand-deliver written comments concerning the proposed new system of records to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or fax comments to (202) 273-9289; or email comments to "OGCRegulations@mail.va.gov". All relevant material received before November 18, 2002 will be considered. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Act Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (727) 320-1839.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed System of Records

The Education Debt Reduction Program (EDRP) allows VA to provide education debt reduction payments to employees with qualifying loans who occupy certain health care positions for which recruitment and retention of qualified personnel is difficult. The specific health care professions that are covered by the EDRP include: physician, dentist, podiatrist, licensed pharmacist, licensed practical/vocational nurse, expanded-function dental auxiliary, registered nurse, certified registered nurse anesthetist, physician assistant, optometrist, physical therapist, occupational therapist, certified respiratory therapy technician, and registered respiratory therapist. The purpose of the program is to help VA meet its needs for qualified health care staff.

The Education Debt Reduction Program—VA (115VA10) system of records contains personal identification information related to the application material, to education loan verification documentation, to award processes, to employment status, and to service periods covered by an award such as name, address, social security number, employing facility name, job title, grade, education level, education debt reduction payment amounts, service periods covered by education debt reduction payments, name and address of the lending institution, original loan amount, current loan amount, and loan payment amount. It also contains individual information about applicants who have been denied awards and award recipients who have been

terminated from program participation. Additionally, it may contain information about why an applicant declined to accept an award. Since applicants typically are denied awards because they do not meet the eligibility requirements to participate in the program, the specific nature of an applicant's ineligibility would be another element of information contained in the system of records. The information in this system of records is maintained in electronic and hard copy format and is periodically updated through recurring reports provided by local VA facilities about the progress of their program participants. This information is necessary to effectively administer the educational assistance program. It is used to determine and document an individual applicant's initial eligibility for education debt reduction awards; calculate the payment amounts and related service periods for award recipients; ensure that award amounts are consistent with applicable law, regulations and policy; monitor the amount of principal and interest that a participant paid to reduce the balance on a qualifying loan during each service period covered by the award; monitor the employment status of award recipients during their service periods; and evaluate and report program results and effectiveness. Any information in this system may be used by local VA supervisory officials and program coordinators to ensure that it is accurate and that award recipients are in compliance with the terms for participating in the program. Data about individual program participants may change (e.g., changes in employment status), and that could impact certain terms of their awards such as the amounts of the education debt reduction payments and/or the beginning and ending dates of their service periods. Data changes may also impact assessments of the effectiveness of the educational assistance program. Accordingly, local supervisory officials and program coordinators must periodically review individual data in the system of records to ensure its accuracy. There are no debts to recover since each award payment is made at the conclusion of a service period. An individual who leaves before completing a service period is eligible to receive a pro-rata share of the payment for an entire service period based on the amount of time actually served in paid status during the service period.

II. Proposed Routine Use Disclosures of Data in the System

We are proposing to establish the following routine use disclosures of

information, which will be maintained in the system:

- Any information in this system that is necessary to verify accuracy and completeness of the application information may be disclosed to lending institutions and other relevant organizations or individuals.

VA may need to disclose applicant information in order to verify that candidates for EDRP awards meet applicable program requirements. Employees must meet certain requirements to be eligible to participate in the Education Debt Reduction Program. For example, the applicants must be recently appointed employees serving in one of the authorized positions for which recruitment and retention is difficult. Further, they must owe any amount of principal or interest under a loan, the proceeds of which were used by or on behalf of that individual to pay costs relating to a course of education or training which led to a degree that qualified the individual for a position listed above.

- Any information in the system may be disclosed to a Federal agency in order to determine if an applicant has any obligation under another Federal Program that would render the applicant ineligible to participate in the EDRP.

Since participation in the EDRP is limited to recently appointed VA employees, it is necessary to ensure that applicants for EDRP awards who have transferred to VA from other Federal agencies do not have obligations that would conflict with the terms and conditions of the program.

- Any information in the system may be used to evaluate and report program results and effectiveness to appropriate officials including members of Congress on a routine and ad hoc basis.

The purpose of the debt reduction program is to assist in meeting the staffing needs of VHA for health professionals in occupations for which recruitment or retention of qualified personnel is difficult. Congress must have access to information from the system to assess how effectively the program accomplishes its purpose and to support decisions to continue, modify or curtail its use.

- The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

Individuals sometimes request the help of a member of Congress in resolving some issues relating to a matter before VA. The member of

Congress then writes VA, and VA must be able to give sufficient information to be responsive to the inquiry.

- To the National Archives and Record Administration (NARA) in records management inspections conducted under authority of Title 44 United States Code.

NARA is responsible for archiving old records no longer actively used but which may be appropriate for preservation; they are responsible in general for the physical maintenance of the Federal government's records. VA must be able to turn records over to this agency in order to determine the proper disposition of such records.

- Disclosure of information to the Federal Labor Relations Authority (FLRA), including its General Counsel, when requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator awards when a question of material fact is raised, in connection with matters before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

The release of information to FLRA from this Privacy Act system of records is necessary to comply with the statutory mandate under which FLRA operates.

- Disclosure may be made to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

- Disclosure may be made to the VA-appointed representative of an employee, including all notices, determinations, decisions, or other written communications issued to the employee in connection with an examination ordered by VA under medical evaluation (formerly fitness-for-duty) examination procedures or Department-filed disability retirement procedures.

- Disclosure may be made to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

- Disclosure may be made to the Equal Employment Opportunity Commission when requested in connection with investigations of

alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

III. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which VA collected the information. In all of the routine use disclosures described above, either the recipient of the information will use the information in connection with a matter relating to one of VA's programs, will use the information to provide a benefit to VA, or disclosure is required by law.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: October 3, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

115VA10

SYSTEM NAME:

Education Debt Reduction Program-VA.

SYSTEM LOCATION:

Records will be maintained at the Health Care Staff Development and Retention Office (HCSDRO/10A2D), Veterans Health Administration, Department of Veterans Affairs (VA), 1555 Poydras Street, Suite 1971, New Orleans, Louisiana 70112; the Austin Automation Center, Department of Veterans Affairs, 1615 East Woodward Street, Austin, Texas 78772; and the VA health care facilities and VISN offices where scholarship recipients are employed. Address locations for VA health care facilities are listed in VA Appendix 1 of the Biennial Publication of Privacy Act Issuances. Complete records will be maintained only at the HCSDRO address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

VA employees who apply for and are granted or denied educational assistance awards under the provisions of the VA Education Debt Reduction Program

(EDRP) serving under an appointment under Title 38 U.S.C., Section 7402(b) in a position for which retention of qualified healthcare personnel is difficult.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) in this system may include: Personal identification information related to the application material, award processes, employment, and EDRP service periods such as (1) name, (2) employing facility number, (3) telephone number(s), (4) social security number, (5) debt reduction payment amounts, (6) dates of service periods, (7) name and address of the lending institution, (8) academic degree obtained for which EDRP funding is requested, (9) name and address of academic institution, (10) original amount of loan, and (11) current loan balance. Most of this information is contained on the application for an EDRP award including the applicant's full name, employing facility number, home and work telephone numbers, social security number, job title, degree obtained for which funding is requested, name and address of the academic institution, and the amount and number of debt reduction payments requested. The EDRP Loan Verification Form contains the candidate's name and social security number, name and address of the lending institution, original loan amount, current loan amount, and the purpose of the loan as stated on the loan application. The EDRP Acceptance of Conditions contains the name of a candidate approved for an award and the authorized number of debt reduction payments and their related amounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, U.S.C., Sections 501, 503, 7451, 7452, and 7431-7440.

PURPOSE(S):

The records and information may be used for determining and documenting individual applicant eligibility for debt reduction awards; determining the debt reduction payment amounts and the related service periods for award recipients; ensuring that award amounts are consistent with applicable law, regulations and policy; monitoring the employment status of scholarship recipients during their service periods; terminating an employee's participation in the program; and evaluating and reporting program results and effectiveness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure of any information in this system that is necessary to verify authenticity of the application may be made to lending institutions and other relevant organizations or individuals.

2. Disclosure of any information in this system may be made to a Federal agency in order to determine if an applicant has any obligation under another Federal program that would render the applicant ineligible to participate in the Education Debt Reduction Program.

3. Any information in the system may be used to evaluate and report program results and effectiveness to appropriate officials including members of Congress on a routine and ad hoc basis.

4. Disclosure of information in this system may be made to a member of Congress or staff person acting for the member when the member or staff person requests the records on behalf of and at the request of that individual.

5. Disclosure may be made to the National Archives and Record Administration (NARA) in records management inspections conducted under authority of Title 44 United States Code.

6. Disclosure of information to the Federal Labor Relations Authority (FLRA), including its General Counsel, when requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator awards when a question of material fact is raised, in connection with matters before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

7. Disclosure may be made to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

8. Disclosure may be made to the VA-appointed representative of an employee, including all notices, determinations, decisions, or other written communications issued to the employee in connection with an examination ordered by VA under medical evaluation (formerly fitness-for-duty) examination procedures or Department-filed disability retirement procedures.

9. Disclosure may be made to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection

with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

10. Disclosure may be made to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, electronic media and computer printouts.

RETRIEVABILITY:

Records are retrieved by use of the award number or an equivalent participant account number assigned by HCSDRO, Social Security Number and the name of the individual.

SAFEGUARDS:

Access to the basic file in HCSDRO is restricted to authorized VA employees and vendors. Access to the office spaces where electronic media is maintained within HCSDRO is further restricted to specifically authorized employees and is protected by contracted building security services. Records (typically computer printouts) at HCSDRO will be kept in locked files and made available only to authorized personnel on a need-to-know basis. During non-working hours the file is locked and the building is protected by contracted building security services. Records stored on electronic media are maintained on a VA-approved and managed, password-protected, secure local area network (LAN) located within HCSDRO office spaces and safeguarded as described above. Records stored on electronic media at Veterans Integrated Service Network (VISN) Offices, VA health care facilities and the Austin Automation Center (AAC) in Austin, Texas, are provided equivalent safeguards subject to local policies mandating protection of information subject to federal safeguards.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with records

disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Health Care Staff
Development and Retention Office
(10A2D), Veterans Health
Administration, Department of Veterans
Affairs, 1555 Poydras Street, Suite 1971,
New Orleans, Louisiana 70112.

NOTIFICATION PROCEDURE:

Any individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such

records, should submit a written request or apply in person to the Director, Health Care Staff Development and Retention Office, Veterans Health Administration, Department of Veterans Affairs, 1555 Poydras Street, Suite 1971, New Orleans, Louisiana 70112.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of VA records in this system may write, call or visit the Director, Health Care Staff Development and Retention Office (10A2D), Veterans Health Administration, Department of Veterans Affairs, 1555 Poydras Street, Suite 1971,

New Orleans, Louisiana 70112. The telephone number is (504) 589-5267.

CONTESTING RECORD PROCEDURES:

(See Records access procedures above.)

RECORD SOURCE CATEGORIES:

Information contained in the records is obtained from the individual, references given in application material, educational institutions, VA medical facilities, the VA AAC, other Federal agencies, State agencies and consumer reporting agencies.

[FR Doc. 02-26487 Filed 10-17-02; 8:45 am]

BILLING CODE 8320-01-P



Federal Register

**Friday,
October 18, 2002**

Part II

Department of Agriculture

Commodity Credit Corporation

**7 CFR Parts 1425, 1427, 1430, and 1434
2002 Farm Bill Regulations—Cooperative
Marketing Associations; Cotton; Dairy;
Honey; Final Rule**

DEPARTMENT OF AGRICULTURE**Commodity Credit Corporation****7 CFR Parts 1425, 1427, 1430 and 1434**

RIN 0560-AG72

**2002 Farm Bill Regulations—
Cooperative Marketing Associations;
Cotton; Dairy; Honey****AGENCIES:** Farm Service Agency,
Commodity Credit Corporation.**ACTION:** Final rule.

SUMMARY: This final rule implements several requirements of Title I of the Farm Security and Rural Investment Act of 2002 (the 2002 Act) relating to the commodity programs of the Commodity Credit Corporation (CCC). This rule expands the loans that may be available to producers through agricultural marketing cooperatives, makes a number of changes to the cotton regulations, provides for marketing assistance loans or loan deficiency payments to honey producers, and added new marketing assistance loan and loan deficiency payment programs for mohair and wool. The 2002 Act also continues the dairy price support program and authorizes a new Milk Income Loss Contract (MILC) Program to provide income support for dairy farmers. Several other rules have been or will be published for related provisions of the 2002 Act.

EFFECTIVE DATE: October 15, 2002.**FOR FURTHER INFORMATION CONTACT:**

Grady Bilberry, Director, Price Support Division, FSA/USDA, STOP 0512, 1400 Independence Ave. SW., Washington, DC, 20250-0512; telephone (202) 720-7901; facsimile (202) 690-3307; e-mail: Grady_Bilberry@wdc.usda.gov. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:**Notice and Comment**

Section 1601(c) of the 2002 Act requires that the regulations necessary to implement Title I of the 2002 Act are to be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These regulations are thus issued as final.

Executive Order 12866

This final rule is economically significant according to Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment of the actions this rule will take was completed and is summarized after the background section.

Federal Assistance Programs

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this final rule applies is 10.051—Commodity Loans and Loan Deficiency Payments.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because the Office of the Secretary, the Farm Service Agency (FSA) and the Commodity Credit Corporation (CCC) are not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Review

An environmental assessment is being completed to consider the potential impacts of this proposed action on the human environment in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and FSA's regulations for compliance with NEPA, 7 CFR part 799. Section 1601 of the 2002 Act mandated that these regulations be promulgated no later than 90 days after enactment. Further, this rule affects a large number of agricultural producers who are dependent upon its provisions for income support and need to know of its details as soon as possible because it has an effect on their planting and marketing decisions. Thus, CCC is attempting to satisfy both the Congressional mandate and its public missions by publishing this rule now, while continuing a good faith effort to comply with NEPA in as timely a fashion as possible, given the above-mentioned statutory and mission requirements. A copy of the draft environmental assessment will be made available for public review and comment upon request.

Executive Order 12778

The final rule has been reviewed under Executive Order 12778. This rule preempts State laws that are inconsistent with its provisions. This rule is not retroactive. Before any

judicial action may be brought regarding this rule, all 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

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking about the subject matter of this rule. Further, this rule imposes no unfunded mandates, as defined in UMRA, on any local, state, or tribal government or the private sector.

Small Business Regulatory Enforcement Fairness Act of 1996

Section 1601(c) of the 2002 Act requires that the regulations necessary to implement Title I of the 2002 Act must be issued within 90 days of enactment and that such regulations shall be issued without regard to the notice and comment provisions of 5 U.S.C. 553. Section 1601(c) also requires that the Secretary use the authority in section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121 (SBREFA), which allows an agency to forgo SBREFA's usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. These regulations affect the planting and marketing decisions of an extraordinarily large number of agricultural producers. Accordingly, this rule is effective upon the date of filing for public inspection by the Office of the Federal Register.

Paperwork Reduction Act

Section 1601(c) of the 2002 Act provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be made without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities needed to administer the program authorized by these regulations are not subject to review by OMB under the Paperwork Reduction Act.

Government Paperwork Elimination Act

FSA is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for participation in the program are not yet fully implemented for the public to conduct business with FSA electronically. However, loan application forms are available electronically through the USDA eForms Web site at www.sc.egov.usda.gov for downloading. The regulation is available at FSA's Price Support Division Internet site at www.fsa.usda.gov/dafp/psd. Applications may be submitted at the FSA county offices, by mail or by FAX. At this time, electronic submission is not available. Full development of electronic submission is underway.

Background

The 2002 Act made major revisions to the commodity programs. This rule expands the loans that may be available to producers through agricultural marketing cooperatives, known as Cooperative Marketing Associations (CMA). This rule also revises CCC's cotton regulations, and implements a new regime for producers of wool, mohair, and honey. Finally, it provides regulations that govern the milk price support program and the new Milk Income Loss Contract (MILC) Program, designed to provide price protection to U.S. dairy producers. The programs implemented in this rule are effective for up to 6 years, and will contribute to a farm income support program, or "safety net", that is more stable and certain than that provided by yearly programs. The major provisions of this rule are specified as follows:

Cooperative Marketing Associations

CCC has been making loans available to producers through agricultural marketing cooperatives for over 60 years, and loan deficiency payments since 1986, beginning with commodity loans to cotton cooperatives in 1934. This program is expanded under the 2002 Act to include marketing assistance loans and Loan deficiency payments for peanuts, dry peas, lentils, small chickpeas, mohair and wool. Consequently, these commodities are added to those previously eligible, and loans and loan deficiency payments are

now available through approved agricultural marketing cooperatives for barley, corn, grain sorghum, honey, oats, oilseeds, peanuts, wheat, dry peas, lentils, small chickpeas, mohair, wool, upland cotton, and rice. This rule amends the regulations governing cooperatives to authorize the new commodities.

Cotton

This rule makes a number of changes to the cotton non-recourse loan and loan deficiency payment programs the recourse seed cotton loan program, the upland cotton user marketing certificate program, and the extra long staple (ELS) cotton competitiveness payment program. The regulations at 7 CFR part 1427 are revised accordingly. The changes are required to administer provisions of the 2002 Act, and to remove provisions that are not applicable or authorized. It also improves readability and removes provisions that are not consistent with current statutory authority or otherwise are extraneous.

The 2002 Act provides that eligible 2001-crop marketing assistance loan commodities that were produced on a farm not covered by a production flexibility contract (PFC) are eligible for loan deficiency payments, as well as producers who lost beneficial interest in an eligible 2001-crop loan commodity before applying for a loan or loan deficiency payment. The loan deficiency payment rate will be based on the date the producer lost beneficial interest in the commodity. Additionally, producers who acted in good faith and who lost beneficial interest in the collateral of a 2001-crop marketing assistance loan before repaying the loan shall be permitted to repay such loan at the rate effective on the date beneficial interest was lost. Accordingly, the regulation is amended to delete the requirement that cotton must be produced on a farm covered by a PFC.

This rule also makes changes resulting from termination of old program authority. For instance, subpart B of 7 CFR 1427, Regulations for the Upland Cotton First Handler Marketing Certificate Program, are removed because the regulations no longer apply to the cotton program. This program was discontinued under the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) because it permitted cotton marketing assistance loans to be repaid at the world market price level while, before then, they could be repaid only at 70 percent of the world market price. The value difference was then provided by commodity certificates under the First

Handler Marketing Certificate Program. Those regulations have not applied to the cotton program for years. This rule also removes 7 CFR part 1427, subpart F, Cottonseed Payment Program, because there is no longer statutory authority for a cottonseed payment program.

Several changes in the cotton regulation's administrative provisions are made as well. Under previous calculations, some loan repayment rates were calculated as negative values, resulting in additional disbursements by CCC, and some loan deficiency payment rates exceeded the loan value of the cotton. This rule clarifies that the adjusted world price shall not be adjusted to a value less than zero, and that the loan deficiency payment rate shall not exceed the loan value for the cotton. These changes are the result of a determination that some adjustments to the adjusted world market price, and the resultant marketing loan gains and loan deficiency payment rates, were not consistent with the statutory authority for the payments. Under previous calculations, some loan repayment rates were calculated as negative values, resulting in additional disbursements by CCC. Establishing the minimum loan repayment rate as zero is consistent with provisions of the 2002 Act that provide that loan deficiency payment rates shall be equal to the marketing loan gain that would otherwise result.

Dairy

The regulations at 7 CFR part 1430 are revised to implement a new program for dairy producers authorized by section 1502 of the 2002 Act, the Milk Income Loss Contract (MILC) Program. The program is in effect from December 1, 2002 through September 30, 2005. This program comes after several ad hoc programs provided through appropriations acts over the past few years. The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 authorized the Dairy Market Loss Assistance Payment (DMLA-I) program to provide direct payments to producers of dairy operations for milk produced and commercially marketed during the 1997 or 1998 calendar year. Then, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 provided a second Dairy Market Loss Assistance Program (DMLA-II) which continued DMLA-I for 1999 production. And finally, section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001

authorized the last Dairy Market Loss Assistance Payment Program (DMLA–III). DMLA–III provided a supplemental payment to producers who received payments under DMLA–II and to new dairy operations in 2000.

Payments disbursed from the previous Dairy Market Loss Assistance Programs (DMLA) were subject to a maximum eligible production quantity per each eligible dairy operation, as is the case for the new MILC Program. For purposes of determining an operation under the MILC Program, the 2002 Act provided that the same standards as were applied in implementing DMLA were to be used. Payments issued under the previous dairy market loss payment programs were one-time payments authorized through appropriation acts. Payments issued under the MILC Program will be made as applicable on a monthly basis until the program ends on September 30, 2005.

Milk is produced in all 50 states. According to the National Agricultural Statistics Service, the estimated 98,000 dairy operations in the United States in 2001 were expected to produce about 167 billion pounds of milk in 2002. The maintenance and expansion of existing markets for dairy are vital to the welfare of milk producers in the United States. In the past few decades, the U.S. dairy industry has experienced dramatic structural changes at all levels of the marketing channel.

Payments under this program will be limited to dairy operations that produced milk in the United States and commercially marketed milk during the period of December 1, 2001, through September 30, 2005. Each fiscal year, eligible dairy operations can receive a monthly payment based on monthly milk marketings, up to a maximum of 2.4 million pounds per dairy operation for the fiscal year. Dairy operations who make changes to their producer status or who reconstitute their farm operations on or after December 1, 2001, for the sole purpose of receiving additional payments will not be eligible for the benefits under the program implemented by this rule.

A dairy operation's eligible monthly payment will be the quantity of milk sold in that month, up to a maximum of 2.4 million pounds, multiplied by 45 percent of the difference between \$16.94/cwt. and the Federal milk marketing order Class I milk price per hundredweight in Boston for that month. To facilitate a transition to this new program, a similar payment calculation will be applied from December 1, 2001, through the month preceding the month the producer enters into a contract with CCC.

To be eligible, dairy producers must: (1) Produce in the United States and market milk commercially during the period of December 1, 2001, through September 30, 2005; (2) enter into a contract with CCC to provide monthly marketing data to receive payments; and (3) be engaged in the business of producing and marketing agricultural products at the time of signing the MILC Program contract. Dairy operations may apply at FSA county offices during regular business hours.

The rule provides for payments during the transition period beginning December 1, 2001, and ending when producers enter into the Milk Income Loss Contract. Consistent with the 2002 Act, the rule has a cap on production of 2.4 million pounds which are eligible for payments in a given fiscal year. Producers are only eligible for transition payments under section 1502(h) of the 2002 Act once they enter into the Milk Income Loss Contract pursuant to section 1502(b). There is no legislative history to support the proposition that Congress intended to establish a totally different standard for payments during the transition period than the one that applies to regular program payments. If there were no cap on transition payments, this could lead to the result of producers signing up for September 2005, and none of their production during the transition period from December 2001 through August of 2005, being subject to a cap. There would effectively be no limitation on payments. There is nothing in the Conference Report to indicate that this was the intent of Congress. Rather, section 1502(b) of the 2002 Act allows dairies to enter into the program by contract and provides explicitly in section 1502(d) for the 2.4 million pound cap. This program limit follows upon three previous Dairy Market Loss Assistance (DMLA) programs in which there were similar production eligibility caps.

Although there was not an operational program under section 1502 in advance of this rule, complaint has been made that there should be no limit on the "transition" payments allowed under section 1502(h). Offered to support this contention is that since section 1502(d) refers to section 1502(b), the limit does not cover the "transition" payments because they, the argument goes, are made under subsection (h). But, no payments can be made for the transition period (the period after December 1, 2001 and before the signing of the contract) except by signing the contract under subsection (b). Accordingly, all payments, including those referred to under subsection (h) are payments

generated by and controlled by and made under subsection (b). Nothing in subsection (d) indicates that the only fiscal years covered by the cap are those after the signing of the contract. Without reservation, subsection (d) covers all fiscal years under the program, including fiscal year 2002, in which the transition payments can begin. Accordingly, the rule specifies that the cap covers all fiscal years including the fiscal year in which the transition period falls. All payments are covered and made available pursuant to one contract, which is the contract entered into under subsection (b).

The Conference Report states: "Producers, on an operation-by-operation basis, may receive payments on no more than 2.4 million pounds of milk marketed per year." The statement does not exclude any year. If there is no cap for the transition period and if the transition period can be delayed at the will of the producer, then any producer willing to forego payments until September, 2005, could avoid the cap entirely for the entire length of the program, thereby rendering the cap a nullity. There is no support in the statute or the legislative history to support this position.

The rule, with some limitations, allows dairies to choose the month of the year in which they will begin to use their eligibility since there is nothing as such in the statute to specify when that eligibility must commence. Those determinations, however, under the rule, must be made in advance. This position is consistent with the manner in which CCC implements other, similar programs, primarily the loan deficiency payment programs where farmers must, in advance, select the date on which their loan deficiency payment rate will be determined rather than being allowed to select a date retroactively in order to obtain the highest possible payment. The determination made by CCC on this point allows the dairy, nonetheless, to pick in advance the month which it believes will be the optimum month for the dairy. This is consistent with the timing requirements in the 2002 Act, which presume contemporaneous reporting of monthly marketings followed by monthly payments rather than an end-of-the-year determination by a dairy followed by an annual payment when, in hindsight, using the eligibility cap would produce the greatest payment.

As noted, dairies upon signing the contract will also be able to earn a transition payment under the contract for marketings in the period during and after December of 2001, and through the effective date of the contract, subject to

the fiscal year limitation of 2.4 million pounds of milk eligibility. To provide additional flexibility, however, consistent with the rules set out above, dairies have been allowed to choose to use their 2.4 million pound eligibility for fiscal year 2002 (which began in October of 2001) beginning with the month after they signed the contract and to waive the transition amount if doing so would, because of the cap, increase their payment. Other policy determinations necessary to implement the statute are reflected in the text of the rule.

The rule requires, consistent with the 2002 Act's mandate, that the same standards will be used for defining what is and what is not an "operation" for purposes of eligibility for payments. Those determinations can have particular significance because of the cap in the statute. The rule in that manner requires that those who were treated by local decisions of their Farm Service committees and offices as operations for purposes of eligibility under the preceding DMLA programs will be treated the same way. The 2002 Act specifies that for purposes of determining whether producers are producers on separate dairy operations or a single dairy operation that the

Secretary shall apply the same standards as were applied under DMLA. CCC will issue a notice to clarify how these standards will be applied to new or reconstituted operations and how it will be determined whether new operations were affiliated with operations under DMLA.

Section 1501 of the 2002 Act extends the Milk Price Support Program effective June 1, 2002, and continues the \$9.90 per hundredweight support rate for milk that was previously in effect.

Honey

The regulations at 7 CFR part 1434 are revised in this rule to provide marketing assistance loans and loan deficiency payments for honey. CCC operated a honey recourse loan program in the 1998, 1999 and 2000 crop years. In 2000 the program was converted from a recourse loan program to a nonrecourse marketing assistance loan program which also allowed eligible producers to obtain loan deficiency payments. Section 1201 of the 2002 Act authorizes a continued program for marketing assistance loans and loan deficiency payments for honey. This new program will operate in a similar manner to the previous programs. The loan rate for a honey marketing assistance loan is set by the 2002 Act at 60 cents per pound.

Producers may repay a marketing assistance nonrecourse loan at an amount equal to the principal amount of the loan plus interest or the prevailing market price for honey, as determined by CCC. The marketing loan repayment rate will be announced monthly by CCC. The 2002 Act also provides, for the 2002 crop only, eligibility for honey producers for loan deficiency payments even if the producer has lost beneficial interest in their honey before applying for the payment.

Summary of the Cost/Benefit Assessment

The 2002 Act added new marketing assistance loan and loan deficiency payment provisions for peanuts, dry peas, lentils, small chickpeas, mohair and wool. This rule also provides for agricultural marketing cooperatives to process marketing assistance loan and loan deficiency payment requests. This is a positive change in that government outlays will not be affected, and the agricultural marketing cooperatives will help FSA service anticipated increased loan-making activities. The 2002 Act changes in this rule, when compared with the 1996 Act provisions, will increase governmental outlays as shown in Table 1.

TABLE 1.—AVERAGE ANNUAL CHANGE IN GOVERNMENT OUTLAYS BY PROGRAM, FISCAL YEARS 2002–2007

Program	Estimated average annual outlay change (million dollars)
Cotton (7 CFR Part 1427):	
Marketing Assistance Loans	8.0
Loan Deficiency Payments	95.0
Extra Long Staple Cotton Competitiveness Program	(1.5)
Dairy (7 CFR 1430):	
Milk Price Support	333.3
Milk Income Loss Contract Program Payments 1/	666.0
Honey (7 CFR part 1434): Marketing Assistance Loans and Loan Deficiency Payments	
Total 1,103.0	2.2

¹ Annual average over 4 fiscal years.

Cotton Marketing Assistance Loans and Loan Deficiency Payments

The 2002 Act increased the loan rates very slightly for both upland and extra long staple (ELS) cotton varieties. Aside from that, only a few cotton program changes, and none with a significant economic impact, were made by the 2002 Act. Outlays for marketing loans are projected at \$1.2 billion for upland cotton in FY 2003, but they decline to \$0.4 million by FY 2007. This decline is attributed to the effect of rising cotton prices and planting flexibility which allows producers to adjust their cotton acreage to conform with expected

demand. Loan outlays for ELS cotton are projected to be minimal and not affected by enactment of the 2002 Act.

Upland Cotton User Marketing Certificate Program (Step 2)

The 2002 Act increased the payment rate 1.25-cents per pound for the Upland Cotton User Marketing Certificate Program, commonly known as the "Step 2 Program." This payment rate is expected to increase program outlays by about \$95 million per year through fiscal year 2006.

ELS Cotton Competitiveness Payment Program

The 2002 Act extended and fully funded the ELS Cotton Competitiveness Payment Program, which is similar to the Step 2 program. The program is designed to trigger payments in response to a reduction in other world cotton prices, including Egyptian Giza cotton. This program had been dormant for several months because U.S. Pima cotton was competitive. However, payments began to trigger in January 2002 and have now reached over 10 cents per pound in response to price reductions in Egypt.

Since the ELS Cotton Competitiveness Payment Program began in October 1999, payments have totaled about \$3.2 million on 50,500 bales for domestic use and 338,000 bales of exports. The program has operated for approximately one-half the time since it began. The rate has averaged \$7 per bale, or about 1.4 cents per pound. Payments have depended on reductions in foreign prices. There is no maximum payment rate. However, given current prices, the ELS competitiveness payment program could generate payments in the range of 1 to 3 cents per pound on weekly export and mill activity and would likely incur outlays of around \$50,000 to \$150,000 per week when triggered. Annual outlays for ELS payments are estimated to be in the range of \$1.3 million to \$3.9 million per year.

ELS Cotton Competitiveness Program payments could increase domestic use of American Pima cotton by about 5,000 bales (about 3 percent) per year and exports by 25,000 bales (about 5 percent) per year. This increase in disappearance could add about 2 cents per pound to the average price of American Pima and reduce CCC net lending costs about \$25 million. Farm receipts will rise about \$4 million annually.

Dairy

Section 1501 of the 2002 Act extends the Milk Price Support Program starting June 1, 2002. The \$9.90 per hundredweight (cwt.) milk support rate is the same as during calendar year 1999 through May 31, 2002. The support rate applies to manufacturing milk, which is milk used in the production of cheese, butter, and nonfat dry milk (NDM).

Under the Milk Price Support Program, CCC has standing offers to purchase cheese, butter, and NDM at established prices. Processors with an average efficiency should be able pay dairy farmers \$9.90 per cwt. when receiving CCC-announced prices.

CCC has purchased substantial quantities of NDM in recent years, including about 418 million pounds in fiscal year (FY) 2001, 456 million pounds in FY 2000, 177 million pounds in FY 1999, and 119 million pounds in FY 1998. This is because the market NDM price has been near or below the CCC purchase price since January 1999. Also, cheese prices dipped below the CCC support level in mid June of 2002, and thus, cheese has been acquired by CCC under this program. Cheese purchases were 13.1 million pounds in FY 2001 and 6.8 million pounds in FY 2000. The price for butter has stayed consistently above the CCC purchase price since the mid-1990's so there have

been no recent purchases of butter by CCC.

CCC expects to purchase 650 million pounds of NDM in FY 2002. We expect that some of the NDM that CCC purchases will be utilized in international and domestic feeding programs, and another \$15 million worth will be sold for other purposes. CCC expenditures with the extended program will be approximately \$2.0 billion for FY 2002 through 2007, of which \$1.6 billion is for product purchases. No expenditures are projected for purchases after FY 2007 because of milk price increases.

The MILC Program is expected to result in payments to dairy operations over the four FY's in the range of \$3.5 to \$4.5 billion annually. Dairy farm income and CCC expenditures will increase accordingly.

Honey

The honey loan rate, 60 cents per pound, is not expected to exceed the market price until 2007 due to the countervailing and anti-dumping duties placed on honey imports from Argentina and China. Because the program has no immediate effect on price, domestic honey production should not be affected. There are also no significant expected effects on market prices or demand. The major producer benefit is reduced borrowing costs compared with commercial loans. Interest savings are estimated at \$5.3 million. Even if price falls below the loan rate no expected effect on market prices or demand is expected because the farmers' benefits will be obtained through loan deficiency payments or marketing loan gains, not market price improvement through honey removals from forfeitures. CCC has limited ability to affect market prices. Domestic honey prices are closely related to import prices because of sizeable quantities imported. For the 1996-1999 period, honey imports represented about 45 percent of total domestic honey consumption. Sizable CCC inventory in the 1980's was partially a result of higher loan rates and the lack of a marketing loan repayment mechanism which produced higher imports instead of higher domestic market prices. Because the 2002 Act does not affect foreign honey prices, it is also unlikely to affect domestic honey prices. Thus, prices are expected to be unaffected by the loan program and domestic consumers will not be affected.

CCC estimates that there will be no loan losses from FY 2002 to FY 2007. Conversely, the producer income increase from marketing loan gains, loan deficiency payments, and gains from

loan forfeitures is about 14 cents per pound. CCC loan losses and producer loan gains are estimated to be \$9.8 million. CCC cost and producer gains from loan deficiency payments are estimated to be \$16.3 million. Total program cost and producer income increase is estimated at \$26.1 million. It is expected that 2.9 million pounds of honey, or 1.5 percent of production, will be forfeited to CCC.

List of Subjects

Part 1425

Agricultural commodities, Cooperatives, Marketing agreements, Loan programs-agriculture, Reporting and record keeping requirements.

Part 1427

Cotton, Loan programs-agriculture, Price support programs, Reporting and record keeping requirements

Part 1430

Dairy products, Loan programs-agriculture, Price support programs, Reporting and record keeping requirements.

Part 1434

Honey, Loan programs-agriculture, Reporting and record keeping requirements.

For the reasons set out in the preamble, 7 CFR parts 1425, 1427, 1430 and 1434 are revised as set forth below.

PART 1425—COOPERATIVE MARKETING ASSOCIATIONS

1. The authority citation for part 1425 is revised to read as follows:

Authority: 7 U.S.C. 1441 and 1421, 7 U.S.C. 7931-7939; and 15 U.S.C. 714b, 714c, and 714j.

2. Amend § 1425.3 by revising the definition of "authorized commodity" to read as follows:

§ 1425.3 Definitions.

* * * * *

Authorized commodity is a commodity for which a CMA is approved by CCC to obtain marketing assistance loans or Loan deficiency payments.

* * * * *

3. Amend § 1425.4 by revising the first sentence in paragraph (a) to read as follows:

§ 1425.4 Approval.

(a) For a cooperative to gain CMA status to participate in a marketing assistance loan or Loan deficiency payment program for the 2002 through 2007 crop years, a cooperative must

submit an application for approval to CCC. * * *

* * * * *

4. Amend § 1425.6 by revising the introductory text in paragraph (b) to read as follows:

§ 1425.6 Approved CMA's.

* * * * *

(b) CCC may approve a CMA to participate in a marketing assistance loan and Loan deficiency payment program for the 2002 through 2007 crops as:

* * * * *

5. Revise § 1425.25 to read as follows:

§ 1425.25 Appeals.

Parts 11 and 780 of this title apply to this part.

PART 1427—COTTON

6. Amend part 1427 by revising the authority citation and Subparts A, C, D, and G, and removing and reserving Subpart B, consisting of §§ 1427.50 through 1427.58, and Subpart F, consisting of §§ 1427.1100 through 1111, to read as follows:

Subpart A—Nonrecourse Cotton Loans and Loan Deficiency Payments

Sec.

- 1427.1 Applicability.
- 1427.2 Administration.
- 1427.3 Definitions.
- 1427.4 Eligible producer.
- 1427.5 General eligibility requirements.
- 1427.6 Disbursement of loans.
- 1427.7 Maturity of loans.
- 1427.8 Amount of loan.
- 1427.9 Classification of cotton.
- 1427.10 Approved storage.
- 1427.11 Warehouse receipts.
- 1427.12 Liens.
- 1427.13 Fees, charges and interest.
- 1427.14 [Reserved].
- 1427.15 Special procedure where funds are advanced.
- 1427.16 Reconciliation of cotton.
- 1427.17 Custodial offices.
- 1427.18 Liability of the producer.
- 1427.19 Repayment of loans.
- 1427.20 Handling payments and collections not exceeding \$9.99.
- 1427.21 Settlement.
- 1427.22 Commodity certificate exchanges.
- 1427.23 Cotton loan deficiency payments.
- 1427.24 [Reserved].
- 1427.25 Determination of the prevailing world market price and the adjusted world price for upland cotton.

Subpart B—[Reserved]

Subpart C—Upland Cotton User Marketing Certificates

- 1427.100 Applicability.
- 1427.101 [Reserved].
- 1427.102 [Reserved].
- 1427.103 Eligible upland cotton.
- 1427.104 Eligible domestic users and exporters.
- 1427.105 Upland Cotton Domestic User/ Exporter Agreement.

- 1427.106 Form of payment.
- 1427.107 Payment rate.
- 1427.108 Payment.

Subpart D—Recourse Seed Cotton Loans

- 1427.160 Applicability.
- 1427.161 Administration.
- 1427.162 [Reserved].
- 1427.163 Disbursement of loans.
- 1427.164 Eligible producer.
- 1427.165 Eligible seed cotton.
- 1427.166 Insurance.
- 1427.167 Liens.
- 1427.168 [Reserved].
- 1427.169 Fees, charges, and interest.
- 1427.170 Quantity for loan.
- 1427.171 Approved storage.
- 1427.172 Settlement.
- 1427.173 Foreclosure.
- 1427.174 Maturity of seed cotton loans.
- 1427.175 Liability of the producer.

Subpart F—[Reserved]

Subpart G—Extra Long Staple (ELS) Cotton Competitiveness Payment Program

- 1427.1200 Applicability.
- 1427.1201 [Reserved].
- 1427.1202 Definitions.
- 1427.1203 Eligible ELS cotton.
- 1427.1204 Eligible domestic users and exporters.
- 1427.1205 ELS Cotton Domestic User/ Exporter Agreement.
- 1427.1206 Form of payment.
- 1427.1207 Payment rate.
- 1427.1208 Payment.

Authority: 7 U.S.C. 7213–7237; 15 U.S.C. 714b, 714c.

Subpart A—Nonrecourse Cotton Loan and Loan Deficiency Payments

§ 1427.1 Applicability.

(a) The regulations of this subpart are applicable to the 2002 through 2007 crops of upland cotton and extra long staple cotton. These regulations set forth the general provisions under which marketing assistance loans and loan deficiency payment programs shall be administered by the Commodity Credit Corporation (CCC). Additional terms and conditions are in the note and security agreement and the loan deficiency payment application that must be executed by a producer to receive marketing assistance loans and loan deficiency payments.

(b) The basic loan rates, the schedule of premiums and discounts, and forms applicable to the cotton marketing assistance loan and loan deficiency payment programs are available from FSA offices. The forms for use in connection with the programs in this subpart shall be prescribed by CCC.

(c) Marketing assistance loans and loan deficiency payments will not be available for any cotton produced on land owned or otherwise in the possession of the United States if such land is occupied without the consent of the United States.

(d) Notwithstanding the other provisions of this part, a producer may only receive the maximum assistance allowed by part 1400 of this chapter.

(e) Eligible producers, under 7 CFR 1421.4, who produce upland cotton during the 2002 through 2007 crop years on a farm that is not covered under a direct and counter-cyclical program contract, as defined in part 1412 of this chapter, are eligible for marketing assistance loans or loan deficiency payments as are eligible producers who produced commodities on farms covered by such a contract.

§ 1427.2 Administration.

(a) The marketing assistance loan and loan deficiency payment programs shall be administered under the general supervision of the Executive Vice President, CCC, or a designee and shall be carried out by FSA employees, and state and county committees.

(b) No FSA employee or committee may modify or waive any requirement in this subpart, except as provided in paragraph (e) of this section.

(c) The State committee shall take any required action not taken by the county committee. The State committee shall also:

(1) For the 2001 crop year only, allow producers who, in good faith, violated the terms and conditions of the note and security agreement resulting in the producer losing beneficial interest in the commodity before repaying the loan, to repay the loan at a rate that is the lesser of the loan plus interest, or the adjusted world price, as determined under § 1427.19, in effect on the date the beneficial interest was lost.

(2) Correct, or require a correction of an action that is not in compliance with this part; or

(3) Stop an employee from taking an action or decision that is not in accordance with the regulations of this part.

(d) The Executive Vice President, CCC, or a designee may determine any question arising under these programs, and reverse or modify a determination made by an FSA employee or State or county committee.

(e) The Deputy Administrator for Farm Programs, FSA, may authorize State or county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other program requirements does not adversely affect the operation of the marketing assistance and loan deficiency payment programs.

(f) A representative of CCC may execute marketing assistance loan and Loan deficiency payment applications and related documents only under the terms and conditions determined and announced by CCC. Any document not executed under such terms and conditions, including any purported execution before the date authorized by CCC, shall be null and void.

§ 1427.3 Definitions.

The definitions in this section shall apply for all purposes of program administration regarding the cotton loan and loan deficiency payment programs. The terms defined in part 718 of this title and parts 1412, 1421, 1425 and 1434 of this chapter shall also apply, except where they conflict with definitions in this section.

Adjusted spot price means the spot price adjusted to reflect any lack of data for base quality to make the adjusted spot price comparable to a spot price assuming the base quality. If base quality spot price data are not available, spot prices for other qualities will be used and adjusted by the average difference between base quality spot prices and those for other qualities over the available observations during the previous 12 months.

Approved cooperative marketing association (CMA) means a cooperative marketing association approved under part 1425 of this chapter which has executed a Cotton Cooperative Loan Agreement on a form prescribed by CCC.

Bale opening means the removal of the bagging and ties from a bale of eligible upland cotton in the normal opening area, immediately before use, by a manufacturer in a building or collection of buildings where the cotton in the bale will be used in the continuous process of manufacturing raw cotton into cotton products in the United States.

Charges means all fees, costs, and expenses incurred by CCC in insuring, carrying, handling, storing, conditioning, and marketing the cotton tendered to CCC for loan. Charges also include any other expenses incurred by CCC in protecting CCC's or the producer's interest in such cotton.

Commodity certificate exchange means the exchange, as provided in part 1404 of this chapter, of commodities pledged as collateral for a marketing assistance loan at a rate determined by CCC in the form of a commodity certificate bearing a dollar denomination. Such certificate may not be transferred or exchanged for the inventory of CCC.

Consumption means the use of eligible cotton by a domestic user in the manufacture in the United States of cotton products.

Cotton means upland cotton and extra loan staple cotton meeting the definition in the definitions of "upland cotton" and "extra long staple (ELS) cotton" in this section, respectively, and excludes cotton not meeting such definitions.

Cotton clerk means a person approved by CCC to assist producers in preparing loan and loan deficiency documents.

Cotton commercial bank means the bank designated as the financial institution for a CMA or loan servicing agent.

Cotton product means any product containing cotton fibers that result from the use of a bale of cotton in manufacturing.

Current shipment price means, during the period in which two daily price quotations are available for the growth quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe, the price quotation for cotton for shipment no later than August/September of the current calendar year.

Electronic Agent Designation is an electronic record that:

- (1) Designates the entity authorized by a producer to redeem all of the cotton pledged as collateral for a specific loan;
- (2) Is maintained by providers of electronic warehouse receipts; and
- (3) A producer may authorize CCC to use as the basis for the redemption and release of loan collateral.

Extra long staple (ELS) cotton means any of the following varieties of cotton which is produced in the United States and is ginned on a roller gin:

- (1) American-Pima;
- (2) All other varieties of the Barbados species of cotton, and any hybrid thereof; and
- (3) Any other variety of cotton in which one or more of these varieties predominate.

False packed cotton means cotton in a bale containing substances entirely foreign to cotton; containing damaged cotton in the interior with or without any indication of the damage on the exterior; composed of good cotton on the exterior and decidedly inferior cotton in the interior, but not detectable by customary examination; or, containing pickings or linters worked into the bale.

Financial institution means:

- (1) A bank in the United States which accepts demand deposits; and
- (2) An association organized pursuant to Federal or State law and supervised by Federal or State banking authorities.

Form A loan means a nonrecourse loan entered into between a producer and CCC.

Form G loan means a CCC nonrecourse loan entered into between a CMA and CCC.

Forward shipment price means, during the period in which two daily price quotations are available for the growths quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe, the price quotation for cotton for shipment no earlier than October/November of the current calendar year.

Lint Cotton means cotton that has passed through the ginning process.

Loan deficiency payment means a payment received in lieu of a loan when the CCC-determined value is below the applicable county loan rate.

Loan servicing agent means a legal entity that enters into a written agreement with CCC to act as a loan servicing agent for CCC in making and servicing Form A cotton loans. The loan servicing agent may perform, on behalf of CCC, only those services which are specifically prescribed by CCC including, but not limited to, the following:

- (1) Preparing and executing loan and loan deficiency payment documents;
- (2) Disbursing loan and loan deficiency payment proceeds;
- (3) Handling reconcentration of cotton under § 1427.16;
- (4) Accepting loan repayments;
- (5) Handling documents involved with forfeiture of loan collateral to CCC; and
- (6) Providing loan, loan deficiency payment, and accounting data to CCC for statistical purposes.

Northern Europe current price means the average for the preceding Friday through Thursday of the current shipment prices for the five lowest-priced growths of the growths quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe.

Northern Europe forward price means the average for the preceding Friday through Thursday of the forward shipment prices for the five lowest-priced growths of the growths quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe.

Northern Europe price means, during the period in which only one daily price quotation is available for the growth quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe, the average of the price quotations for the preceding Friday through Thursday of the five lowest-priced growths of the growths quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe.

Reconcentration means the process for moving a warehouse stored loan commodity to another warehouse location.

Seed cotton means cotton which has not passed through the ginning process.

U.S. Northern Europe current price means the average for the preceding Friday through Thursday of the current shipment prices for the lowest-priced United States growth as quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe.

U.S. Northern Europe forward price means the average for the preceding Friday through Thursday of the forward shipment prices for the lowest-priced United States growth as quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe.

U.S. Northern Europe price means, during the period in which only one daily price quotation is available for the United States growths quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe, the average of the price quotations for the preceding Friday through Thursday of the lowest-priced United States growth as quoted for M 1³/₃₂-inch cotton, C.I.F. northern Europe.

Upland cotton means planted and stub cotton which is produced in the United States from other than pure strain varieties of the Barbadosense species, any hybrid thereof, or any other variety of cotton which one or more of these varieties predominate.

Warehouse receipt means a receipt containing the required information prescribed in this part and is:

(1) A pre-numbered, pre-punched negotiable warehouse receipt issued under the authority of the U.S. Warehouse Act, a state licensing authority, or by an approved CCC warehouse in such format authorized and approved, in advance, by CCC;

(2) An electronic warehouse receipt record issued by such warehouse recorded in a central filing system or systems maintained in one or more locations that are approved by FSA to operate such system; or

(3) Other such acceptable evidence of title, as determined by CCC.

§ 1427.4 Eligible producer.

(a) To be an eligible producer, the producer must:

(1) Be an individual, partnership, association, corporation, estate, trust, State or political subdivision or agency thereof, or other legal entity that produces cotton as a landowner, landlord, tenant, or sharecropper;

(2) Comply with all provisions of this part; and

(i) 7 CFR part 12—Highly Erodible Land and Wetland Conservation;

(ii) 7 CFR part 718—Provisions Applicable to Multiple Programs;

(iii) 7 CFR part 1400—Payment Limitation and Payment Eligibility;

(iv) 7 CFR part 1403—Debt Settlement Policies and Procedures; and

(v) 7 CFR part 1405—Loans, Purchases and Other Operations; and

(3) Have made an acreage certification with respect to all the cropland on the farm.

(b) A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent or bankrupt debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively. The production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person or estate represented by the receiver, executor, administrator, guardian, or trust. Loan and loan deficiency payment documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) A minor who is otherwise an eligible producer shall be eligible to receive loans and loan deficiency payments only if the minor meets one of the following requirements:

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

(2) A guardian has been appointed to manage the minor's property and the applicable loan or loan deficiency payment documents are signed by the guardian;

(3) Any note and security agreement or loan deficiency payment application signed by the minor is co-signed by a person determined by CCC to be financially responsible; or

(4) A bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been an adult.

(d)(1) If more than one producer executes a note and security agreement with CCC, each such producer shall be jointly and severally liable for the violation of the terms and conditions of the note and the regulations in this part. Each such producer shall also remain liable for repayment of the entire marketing assistance loan amount until the loan is fully repaid without regard to such producer's claimed share in the commodity pledged as collateral for the loan. In addition, such producer may not amend the note and security agreement with respect to the producer's claimed share in such commodities, or loan proceeds, after execution of the note and security agreement by CCC.

(2) The cotton in a bale may have been produced by two or more eligible producers on one or more farms if the bale is not a repacked bale.

(e) A CMA may obtain a marketing assistance loan and loan deficiency payments on eligible cotton on behalf of its members who are eligible to receive loans or loan deficiency payments for a crop of cotton. For purposes of this subpart, the term "producer" includes a CMA.

(f) In case of death, incompetency, or disappearance of any producer who is entitled to the payment of any sum in settlement of a marketing assistance loan or loan deficiency payment, payment shall, upon application to CCC, be made to the persons who would be entitled to the producer's payment under the regulations contained in part 707 of this title.

§ 1427.5 General eligibility requirements.

(a) To receive loans or loan deficiency payments for a crop of cotton, a producer must execute a note and security agreement or loan deficiency payment application on or before May 31 of the year following the year in which such crop is normally harvested.

(1) Form A loan documents or loan deficiency payment applications must be signed by the applicant and submitted to CCC or a loan servicing agent. Submissions by cotton clerks must occur within 15 calendar days after the producer signs the forms and within the period of loan availability. A producer, except for a CMA, must request loans and loan deficiency payments:

(i) At the county office that is responsible under part 718 of this title for administering programs for the farm on which the cotton was produced; or

(ii) From a loan servicing agent.

(2) Form G loan documents and requests for loan deficiency payments by a CMA must be signed by the CMA and delivered to CCC or the cotton commercial bank within the period of loan availability.

(b) For a bale of cotton to be eligible to be pledged as collateral for a marketing assistance loan or a subject of a loan deficiency payment application, the bale must:

(1) Be tendered to CCC by an eligible producer;

(2) Be in existence and good condition, be covered by fire insurance, be stored in a warehouse with an existing cotton storage agreement under §§ 1427.1081 through 1427.1089 at the time of disbursement of the loan or loan deficiency payment proceeds, except as provided in § 1427.23(f), and be stored

in approved storage as determined under § 1427.10;

(3) Be represented by a warehouse receipt meeting the requirements of § 1427.11, except as provided in § 1427.23(a)(4);

(4) Not be false-packed, water-packed, mixed-packed, re-ginned, or repacked;

(5) Not be compressed to universal density at a warehouse where side pressure has been applied;

(6) Not have been sold, nor any sales option on such cotton granted, to a buyer under a contract which provides that the buyer may direct the producer to pledge the cotton to CCC as collateral for a loan or to obtain a loan deficiency payment;

(7) Not have been previously sold and repurchased or pledged as collateral for a CCC loan and redeemed except as provided in § 1427.172(b)(4);

(8) Not be cotton for which a loan deficiency payment has been previously made;

(9) Weigh at least 325 pounds net weight; bales of more than 600 pounds may be pledged for loan at 600 pounds.

(10) Be packaged in materials which meet the specifications adopted by the Joint Cotton Industry Bale Packaging Committee sponsored by the National Cotton Council of America for the applicable crop year or which are identified and approved by the Joint Cotton Industry Bale Packaging Committee as experimental packaging materials for the applicable crop year.

(i) Copies of the applicable crop year specifications for cotton bale packaging materials published by the Joint Cotton Industry Bale Packaging Committee are available from CCC upon request.

(ii) Information for experimental packaging material may be obtained from the Joint Cotton Industry Bale Packaging Committee.

(11) Be ginned by a ginner which:

(i) Has entered the tare weight of the bale (bagging and ties used to wrap the bale) on the gin bale tag or otherwise furnish warehouse operator the tare weight; and

(ii) Has entered into a Cooperating Ginners' Bagging and Bale Ties Certification and Agreement on a form prescribed by CCC, or certified that the bale is wrapped with bagging and bale ties meeting the requirements of paragraph (b)(10) of this section and;

(12) Be production from acreage that has been reported timely under part 718 of this title.

(c) In addition to the requirements of paragraph (b) of this section, for ELS cotton the bale must:

(1) Be a grade and staple length specified in the schedule of loan rates and premiums and discounts for ELS cotton

(2) Have a micronaire specified in the schedule of micronaire premiums and discounts for ELS cotton; and

(3) Have an extraneous matter specified in the schedules of premiums and discounts for extraneous matter for ELS cotton.

(d) In addition to the requirements of paragraph (b) of this section, for upland cotton the bale must:

(1) Have been graded by using a High Volume Instrument;

(2) Be a grade, staple length, and leaf specified in the schedule of premiums and discounts for grade, staple, and leaf for upland cotton;

(3) Have a strength reading specified in the schedule of strength premiums and discounts for upland cotton;

(4) Have a micronaire specified in the schedule of micronaire premiums and discounts for upland cotton;

(5) Have an extraneous matter within the limits specified in the schedule of discounts for extraneous matter for upland cotton; and

(6) Have a uniformity specified in the schedule of uniformity premiums and discounts for upland cotton.

(e)(1) To be eligible to receive marketing assistance loans or loan deficiency payments, a producer must have the beneficial interest in the cotton which is tendered to CCC for a marketing assistance loan or loan deficiency payment. The producer must always have had the beneficial interest in the cotton unless, before the cotton was harvested, the producer, and a former producer whom the producer tendering the cotton to CCC has succeeded, had such an interest in the cotton. Cotton obtained by gift, barter or purchase shall not be eligible to be tendered to CCC for marketing assistance loans or loan deficiency payments. Heirs who succeed to the beneficial interest of a deceased producer or who assume the decedent's obligations under an existing marketing assistance loan shall be eligible to receive marketing assistance loans and loan deficiency payments whether succession to the cotton occurs before or after harvest so long as the heir otherwise complies with this part.

(2) A producer shall not be considered to have divested the beneficial interest in the cotton if the producer retains control, title, and risk of loss in the cotton, including the right to make all decisions regarding the tender of the cotton to CCC for marketing assistance loans or loan deficiency payments including those cases where the producer:

(i) Executes an option to purchase, whether or not a payment is made by the potential buyer for such option to

purchase, for such cotton if all other eligibility requirements are met and the option to purchase contains the following:

Notwithstanding any other provision of this option to purchase, title; risk of loss; and beneficial interest in the commodity, as specified in 7 CFR 1427.5, shall remain with the producer until the buyer exercises this option to purchase the commodity. This option to purchase shall expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of: (1) The maturity of any Commodity Credit Corporation (CCC) loan which is secured by such commodity; (2) the date CCC claims title to such commodity; or (3) such other date as provided in this option.

(ii) Enters into a contract to sell the cotton if the producer retains title, risk of loss, and beneficial interest in the commodity and the purchaser pays no advance payment amount or any incentive payment amount to enter into such contract, except as provided in part 1425 of this chapter; or

(iii) Executes a designation of agent on a form prescribed by CCC. Such designation:

(A) Allows the producer to authorize an agent or subsequent agent to redeem all or a portion of the cotton pledged as collateral for a marketing assistance loan;

(B) Identifies the warehouse receipts for which the authorization is given;

(C) Expires upon maturity of the marketing assistance loan;

(D) Allows agents so designated by the producer to designate a subsequent agent by endorsement of the form by the agent;

(E) Must be presented at the time the marketing assistance loan is repaid at the county office or loan servicing agent where such loan originated if the agent or subsequent agent exercises any authority granted by the producer, unless the producer provides authorization to CCC to use an electronic agent designation as the basis for accepting redemption of some or all bales of the specified loan; and

(F) May be canceled by the producer by providing the custodial office a written request signed and dated by the producer showing the name of the agent, the loan number, and the bales applicable to the Cooperating Ginners' Bagging and Bale Ties Certification and Agreement that was provided by the Agency. The effective date of the cancellation shall be the date the request is received by the custodial office.

(3) If marketing assistance loans or loan deficiency payments are made available to producers through a CMA under part 1425 of this chapter, the

beneficial interest in the cotton must always have been in the producer-member who delivered the cotton to the CMA or its member, except as otherwise provided in this section. Cotton delivered to such a CMA shall not be eligible to receive a marketing assistance loan or a loan deficiency payment if the producer-member who delivered the cotton does not retain the right to share in the proceeds from the marketing of the cotton as provided in part 1425 of this chapter.

(f) If the person tendering cotton for a loan or a loan deficiency payment is a landowner, landlord, tenant, or sharecropper, such cotton must represent such person's separate share of the crop and must not have been acquired by such person directly or indirectly from a landowner, landlord, tenant, or sharecropper.

(g) Each bale of upland cotton sampled by the warehouse operator upon initial receipt which has not been sampled by the ginner must not show more than one sample hole on each side of the bale. If more than one sample is desired when the bale is received by the warehouse operator, the sample shall be cut across the width of the bale, broken in half or split lengthwise, and otherwise drawn under Agricultural Marketing Service (AMS) dimension and weight requirements. This requirement will not prohibit sampling of the cotton at a later date if authorized by the producer.

(h) Marketing assistance loans may be disbursed to eligible producers who store upland cotton in unlicensed storage facilities only if the producer agrees to redeem the marketing assistance loan on the date on which the loan is disbursed with a commodity certificate exchange.

§ 1427.6 Disbursement of loans.

(a) Disbursement of loans to individual producers may be made by:

- (1) County in CCC and FSA offices;
- (2) Loan servicing agents; or

(3) An approved cotton clerk who has entered into a written agreement with CCC on a form prescribed by CCC.

(b) Loan proceeds may be disbursed by CCC or a cotton commercial bank.

(c) The loan documents shall not be presented for disbursement unless the cotton covered by the mortgage or pledged as security is eligible under § 1427.5. If the cotton was not eligible cotton at the time of disbursement, the total amount disbursed under the loan, and charges plus interest shall be refunded promptly.

§ 1427.7 Maturity of loans.

(a)(1) Form A loans and Form G loans mature on demand by CCC and no later than the last day of the 9th calendar month following the month in which the note and security agreement is filed under § 1427.5(a).

(2) CCC may at any time accelerate the loan maturity date by providing the producer notice of such acceleration at least 30 days in advance of the accelerated maturity date.

(b) If the loan is not repaid by the loan maturity date, title to the cotton shall vest in CCC the day after such maturity date and CCC shall have no obligation to pay for any market value which such cotton may have in excess of the amount of the loan, plus interest and charges.

§ 1427.8 Amount of loan.

(a) The loan rates for crops of upland cotton and ELS cotton will be determined and announced by CCC and made available at State and county offices.

(b) The quantity of cotton which may be pledged as collateral for a loan shall be the net weight of the eligible cotton as shown on the warehouse receipt issued by an approved warehouse, except that in the case of a bale which has a net weight of more than 600 pounds, the weight to be used in determining the amount of the loan on the bale shall be 600 pounds. Cotton pledged as collateral for loans on the basis of reweights will not be accepted by CCC.

(c) The amount of the loan for each bale will be determined by multiplying the net weight of the bale, as determined under paragraph (b) of this section by the applicable loan rate.

(d) CCC will not increase the amount of the loan made for any bale of cotton as a result of a redetermination of the quantity or quality of the bale after it is tendered to CCC, except that if it is established to the satisfaction of CCC that a bona fide error was made for the weight of the bale or the classification for the bale, such error may be corrected.

§ 1427.9 Classification of cotton.

(a) References made to "classification" in this subpart shall include color grade, leaf, staple length, extraneous matter and micronaire, and for upland cotton, strength readings. All cotton tendered for loan must be classed by an AMS Cotton Classing Office or other entity approved by CCC and tendered on the basis of such classification.

(b) An AMS cotton classification or other entity's classification acceptable by CCC showing the classification of a

bale must be based upon a representative sample drawn from the bale under instructions to samplers drawing samples under AMS procedures.

(c) If the producer's cotton has not been classed or sampled in a manner acceptable by CCC, the warehouse shall sample such cotton and forward the samples to the AMS Cotton Classing Office or other entity approved by CCC serving the district in which the cotton is located. Such warehouse must be licensed by AMS or be approved by CCC to draw samples for submission to the AMS Cotton Classing Office or other entity approved by CCC.

(d) If a sample has been submitted for classification, another sample shall not be drawn, except for a review classification.

(e) Where review classification is not involved, if through error or otherwise two or more samples from the same bale are submitted for classification, the loan rate shall be based on the classification having the lower loan value.

(f) If a review classification is obtained, the loan value of the cotton represented thereby will be based on such review classification.

§ 1427.10 Approved storage.

(a) Eligible cotton may be pledged as collateral for loans only if stored at warehouses approved by CCC.

(1) Persons desiring approval of their facilities should contact the Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141-6205.

(2) The names of approved warehouses may be obtained from the Kansas City Commodity Office or from State or county offices.

(b) When the operator of a warehouse receives notice from CCC that a loan has been made by CCC on a bale of cotton, the operator shall, if such cotton is not stored within the warehouse, promptly place such cotton within such warehouse.

(c) Warehouse charges paid by a producer will not be refunded by CCC.

(d) The approved storage requirements provided in this section may be waived by CCC if the producer requests a loan deficiency payment pursuant to the loan deficiency payment provisions contained in § 1427.23.

§ 1427.11 Warehouse receipts.

(a) Producers may obtain loans on eligible cotton represented by warehouse receipts only if the warehouse receipts meet the definition of a warehouse receipt and provide for delivery of the cotton to bearer or are properly assigned by endorsement in blank, so as to vest title in the holder of

the receipt or are otherwise acceptable to CCC. The warehouse receipt must:

- (1) Contain the gin bale number;
- (2) Contain the warehouse receipt number;
- (3) Be dated on or before the date the producer signs the note and security agreement.

(b) Warehouse receipts, under § 1427.3, when issued as block warehouse receipts will be accepted when authorized by CCC only if the owner of the warehouse issuing the block warehouse receipt owns the cotton represented by the block warehouse receipt and the warehouse is not licensed under the U.S. Warehouse Act.

(c)(1) Each receipt must set out in its written or printed terms the tare and the net weight of the bale represented thereby. The net weight shown on the warehouse receipt shall be the difference between the gross weight as determined by the warehouse at the warehouse site and the tare weight. The warehouse receipt may show the net weight established at a gin if:

(i) The gin is in the immediate vicinity of the warehouse and is operated under common ownership with such warehouse or in any other case in which the showing of gin weights on the warehouse receipts is approved by CCC; and

(ii) Gin weights are permitted by the licensing authority for the warehouse.

(2) The tare shown on the receipt shall be the tare furnished to the warehouse by the ginner or entered by the ginner on the gin bale tag. A machine card type warehouse receipt reflecting an alteration in gross, tare, or net weight will not be accepted by CCC unless it bears, on the face of the receipt, the following legend or similar wording approved by CCC, duly executed by the warehouse or an authorized representative of the warehouse:

Corrected (gross, tare, or net) weight,
(Name of warehouse),
By (Signature or initials),
Date.

(3) Alterations in other inserted data on a machine card type warehouse receipt must be initialed by an authorized representative of the warehouse.

(d) If warehouse storage charges have been paid, the receipt must show that date through which the storage charges have been paid.

(e) If warehouse receiving charges have been paid or waived, the warehouse receipt must show such fact. Except for bales stored in the States of Alabama, Florida, Georgia, North

Carolina, South Carolina, and Virginia, if receiving charges due on the bale include a charge, if any, for a new set of ties for compressing flat bales tied with ties which cannot be reused, the warehouse receipt must indicate the receiving charges and include a charge for new set of ties. If the bale is stored at a warehouse not having compress facilities and bales shipped from the warehouse are normally compressed in transit, the warehouse receipt must show the bale ties are not suitable for reuse when the bale is compressed and charges will be assessed by the nearest compress in line of transit for furnishing new bale ties.

(f) In any case where loan collateral is forfeited, any unpaid storage or receiving charges, not to exceed the amount that accrued from the date that all necessary documents were received by CCC to the maturity date, will be paid to the warehouse by CCC after loan maturity or as soon as practicable after the cotton is ordered shipped by CCC.

(g) The warehouse receipt must show the compression status of the bale; *i.e.*, flat, modified flat, standard, gin standard, standard density (short), gin universal, universal density (short), or warehouse universal density. The receipt must show if the compression charge has been paid, or if the warehouse claims no lien for such compression.

§ 1427.12 Liens.

If there are any liens or encumbrances on the cotton tendered as collateral for a loan, waivers that fully protect the interest of CCC must be obtained before disbursement even though the liens or encumbrances are satisfied from the loan proceeds. No additional liens or encumbrances shall be placed on the cotton after the loan is approved.

§ 1427.13 Fees, charges and interest.

(a) A producer shall pay a nonrefundable loan service fee to CCC or, if applicable, to a loan servicing agent, at a rate determined by CCC. Such fee shall be in addition to a cotton clerk fee paid under paragraph (b) of this section. The fee amounts are available in State and county offices and are shown on the note and security agreement. Fees shall be deducted from the loan proceeds.

(b) Cotton clerks may only charge fees for the preparation of loan or loan deficiency payment documents at the rate determined by CCC.

(1) Such fees may be deducted from the loan or loan deficiency payment proceeds instead of the fees being paid in cash.

(2) The amount of such fees is available from CCC and is shown on the note and security agreement.

(c) Interest which accrues for a loan shall be determined under part 1405 of this chapter. All or a portion of such interest may be waived for a quantity of upland cotton which has been redeemed under § 1427.19 at a level which is less than the principal amount of the loan plus charges and interest.

(d) For each crop of upland cotton, the producer, as defined in the Cotton Research and Promotion Act (7 U.S.C. 2101), shall remit to CCC an assessment which shall be transmitted by CCC to the Cotton Board and shall be deducted from the:

(1) Loan proceeds for a crop of cotton and shall be at a rate equal to one dollar per bale plus up to one percent of the loan amount; and

(2) Loan deficiency payment proceeds for a crop of cotton and shall be at a rate equal to up to one percent of the loan deficiency payment amount.

(e) If the producers elects to forfeit the loan collateral to CCC, the producer shall pay to CCC, at the rates that are specified in the storage agreement between the warehouse and CCC, the following accrued warehouse charges:

(1) All warehouse storage charges associated with the forfeited cotton that accrued before the date that all required documents were provided to CCC; and

(2) Any accrued warehouse receiving charges associated with the forfeited cotton, including, if applicable, charges for new ties as specified in § 1427.11.

§ 1427.14 [Reserved].

§ 1427.15 Special procedure where funds are advanced.

(a) This special procedure is provided to assist persons or firms which, in the course of their regular business of handling cotton for producers, have made advances to eligible producers on cotton eligible to be pledged as collateral for a marketing assistance loan or to receive a loan deficiency payment. A person, firm, or financial institution which has made advances to eligible producers on eligible cotton may also obtain reimbursement for the amounts advanced under this procedure.

(b) This special procedure shall apply only:

(1) If such person or firm is entitled to reimbursement from the proceeds of the marketing assistance loans or loan deficiency payments for the amounts advanced and has been authorized by the producer to deliver the loan or loan deficiency payment documents to a county office for disbursement of the loans or loan deficiency payments; and

(2) To marketing assistance loan or loan deficiency payment documents covering cotton on which a person or firm has advanced to the producers, including payments to prior lienholders and other creditors, the note amounts shown on the Form A loan documents, except for:

- (i) Authorized cotton clerk fees;
- (ii) The research and promotion fee to be collected for transmission to the Cotton Board by CCC; and
- (iii) CCC loan service charges.

(c)(1) All marketing assistance loan or loan deficiency payment documents shall be mailed or delivered to the appropriate county office and shall show the entire proceeds of the marketing assistance loans or loan deficiency payments, except for CCC loan service charges and research and promotion fees, for disbursement to:

(i) The financial institution which is to allow credit to the person or firm which made the loan or loan deficiency payment advances or to such financial institution and such person or firm as joint payees; or

(ii) The person, firm, or financial institution which made the marketing assistance loan or loan deficiency payment advances to the producers.

(2) The documents shall be accompanied by a Transmittal Schedule of Loan and Loan Deficiency Payment Documents (Transmittal) on a form prescribed by CCC, in original and two copies, numbered serially for each county office by the person, firm, or financial institution which made the marketing assistance loan or loan deficiency payment advance. The Transmittal shall show the amounts invested by the person, firm, or financial institution in the marketing assistance loans or loan deficiency payments.

(3) Upon receipt of the marketing assistance loan or loan deficiency payment documents and Transmittal, the county office will stamp one copy of the Transmittal to indicate receipt of the documents and return this copy to the person, firm, or financial institution.

(d) The person, firm, or financial institution shall be deemed to have invested funds in the loans or loan deficiency payment as of the date marketing assistance loan or loan deficiency payment documents acceptable to CCC were delivered to a county office or, if received by mail, the date of mailing as indicated by postmark or the date of receipt in a county office if no postmark date is shown. Patron postage meter date stamp will not be recognized as a postmark date.

(e) Interest will be computed on the total amount invested by the person,

firm, or financial institution in the marketing assistance loan or loan deficiency payment represented by accepted documents from and including the date of investment of funds by the person, firm, or financial institution to, but not including, the date of disbursement by CCC.

(1) Interest will be paid at the rate in effect for CCC loans as provided in part 1405 of this chapter.

(2) Interest earned by the person, firm, or financial institution on the investment in loans disbursed during a month will be paid by CCC after the end of the month.

§ 1427.16 Reconcentration of cotton.

(a) CCC may under certain conditions, before loan maturity, compress, store, insure, or reinsure the cotton against any risk, or otherwise handle or deal with the cotton as it may deem necessary or appropriate for the purpose of protecting the interest therein of the producer or CCC.

(b) CCC may reconcentrate the cotton pledged for the marketing assistance loan from one CCC-approved warehouse to another with the written consent of the producer and upon the request of the local warehouse and certification that there is congestion and lack of storage facilities in the area. However, if CCC determines such cotton is improperly warehoused and subject to damage, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere and the local warehouse, after notice, declines to reduce such charges, such written consent need not be obtained.

(1) An FSA official, the loan servicing agent, or CMA shall arrange for reconcentration of the cotton under the direction of CCC and CCC shall obtain new warehouse receipts.

(2) Any reconcentration charges, fees, costs, or expenses incident to such actions shall be charged against the cotton, and must be repaid for bales redeemed from loan.

§ 1427.17 Custodial offices.

Collateral warehouse receipts, using forms prescribed by CCC, and related documents will be maintained in the custody of CCC, its designee, the loan servicing agent, or the cotton commercial bank, whichever disbursed the loan evidenced by such documents.

§ 1427.18 Liability of the producer.

(a)(1) If a producer makes any fraudulent representation in obtaining a marketing assistance loan or loan deficiency payment or in maintaining or

settling a loan, or disposes of or moves the loan collateral without the prior written approval of CCC, such loan or loan deficiency payment shall be payable upon demand by CCC. The producer shall be liable for:

(i) The amount of the marketing assistance loan or loan deficiency payment;

(ii) Any additional amounts paid by CCC for the loan or loan deficiency payment;

(iii) All other costs which CCC would not have incurred but for the fraudulent representation or the unauthorized disposition or movement of the loan collateral;

(iv) Applicable interest on such amounts;

(v) Liquidated damages under paragraph (e) of this section; and

(vi) About amounts due for a loan, the payment of such amounts may not be satisfied by the forfeiture of loan collateral to CCC of cotton with a settlement value that is less than the total of such amounts or by repayment of such loan at the lower loan repayment rate as prescribed in § 1427.19.

(2) If a producer makes a fraudulent representation or if the producer has disposed of, or moved, the loan collateral without prior written approval from CCC, the value of such collateral delivered to or acquired by CCC shall be equal to the sales price of the cotton less any costs incurred by CCC in completing the sale.

(b) If the amount disbursed under a marketing assistance loan, or in settlement thereof, or loan deficiency payment exceeds the amount authorized by this subpart, the producer shall be liable for repayment of such excess, plus interest. In addition, the commodity pledged as collateral for such loan shall not be released to the producer until such excess is repaid.

(c) If the amount collected from the producer in satisfaction of the marketing assistance loan or loan deficiency payment is less than the amount required under this subpart, the producer shall be personally liable for repayment of the amount of such deficiency plus applicable interest.

(d) If more than one producer executes a note and security agreement or loan deficiency payment application with CCC, each such producer shall be jointly and severally liable for the violation of the terms and conditions of the note and security agreement or loan deficiency payment application and this subpart. Each producer shall also remain liable for repayment of the entire loan or loan deficiency payment amount until the loan is fully repaid without

regard to their share in the cotton pledged as collateral for the loan or for which the loan deficiency payment was made. In addition, such producer may not amend the note and security agreement or loan deficiency payment application for the producer's claimed share in such cotton after execution of the note and security agreement or loan deficiency payment application by CCC.

(e) The producer and CCC agree that it will be difficult, if not impossible, to prove the amount of damages to CCC if a producer makes any fraudulent representation in obtaining a loan or loan deficiency payment or in maintaining or settling a loan or disposing of or moving the loan collateral without the prior written approval of CCC. Accordingly, if CCC determines that the producer has violated the terms or conditions of their requests for a loan or any applicable form required by CCC, liquidated damages shall be assessed on the quantity of the cotton which is involved in the violation. If CCC determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed by multiplying the quantity involved in the violation by:

(i) 10 percent of the loan rate applicable to the loan note or the loan deficiency payment rate for the first offense; or

(ii) 25 percent of the loan rate applicable to the loan note or the loan deficiency payment rate for the second offense; or

(2) Did not act in good faith about the violation, or for cases other than first or second offense, liquidated damages will be assessed by multiplying the quantity involved in the violation by 25 percent of the loan rate applicable to the loan note or the loan deficiency payment rate.

(f) For first and second offenses, if CCC determines that a producer acted in good faith when the violation occurred, CCC shall:

(1) Require repayment of the loan principal and charges, plus interest applicable to the loan quantity affected by the violation or for loan deficiency payment, the loan deficiency payment amount applicable to the loan deficiency quantity involved with the violation, and charges plus interest from the date the loan deficiency payment was made; and

(2) Assess liquidated damages under paragraph (e) of this section;

(3) If the producer fails to pay such amounts within 30 calendar days from the date of notification, CCC shall call the applicable marketing assistance loan involved in the violation and require

repayment of any market gain previously realized for the applicable loan, plus any interest previously waived and any storage paid by CCC, or for a loan deficiency payment, require repayment of the loan deficiency payment and charges plus interest from the date the loan deficiency payment was made.

(g) For cases other than first or second offenses, or any offense for which CCC cannot determine good faith when the violation occurred, CCC shall:

(1) Assess liquidated damages under paragraph (e) of this section; and

(2) Call the applicable marketing assistance loan involved in the violation and require repayment of any market gain previously realized for the applicable loan, plus any interest previously waived and any storage paid by CCC, and for a loan deficiency payment, require repayment of the loan deficiency payment and charges plus interest from the date the loan deficiency payment was made.

(h) If the county committee acting on behalf of CCC determines that the producer has committed a violation under paragraph (e) of this section, CCC shall notify the producer in writing that:

(1) The producer has 30 calendar days to provide evidence and information regarding the circumstances which caused the violation, to the county committee; and

(2) Administrative actions will be taken under paragraph (f) or (g) of this section.

(i) If the marketing assistance loan is called under this section, the producer must repay the loan at principal and charges, plus interest and may not repay the loan at the lower of the loan repayment rate under § 1427.19 or utilize the provisions of part 1401 of this chapter for such loan.

(j) Any or all of the liquidated damages assessed under paragraph (e) of this section may be waived as determined by CCC.

§ 1427.19 Repayment of loans.

(a) Warehouse receipts will not be released except as provided in this section.

(b) A producer, an authorized agent or anyone subsequently designated by the producer in the manner prescribed by CCC may redeem one or more bales of cotton pledged as collateral for a loan by payment to CCC of an amount applicable to the bales of cotton being redeemed determined under this section. CCC, upon proper payment for the amount due, shall release the warehouse receipts applicable to such cotton.

(c) A producer or agent or subsequent agent authorized in writing in a manner prescribed by CCC may repay the loan amount for one or more bales of cotton pledged as collateral for a marketing assistance loan:

(1) For upland cotton, at a level that is the lesser of:

(i) The loan level and charges, plus interest determined for such bales; or

(ii) The adjusted world price, as determined by CCC under § 1427.25, in effect on the day the repayment is received by the county office, loan servicing agent, or cotton commercial bank that disbursed the loan.

(2) For ELS cotton, by repaying the loan amount and charges, plus interest determined for such bales.

(d) CCC shall determine and publicly announce the adjusted world price for each crop of upland cotton on a weekly basis.

(e) The difference between the loan level, excluding charges and interest, and the loan repayment level is the market gain. The total amount of any market gain realized by a person is subject to part 1400 of this chapter.

(f) Repayment of loans will not be accepted after CCC acquires title to the cotton under § 1427.7.

(g) In the event that Thursday is a non-workday, such loan repayments will not be accepted beginning at 7 a.m. Eastern Standard time the next workday until an announcement of the adjusted world price for the succeeding weekly period has been made under § 1427.25(e).

(h) If the upland cotton pledged as collateral is eligible to be redeemed at a rate less than the loan level and charges, plus interest, and the adjusted world price determined under § 1427.25:

(1) Below the national average loan rate for upland cotton, CCC will pay at the time of loan repayment to the producer or agent or subsequent agent authorized by the producer in the manner prescribed by CCC, the warehouse storage charges which have accrued, for the cotton pledged as collateral for such loan, during the period the cotton was pledged for loan;

(2) Above the national average loan rate by less than the sum of the accrued interest and warehouse storage charges, that accrued during the period the cotton was pledged for loan, CCC will pay at the time of loan repayment to the producer or agent or subsequent agent authorized by the producer in the manner prescribed by CCC, that portion of the warehouse storage charges, that accrued during the period the cotton was pledged for loan, that are determined to be necessary to permit

the loan to be repaid at the adjusted world price without regard to any warehouse charges that accrued before the cotton was pledged for loan; or

(3) Above the national average loan rate by as much as or more than the sum of the accrued interest and warehouse storage charges that accrued during the period the cotton was pledged for loan, CCC shall not pay any of the accrued warehouse storage charges.

(i) Repayment of loans will not be accepted after CCC acquires title to the cotton in accordance with § 1427.7.

§ 1427.20 Handling payments and collections not exceeding \$9.99.

Amounts of \$9.99 or less will be paid to the producer only at their request. Deficiencies of \$9.99 or less, including interest, may be disregarded unless CCC demands in writing that they be paid.

§ 1427.21 Settlement.

(a) The settlement of loans shall be made by CCC on the basis of the quality and quantity of the cotton delivered to CCC by the producer or acquired by CCC.

(b) Settlements made by CCC for eligible cotton which are acquired by CCC which are stored in an approved warehouse shall be made on the basis of the entries set forth on the applicable warehouse receipt and other accompanying documents.

(c) If a producer does not pay CCC the amount due under a loan, CCC shall take title to the cotton as provided in § 1427.7(b).

§ 1427.22 Commodity certificate exchanges.

(a) For any outstanding marketing assistance loan, a producer may purchase a commodity certificate and exchange that commodity certificate for the marketing assistance loan collateral.

(b) The exchange rate is the lesser of:

(1) The loan rate and charges, plus interest applicable to the loan, or

(2) The adjusted world price for cotton as determined by CCC.

(c) Producers must request a commodity certificate exchange in person at the FSA county service center that disbursed the marketing assistance loan by:

(1) Completing a written request as CCC determines,

(2) Purchasing a commodity certificate for the exact amount required to exchange the marketing assistance loan collateral, and

(3) Immediately exchanging the purchased commodity certificate for the outstanding loan collateral.

§ 1427.23 Cotton loan deficiency payments.

(a) In order to be eligible to receive such loan deficiency payments, the producer of the upland cotton must:

(1) Comply with all of the upland cotton marketing assistance loan eligibility requirements under this subpart;

(2) Agree to forgo obtaining such loans unless denied a loan deficiency payment due to payment limitation;

(3) File a request for payment for a quantity of eligible cotton under § 1427.5(a) on a form approved by CCC;

(4) Provide warehouse receipts or, as determined by CCC, a list of gin bale numbers for such cotton showing, for each bale, the net weight established at the gin;

(5) For loan deficiency payments requested before ginning of the cotton based on a locked-in adjusted world price, provide identifying numbers for modules or other storage units that will correspond to the gin-assigned numbers of the bales produced from the unginning cotton; and

(6) Otherwise comply with all program requirements.

(b) The loan deficiency payment applicable to a crop of cotton shall be computed by multiplying the applicable loan deficiency payment rate, as determined under paragraph (c) of this section, by the quantity of the crop the producer is eligible to pledge as collateral for a loan, excluding any quantity for which the producer obtains a marketing assistance loan.

(c) The loan deficiency payment rate for a crop of upland cotton shall be the amount by which the loan rate determined for a bale of such crop exceeds the adjusted world price, as determined by CCC under § 1427.25, in effect on the day the request is received by, the county office, loan servicing agent, or cotton commercial bank. In no case shall the loan deficiency payment rate for a bale exceed the value of the bale had it been pledged as collateral for a marketing assistance loan.

(d) The total amount of any loan deficiency payments that a person may receive is subject to part 1400 of this chapter.

(e) If the producer enters into an agreement with CCC on or before the date of ginning a quantity of eligible upland cotton, and the producer has the beneficial interest in such quantity as specified under § 1427.5(c) on the date the cotton was ginned, and the producer meets all the other requirements in paragraph (a) of this section on or before the final date to apply for a loan deficiency payment under § 1427.5, the

loan deficiency payment rate applicable to such cotton will be:

(1) Based on the date the cotton was ginned if payment application is made in the manner prescribed by CCC for obtaining such rate; or

(2) Based on the date of request for lock-in of the adjusted world price if payment application is made in the manner prescribed by CCC for obtaining such rate; or

(3) Based on the date a completed request including production evidence is submitted in the manner prescribed by CCC for obtaining such rate.

(f) In the event that Thursday is a non-workday, such applications for loan deficiency payments will not be accepted beginning at 7 a.m. Eastern Standard time the next workday until an announcement of the adjusted world price for the succeeding weekly period has been made under § 1427.25(e).

(g) With respect only to loan deficiency payments for upland cotton produced in the 2001 crop year, whether or not produced on a farm covered by a production flexibility contract, the applicable final availability for such payment is November 18, 2002.

§ 1427.24 [Reserved].

§ 1427.25 Determination of the prevailing world market price and the adjusted world price for upland cotton.

(a) CCC shall determine the world market price for upland cotton as follows:

(1) During the period when only one daily price quotation is available for each growth quoted for Middling one and three-thirty-second inch (M 1³/₃₂ inch) cotton, C.I.F. (cost, insurance, and freight) northern Europe, the prevailing world market price for upland cotton shall be based upon the average of the quotations for the preceding Friday through Thursday for the 5 lowest-priced growths of the growths quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe.

(2) During the period when both a price quotation for cotton for shipment no later than August/September of the current calendar year (current shipment price) and a price quotation for cotton for shipment no earlier than October/November of the current calendar year (forward shipment price) are available for growths quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe, the prevailing world market price for upland cotton shall be based upon the following: Beginning with the first week covering the period Friday through Thursday which includes April 15 or, if both the average of the current shipment prices for the preceding Friday through

Thursday for the 5 lowest-priced growths of the growths quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe (Northern Europe current price (NEC)), and the average of the forward shipment prices for the preceding Friday through Thursday for the 5 lowest-priced growths of the growths quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe (Northern Europe forward price (NEf)), are not available during that period, beginning with the first week covering the period Friday through Thursday after the week which includes April 15 in which both the NEC and NEf price are available, the prevailing world market price for upland cotton shall be based upon the result calculated by the following procedure:

(i) Weeks 1 and 2: $((2 \times \text{NEc}) + \text{NEf}) / 3$.

(ii) Weeks 3 and 4: $(\text{NEc} + \text{NEf}) / 2$.

(iii) Weeks 5 and 6: $(\text{NEc} + (2 \times \text{NEf})) / 3$.

(iv) Week 7 through July 31: NEf.

(3) The upland cotton prevailing world market price as determined under paragraphs (a)(1) or (a)(2) of this section shall hereinafter be referred to as the "Northern Europe price (NE)."

(4) If quotes are not available for 1 or more days in the 5-day period, the available quotes during the period will be used. If no quotes are available during the Friday through Thursday period, the prevailing world market price shall be based upon the best available world price information, as CCC determines.

(b) The upland cotton prevailing world market price, adjusted under paragraph (c) of this section (adjusted world price (AWP)), shall be applicable to the 2002 through 2007 crops of upland cotton.

(c) The upland cotton AWP shall equal the NE price as determined under paragraph (a) of this section, adjusted as follows:

(1) The NE shall be adjusted to average designated U.S. spot market location by deducting the average difference in the immediately preceding 52-week period between:

(i)(A) The average of price quotations for the U.S. Memphis territory and the California/Arizona territory as quoted each Thursday for M 1³/₃₂ inch cotton, C.I.F. northern Europe, during the period when only one daily price quotation for such growths is available, or

(B) The average of the current shipment prices for U.S. Memphis territory and the California/Arizona territory as quoted each Thursday for M 1³/₃₂ inch cotton, C.I.F. northern Europe, during the period when both current shipment prices and forward shipment

prices for such growths are available; and

(ii) The average price of M 1³/₃₂ inch, leaf 3, (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 25.5 through 29.4 grams per tex, length uniformity 80 through 82 percent) cotton, as quoted each Thursday in the designated U.S. spot markets.

(2) The price determined under paragraph (c)(1) of this section shall be adjusted to reflect the price of Strict Low Middling (SLM) 1¹/₁₆ inch, leaf 4, (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 25.5 through 29.4 grams per tex, length uniformity 80 through 82 percent) cotton (U.S. base quality) by deducting the difference, as CCC announces, between the applicable loan rate for an upland cotton crop for M 1³/₃₂ inch, leaf 3, (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 25.5 through 29.4 grams per tex, length uniformity 80 through 82 percent) cotton and the loan rate for an upland cotton crop of the U.S. base quality.

(3) The price determined under paragraph (c)(2) of this section shall be adjusted to average U.S. location by deducting the difference between the average loan rate for an upland cotton crop of the U.S. base quality in the designated U.S. spot markets and the corresponding crop year national average loan rate for an upland cotton crop of the U.S. base quality, as CCC announces.

(4)(i) The prevailing world market price, adjusted under paragraphs (c)(1) through (c)(3) of this section, may be further adjusted if it is determined that:

(A) Such price is less than 115 percent of the current crop-year loan level for U.S. base quality cotton, and

(B) The Friday through Thursday average price quotation for the lowest-priced U.S. growth as quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe (U.S. Northern Europe price (USNE)), is greater than the average of the quotations for the preceding Friday through Thursday for the 5 lowest-priced growths of the growths quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe.

(ii) During the period when both current shipment prices and forward shipment prices are available for growths quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe, the USNE provided in paragraph (c)(4)(i)(B) of this section shall be determined as follows: Beginning with the week covering the period Friday through Thursday which includes April 15 or, if both the average of the current shipment prices for the preceding Friday through Thursday of the lowest-priced U.S. growth, as quoted

for M 1³/₃₂ inch cotton, C.I.F. northern Europe (U.S. Northern Europe current price (USNEc)), and the average of the forward shipment prices for the preceding Friday through Thursday of the lowest-priced United States growth quoted for M 1³/₃₂ inch cotton C.I.F. northern Europe (U.S. Northern Europe forward price (USNEf)), are not available during that period, beginning with the first week covering the period Friday through Thursday after the week which includes April 15 in which both the average of the USNEc and the average of the USNEf are available, the result calculated by the following procedure:

(A) Weeks 1 and 2: $((2 \times \text{USNEc}) + (\text{USNEf})) / 3$.

(B) Weeks 3 and 4: $(\text{USNEc}) + (\text{USNEf}) / 2$.

(C) Weeks 5 and 6: $((\text{USNEc}) + (2 \times \text{USNEf})) / 3$.

(D) Week 7 through July 31: USNEf.

(iii) In determining the USNE as provided in paragraphs (c)(4)(i)(B) and (c)(4)(ii):

(A) If quotes for either the U.S. Memphis territory or the California/Arizona territory are not available for any week, the available quotations will be used.

(B) If quotes are not available for one or more days in the 5-day period, the available quotes during the period will be used.

(C) If no quotes are available for either the U.S. Memphis territory or the California/Arizona territory during the Friday through Thursday period, no adjustment will be made.

(iv)(A) The adjustment shall be based on some or all of the following data, as available:

(1) The U.S. share of world exports;

(2) The current level of cotton export sales and shipments; and

(3) Other data CCC determines relevant in establishing an accurate prevailing world market price, adjusted to U.S. quality and location.

(B) The adjustment may not exceed the difference between the USNE, as determined in paragraphs (c)(4)(i) through (c)(4)(iii) of this section, and the NE, as determined in paragraph (a) of this section.

(d) In determining the average difference in the 52-week period as provided in paragraph (c)(1) of this section:

(1) If the difference between the average price quotations for the U.S. Memphis territory and the California/Arizona territory, as quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe, and the average price of M 1³/₃₂ inch, leaf 3, (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 25.5 through 29.4

grams per tex, length uniformity 80 through 82 percent) cotton as quoted each Thursday in the designated U.S. spot markets for any week is:

(i) More than 115 percent of the estimated actual cost associated with transporting U.S. cotton to northern Europe, then 115 percent of such actual cost shall be substituted in lieu thereof for such week.

(ii) Less than 85 percent of the estimated actual cost associated with transporting U.S. cotton to northern Europe, then 85 percent of such actual cost shall be substituted in lieu thereof for such week.

(2) If a Thursday price quotation for either the U.S. Memphis territory or the California/Arizona territory, as quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe, is not available for any week, CCC:

(i) May use the available northern Europe quotation to determine the difference between the average price quotations for the U.S. Memphis territory and the California/Arizona territory, as quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe, and the average price of M 1³/₃₂ inch, leaf 3, (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 25.5 through 29.4 grams per tex, length uniformity 80 through 82 percent) cotton, as quoted each Thursday in the designated U.S. spot markets for that week, or

(ii) May not take that week into consideration.

(3) If Thursday price quotations for any week are not available for either,

(i) Both the Memphis territory and the California/Arizona territory as quoted for M 1³/₃₂ inch cotton, C.I.F. northern Europe, or

(ii) The average price of M 1³/₃₂ inch, leaf 3, (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 25.5 through 29.4 grams per tex, length uniformity 80 through 82 percent) cotton, as quoted in the designated U.S. spot markets, that week will not be considered.

(e) The upland cotton AWP, determined under paragraph (c) of this section, and the amount of the additional adjustment determined under paragraph (f) of this section, shall be announced, to the extent practicable, at 5 p.m. Eastern Standard time each Thursday continuing through the last Thursday of July, 2008. In the event that Thursday is a non-workday, the determination will be announced, to the extent practicable, at 8 a.m. Eastern Standard time the next work day.

(f)(1)(i) The AWP, as determined under paragraph (c) of this section, shall be subject to further adjustments as provided in this section regarding all qualities of upland cotton eligible for

loan except the following upland cotton grades with a staple length of 1¹/₁₆ inch or longer:

(A) White Grades—Strict Middling and better, leaf 1 through leaf 6; Middling, leaf 1 through leaf 6; Strict Low Middling, leaf 1 through leaf 6; and Low Middling, leaf 1 through leaf 5;

(B) Light Spotted Grades—Strict Middling and better, leaf 1 through leaf 5; Middling, leaf 1 through leaf 5; and Strict Low Middling, leaf 1 through leaf 4; and

(C) Spotted Grades—Strict Middling and better, leaf 1 through leaf 2; and

(ii) Grade and staple length must be determined under § 1427.9. If no such official classification is presented, the coarse count adjustment shall not be made.

(2) The adjustment for upland cotton provided under paragraph (f)(1) of this section shall be determined by deducting from the AWP:

(i) The difference between the NE, and

(A) During the period when only one daily price quotation for each growth quoted for “coarse count” cotton, C.I.F. northern Europe, is available the average of the quotations for the corresponding Friday through Thursday for the three lowest-priced growths of the growths quoted for “coarse count” cotton, C.I.F. northern Europe; or

(B) During the period when both current shipment prices and forward shipment prices are available for the growths quoted for “coarse count” cotton, C.I.F. northern Europe, the result calculated by the following procedure: Beginning with the first week covering the period Friday through Thursday including April 15 or, if both the average of the current shipment prices for the preceding Friday through Thursday for the three lowest-priced growths of the growths quoted for “coarse count” cotton, C.I.F. northern Europe (Northern Europe coarse count current price (NECCc)), and the average of the forward shipment prices for the preceding Friday through Thursday for the three lowest-priced growths of the growths quoted for “coarse count” cotton, C.I.F. northern Europe (Northern Europe coarse count forward price (NECCf)), are not available during that period, beginning with the first week covering the period Friday through Thursday after the week including April 15 in which both the Northern Europe coarse count current price and the Northern Europe coarse count forward price are available:

(1) Weeks 1 and 2: (2 × NECCc) + NECCf/3;

(2) Weeks 3 and 4: (NECCc + NECCf)/2;

(3) Weeks 5 and 6: (NECCc + (2 × NECCf))/3; and

(4) Week 7 through July 31: The NECCf, minus:

(ii) The difference between the applicable loan rate for an upland cotton crop for M 1³/₃₂ inch, leaf 3, (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 25.5 through 29.4 grams per tex, length uniformity 80 through 82 percent) cotton and the loan rate for an upland cotton crop for SLM 1¹/₁₆ inch, leaf 4, (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 25.5 through 29.4 grams per tex, length uniformity 80 through 82 percent) cotton.

(iii) The result of the calculation as determined under this paragraph shall hereinafter be referred to as the “Northern Europe coarse count price.”

(3) Regarding the determination of the Northern Europe coarse count price under paragraph (f)(2)(i) of this section:

(i) If no quotes are available for one or more days of the 5-day period, the available quotes will be used;

(ii) If quotes for three growths are not available for any day in the 5-day period, that day will not be considered; and

(iii) If quotes for three growths are not available for at least 3 days in the 5-day period, that week will not be considered, in which case the adjustment determined under paragraph (f)(2) of this section for the latest available week will continue to be applicable.

(g) If the 6-week transition period from using current shipment prices to using forward shipment prices in the determination of the NE under paragraph (a)(2) of this section, and the Northern Europe coarse count price under paragraph (f)(2)(i)(B) of this section do not begin at the same time, CCC shall use either current shipment prices, forward shipment prices, or any combination thereof to determine the NE and/or the Northern Europe coarse count price used in the determination of the adjustment for upland cotton under paragraph (f)(1) of this section and determined under paragraph (f)(2) of this section to prevent distortions in such adjustment.

(h) The AWP determined under paragraph (c) of this section, shall be subject to further adjustments to a value no less than zero, as CCC determines, based upon the Schedule of Premiums and Discounts and the location differentials applicable to each warehouse location as announced under the loan program for an upland cotton crop.

Subpart B—[Reserved]**Subpart C—Upland Cotton User Marketing Certificates****§ 1427.100 Applicability.**

(a) Regulations in this subpart are applicable during the period beginning August 1, 1991, and ending July 31, 2008. These regulations set forth the terms and conditions under which CCC shall make payments, in the form of commodity certificates or cash, to eligible domestic users and exporters of upland cotton who entered into an Upland Cotton Domestic User/Exporter Agreement with CCC to participate in the upland cotton user marketing certificate program under section 1207 of the Farm Security and Rural Investment Act of 2002.

(b) During the period beginning August 1, 1991, and ending July 31, 2008, CCC shall issue marketing certificates or cash payments to domestic users and exporters under this subpart in a week following a consecutive 4-week period in which:

(1) The Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling one and three thirty-seconds inch (M 1³/₃₂ inch) cotton, delivered C.I.F. (cost, insurance and freight) northern Europe, (U.S. Northern Europe (USNE) price) exceeds the Friday through Thursday average price quotation for the five lowest-priced growths, as quoted for M 1³/₃₂ inch cotton, delivered C.I.F. northern Europe, (Northern Europe (NE) price) by:

(i) During the period beginning May 15, 2002, and ending July 31, 2006, more than zero; and

(ii) During the period beginning August 1, 2006, and ending July 31, 2008, more than 1.25 cents per pound;

(2) The adjusted world price (AWP) for upland cotton, determined under § 1427.25, does not exceed 134 percent of the crop loan level for upland cotton.

(c) Additional terms and conditions are in the Upland Cotton Domestic User/Exporter Agreement which the domestic user or exporter must execute in order to receive such payments.

(d) CCC shall prescribe forms used in administering the upland cotton user marketing certificate program.

§ 1427.101 [Reserved].**§ 1427.102 [Reserved].****§ 1427.103 Eligible upland cotton.**

(a) For purposes of this subpart, eligible upland cotton is domestically produced baled upland cotton which bale is opened by an eligible domestic user on or after August 1, 1991, and on

or before July 31, 2008, or exported by an eligible exporter on or after July 18, 1996, and on or before July 31, 2008, during a Friday through Thursday period in which a payment rate, determined under § 1427.107, is in effect and which meets the requirements of paragraphs (b) and (c) of this section.

(b) Eligible upland cotton must be either:

(1) Baled lint, including baled lint classified by USDA's Agricultural Marketing Service as Below Grade;

(2) Loose;

(3) Semi-processed notes which are of a quality suitable, without further processing, for spinning, papermaking or bleaching;

(4) Re-ginned (processed) notes.

(c) Eligible upland cotton must not be:

(1) Cotton for which a payment, under the provisions of this subpart, has been made available;

(2) Imported cotton;

(3) Raw (unprocessed) notes; or

(4) Textile mill wastes.

§ 1427.104 Eligible domestic users and exporters.

(a) For purposes of this subpart, the following persons shall be considered eligible domestic users and exporters of upland cotton:

(1) A person regularly engaged in the business of opening bales of eligible upland cotton for the purpose of manufacturing such cotton into cotton products in the United States (domestic user), who has entered into an agreement with CCC to participate in the upland cotton user marketing certificate program; or

(2) A person, including a producer or a cooperative marketing association approved under part 1425 of this chapter, regularly engaged in selling eligible upland cotton for exportation from the United States (exporter), who has entered into an agreement with CCC to participate in the upland cotton user marketing certificate program.

(b) Applications for payment under this subpart must contain documentation required by the provisions of the Upland Cotton Domestic User/Exporter Agreement and instructions CCC issues.

§ 1427.105 Upland Cotton Domestic User/Exporter Agreement.

(a) Payments under this subpart shall be made available to eligible domestic users and exporters who have entered into an Upland Cotton Domestic User/Exporter Agreement with CCC and who have complied with the terms and conditions in this subpart, the Upland Cotton Domestic User/Exporter Agreement and instructions issued by CCC.

(b) Upland Cotton Domestic User/Exporter Agreements may be obtained from Contract Reconciliation Division, Kansas City Commodity Office, P.O. Box 419205, Stop 8758, Kansas City, Missouri 64141-6205. In order to participate in the program authorized by this subpart, domestic users and exporters must execute the Upland Cotton Domestic User/Exporter Agreement and forward the original and one copy to KCCO.

§ 1427.106 Form of payment.

Payments under this subpart shall be made available in the form of commodity certificates issued under part 1401 of this chapter, or in cash, at the option of the program participant.

§ 1427.107 Payment rate.

(a) Beginning July 18, 1996, and ending July 31, 2008, the payment rate for purposes of calculating payments made under this subpart shall be determined as follows for exporters for cotton shipped on or after July 18, 1996, and for domestic users:

(1) Beginning the Friday following August 1 and ending the week in which the Northern Europe current (NEc) price, the Northern Europe forward (NEf) price, the U.S. Northern Europe current (USNEc) price, and the U.S. Northern Europe forward (USNEf) price first become available, the payment rate shall be:

(i) Beginning August 1, 1991, and ending May 14, 2002, the difference between the U.S. Northern Europe (USNE) price, minus 1.25 cents per pound, and the Northern Europe (NE) price;

(ii) Beginning May 15, 2002, and ending July 31, 2006, the difference between the USNE price and the NE price; and

(iii) Beginning August 1, 2006, and ending July 31, 2008, the difference between the USNE price, minus 1.25 cent per pound, and the NE price in the fourth week of a consecutive 4-week period in which the USNE price exceeded the NE price each week by:

(iv) During the period beginning August 1, 1991, and ending May 14, 2002, more than 1.25 cents per pound;

(v) During the period beginning May 15, 2002, and ending July 31, 2006, more than zero; and

(vi) During the period beginning August 1, 2006 and ending July 31, 2008, more than 1.25 cents per pound; and the adjusted work price (AWP) did not exceed the loan level for upland cotton by more than 134 percent in any week of the 4-week period; and

(2) Beginning the Friday through Thursday week after the week in which

the NEc, the NEf, the USNEc, and the USNEf prices first become available and ending the Thursday following July 31, the payment rate shall be:

- (i) Beginning August 1, 1991, and ending May 14, 2002, the difference between the USNEc price, minus 1.25 cents per pound, and the NEc price;
- (ii) Beginning May 15, 2002, and ending July 31, 2006, the difference between the USNEc price and the NEc price; and
- (iii) Beginning August 1, 2006, and ending July 31, 2008, the difference between the USNEc price, minus 1.25 cents per pound, and the NEc price in the fourth week of a consecutive 4-week period in which the USNEc price exceeded the NEc price each week by:
- (iv) During the period beginning August 1, 1991, and ending May 14, 2002, more than 1.25 cents per pound;
- (v) During the period beginning May 15, 2002, and ending July 31, 2006, more than zero; and
- (vi) During the period beginning August 1, 2006 and ending July 31, 2008, more than 1.25 cents per pound; and the adjusted world price (AWP) did not exceed the loan level for upland cotton by more than 134 percent in any week of the 4-week period.

(3) If either or both the USNEc price and the NEc price are not available, the payment rate may be:

- (i) Beginning August 1, 1991, and ending May 14, 2002, the difference between the USNEf price, minus 1.25 cents per pound, and the NEf price;
- (ii) Beginning May 15, 2002, and ending July 31, 2006, the difference between the USNEf price and the NEf price; and
- (iii) Beginning August 1, 2006, and ending July 31, 2008, the difference between the USNEf price, minus 1.25 cents per pound, and the NEf price.

(b) Whenever a 4-week period under paragraph (a) of this section contains a combination of NE, NEc, and NEf prices only for one to three weeks, such as occurs in the spring when the NE price is succeeded by the NEc and the NEf prices (Spring transition), and at the start of a new marketing year when the NEc and the NEf prices are succeeded by the NE price (marketing year transition), under paragraphs (a)(1) and (a)(2) of this section, during both the spring transition and the marketing year transition periods, to the extent practicable, the NEc and USNEc prices in combination with the NE and the USNE prices shall be taken into consideration during such 4-week periods to determine whether a payment is to be issued. During both the spring transition and the marketing year transition periods, if either or both the

USNEc price and the NEc price are not available, the USNEf and NEf prices in combination with the USNE and NE prices shall be taken into consideration during such 4-week periods to determine whether a payment is to be issued.

(c) For purposes of this subpart:

(1) For the determination of the USNE, USNEc, USNEf, NE, NEc, and the NEf prices:

(i) If daily quotations are not available for one or more days of the 5-day period, the available quotations during the period will be used;

(ii) CCC will not consider a week in which no daily quotes are available for the entire 5-day period for either or both the USNE and the NE during the period when only one daily price quotation is available for each growth quoted for M 1^{3/32}-inch cotton, delivered cost insurance, and freight (C.I.F.) northern Europe, or the USNEc and the NEc, or the USNEf and the NEf. In that case, CCC may establish a payment rate at a level it determines to be appropriate, taking into consideration the payment rate determined under paragraph (a) of this section for the most recent available week; and

(iii) Beginning July 18, 1996, if no daily quotes are available for the entire 5-day period for either or both the USNEc and the NEc, the marketing year transition shall be implemented immediately.

(2) Regarding the determination of the USNE, the USNEc, and the USNEf, if a quotation for either the U.S. Memphis territory or the California/Arizona territory, as quoted for M 1^{3/32}-inch cotton, delivered C.I.F. northern Europe, is not available for each day or any day of the 5-day period, available quotation(s) will be used.

(d) Payment rates for semi-processed motes that are of a quality suitable, without further processing, for spinning, papermaking or bleaching shall be based on a percentage of the basic rate for baled lint, as specified in the Upland Cotton Domestic User/Exporter Agreement.

§ 1427.108 Payment.

(a) Payments under this subpart shall be determined by multiplying:

- (1) The payment rate, determined under § 1427.107, by
- (2) The net weight (gross weight minus the weight of bagging and ties), determined under paragraph (b) of this section, of eligible upland cotton bales an eligible domestic user opens or an eligible exporter sold for export during the Friday through Thursday period following a week in which a payment rate is established.

(b) For the purposes of this subpart, the net weight shall be determined based upon:

(1) For domestic users, the weight on which settlement for payment of the cotton was based (landed mill weight);

(2) For reginned motes processed by an end user who converted such motes, without rebaling, to an end use in a continuous manufacturing process, the net weight of the reginned motes after final cleaning;

(3) For exporters, the shipping warehouse weight or the gin weight if the cotton was not placed in a warehouse, of the eligible cotton unless the exporter obtains and pays the cost of having all the bales in the shipment reweighed by a licensed weigher and furnishes a copy of the certified reweights.

(c) For the purposes of this subpart, eligible upland cotton will be considered—

(1) Consumed by the domestic user on the date the bale is opened for consumption; and

(2) Exported by the exporter on the date CCC determines is the date on which the cotton is shipped through July 31, 2008.

(d) Payments under this subpart shall be made available upon application for payment and submission of supporting documentation, including proof of purchase and consumption of eligible cotton by the domestic user or proof of export of eligible cotton by the exporter, as required by the CCC-issued provisions of the Upland Cotton Domestic User/Exporter Agreement.

Subpart D—Recourse Seed Cotton Loans

§ 1427.160 Applicability.

(a) This subpart is applicable to the 2002 through 2007 crops of upland and extra long staple seed cotton. These regulations set forth the terms and conditions under which recourse seed cotton loans shall be made available by CCC. Such loans will be available through March 31 of the year following the calendar year in which such crop is normally harvested. CCC may change the loan availability period to conform to State or locally imposed quarantines. Additional terms and conditions are in the note and security agreement which must be executed by a producer in order to receive such loans.

(b) Loan rates and the forms which are used in administering the recourse seed cotton loan program for a crop of cotton are available in FSA State and county offices. Loan rates shall be based upon the location at which the loan collateral is stored.

(c) A producer must, unless otherwise authorized by CCC, request the loan at the county office which, under part 718 of this title, is responsible for administering programs for the farm on which the cotton was produced. A CMA must, unless otherwise authorized by CCC, request the loan at a central county office designated by the State committee. All note and security agreements and related documents necessary for the administration of the recourse seed cotton loan program shall be prescribed by CCC and shall be available at State and county offices.

(d) Loans shall not be available for seed cotton produced on land owned or otherwise in the possession of the United States if such land is occupied without the consent of the United States.

§ 1427.161 Administration.

(a) The recourse seed cotton loan program which is applicable to a crop of cotton shall be administered under the general supervision of the Executive Vice President, CCC, or a designee and shall be carried out in the field by State and county FSA committees (State and county committees, respectively).

(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 these regulations which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, an action taken by such county committee which is not under the regulations of this subpart; or

(2) Require a county committee to withhold taking any action which is not under the regulations of this subpart.

(d) No provision or delegation herein to a State or county committee shall preclude the Executive Vice President, CCC (Administrator, FSA), or a designee from determining any question arising under the recourse seed cotton program or from reversing or modifying any determination made by the State or county committee.

(e) The Deputy Administrator, FSA, may authorize waiver or modification of deadlines and other program requirements where lateness or failure to meet such other requirements does not adversely affect the operation of the recourse seed cotton loan program.

(f) A representative of CCC may execute loan applications and related documents only under the terms and conditions determined and announced by CCC. Any such document which is

not executed under such terms and conditions, including any purported execution before the date authorized by CCC, shall be null and void.

§ 1427.162 [Reserved].

§ 1427.163 Disbursement of loans.

(a) A producer or the producer's agent shall request a loan at the county office for the county which, under part 718 of this title, is responsible for administering programs for the farm on which the cotton was produced and which will assist the producer in completing the loan documents, except that CMA's designated by producers to obtain loans in their behalf may, unless otherwise authorized by CCC, obtain loans through a central county office designated by the State committee.

(b) Disbursement of each loan will be made by the county office of the county which is responsible for administering programs for the farm on which the cotton was produced, except that CMA's designated by producers to obtain loans in their behalf may, unless otherwise authorized by CCC, obtain disbursement of loans at a central county office designated by the State committee.

Service charges shall be deducted from the loan proceeds. The producer or the producer's agent shall not present the loan documents for disbursement unless the cotton is in existence and in good condition. If the cotton is not in existence and in good condition at the time of disbursement, the producer or the agent shall immediately return the check issued in payment of the loan or, if the check has been negotiated, the total amount disbursed under the loan, and charges plus interest shall be refunded promptly.

§ 1427.164 Eligible producer.

An eligible producer must meet the requirements of § 1427.4.

§ 1427.165 Eligible seed cotton.

(a) Seed cotton pledged as collateral for a loan must be tendered to CCC by an eligible producer and must:

(1) Be in existence and in good condition at the time of disbursement of loan proceeds;

(2) Be stored in identity-preserved lots in approved storage meeting requirements of § 1427.171;

(3) Be insured at the full loan value against loss or damage by fire;

(4) Not have been sold, nor any sales option on such cotton granted, to a buyer under a contract which provides that the buyer may direct the producer to pledge the seed cotton to CCC as collateral for a loan;

(5) Not have been previously sold and repurchased; or pledged as collateral for a CCC loan and redeemed;

(6) Be production from acreage that has been reported timely under part 718 of this title; and

(b) The quality of cotton which may be pledged as collateral for a loan shall be the estimated quality of lint cotton in each lot of seed cotton as determined by the county office, except that if a control sample of the lot of cotton is classed by an Agricultural Marketing Service (AMS) Cotton Classing Office or other entity approved by CCC, the quality for the lot shall be the quality shown on the applicable documentation issued for the control sample.

(c) To be eligible for loan, the beneficial interest in the seed cotton must be in the producer who is pledging the seed cotton as collateral for a loan as provided in § 1427.5(c).

§ 1427.166 Insurance.

The seed cotton must be insured at the full loan value against loss or damage by fire.

§ 1427.167 Liens.

If there are any liens or encumbrances on the seed cotton tendered as collateral for a loan, waivers that fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the loan proceeds. No additional liens or encumbrances shall be placed on the cotton after the loan is approved.

§ 1427.168 [Reserved].

§ 1427.169 Fees, charges, and interest.

(a) A producer shall pay a non-refundable loan service fee to CCC at a rate determined by CCC.

(b) Interest which accrues for a loan shall be determined under part 1405 of this chapter.

§ 1427.170 Quantity for loan.

(a) The quantity of lint cotton in each lot of seed cotton tendered for loan shall be determined by the county office by multiplying the weight or estimated weight of seed cotton by the lint turnout factor determined under paragraph (b) of this section.

(b) The lint turnout factor for any lot of seed cotton shall be the percentage determined by the county committee representative during the initial inspection of the lot. If a control portion of the lot is weighed and ginned, the turnout factor determined for the portion of cotton ginned will be used for the lot. If a control portion is not weighed and ginned, the lint turnout factor shall not exceed 32 percent for machine-picked cotton and 22 percent

for machine-stripped cotton unless acceptable proof is furnished showing that the lint turnout factor is greater.

(c) Loans shall not be made on more than a percentage established by the county committee of the quantity of lint cotton determined as provided in this section. If the seed cotton is weighed, the percentage to be used shall not be more than 95 percent. If the quantity is determined by measurement, the percentage to be used shall not be more than 90 percent. The percentage to be used in determining the maximum quantity for any loan may be reduced below such percentages by the county committee when determined necessary to protect the interests of CCC on the basis of one or more of the following risk factors:

- (1) Condition or suitability of the storage site or structure;
- (2) Condition of the cotton;
- (3) Location of the storage site or structure; and
- (4) Other factors peculiar to individual farms or producers which related to the preservation or safety of the loan collateral. Loans may be made on a lower percentage basis at the producer's request.

§ 1427.171 Approved storage.

Approved storage shall consist of storage located on or off the producer's farm (excluding public warehouses) which is determined by a county committee representative to afford adequate protection against loss or damage and which is located within a reasonable distance, as determined by CCC, from an approved gin. If the cotton is not stored on the producer's farm, the producer must furnish satisfactory evidence that the producer has the authority to store the cotton on such property and that the owner of such property has no lien for such storage against the cotton. The producer must provide satisfactory evidence that the producer and any person having an interest in the cotton including CCC, have the right to enter the premises to inspect and examine the cotton and shall permit a reasonable time to such persons to remove the cotton from the premises.

§ 1427.172 Settlement.

(a) A producer may, at any time before maturity of the loan, obtain release of all or any part of the loan seed cotton by paying to CCC the amount of the loan, plus interest and charges.

(b)(1) A producer or the producer's agent shall not remove from storage any cotton which is pledged as collateral for a loan until prior written approval has been received from CCC for removal of

such cotton. If a producer or the producer's agent obtains such approval, they may remove such cotton from storage, sell the seed cotton, have it ginned, and sell the lint cotton and cottonseed obtained therefrom. The ginner shall inform the county office in writing immediately after the seed cotton removed from storage has been ginned and furnish the county office the loan number, producer's name, and applicable gin bale numbers. If the seed cotton is removed from storage, the loan principal plus interest and charges thereon must be satisfied not later than the earlier of:

(i) The date established by the county committee;

(ii) 5 days after the date of the producer received the AMS classification under § 1427.9 (and the warehouse receipt, if the cotton is delivered to a warehouse), representing such cotton; or

(iii) The loan maturity date.

(2) If the seed cotton or lint cotton is sold, the loan principal, interest, and charges must be satisfied immediately.

(3) A producer, except a CMA, may obtain a nonrecourse loan or loan deficiency payment under subpart A of this part, on the lint cotton, but:

(i) The loan principal, interest, and charges on the seed cotton must be satisfied from the proceeds of the nonrecourse loan under subpart A of this part; or

(ii) The loan deficiency payment must be applied to the loan principal, interest, and charges on the outstanding seed cotton loan.

(4) A CMA must repay the seed cotton loan principal, interest, and charges before pledging the cotton for a nonrecourse loan or before a loan deficiency payment can be approved under subpart A of this part, on the lint cotton. If CMA's authorized by producers to obtain loans in their behalf remove seed cotton from storage before obtaining approval to move such cotton, such removal shall constitute conversion of such cotton unless the CMA:

(i) Notifies the county office in writing the following morning by mail or otherwise that such cotton has been moved and is on the gin yard;

(ii) Furnishes CCC an irrevocable letter of credit if requested; and

(iii) Repays the loan principal, plus interest and charges, within the time specified by the county committee.

(5) Any removal from storage shall not be deemed to constitute a release of CCC's security interest in the seed cotton or to release the producer or CMA from liability for the loan principal, interest, and charges if full

payment of such amount is not received by the county office.

(c) If, either before or after maturity, the producer discovers that the cotton is going out of condition or is in danger of going out of condition, the producer shall immediately notify the county office and confirm such notice in writing. If the county committee determines that the cotton is going out of condition or is in danger of going out of condition, the county committee will call for repayment of the loan principal, plus interest and charges on or before a specified date. If the producer does not repay the loan or have the cotton ginned and obtain a nonrecourse loan under subpart A of this part on the lint cotton produced therefrom within the period as specified by the county committee, the cotton shall be considered abandoned.

(d) If the producer has control of the storage site and if the producer subsequently loses control of the storage site or there is danger of flood or damage to the seed cotton or storage structure making continued storage of the cotton unsafe, the producer shall immediately either repay the loan or move the seed cotton to the nearest approved gin for ginning and shall, at the same time, inform the county office. If the producer does not do so, the seed cotton shall be considered abandoned.

§ 1427.173 Foreclosure.

Any seed cotton pledged as collateral for a loan which is abandoned or which has not been ginned and pledged as collateral for a nonrecourse loan under subpart A of this part by the seed cotton loan maturity date may be removed from storage by CCC and ginned and the resulting lint cotton warehoused for the account of CCC. The lint cotton and cottonseed may be sold, at such time, in such manner, and upon such terms as CCC may determine, at public or private sale. CCC may become the purchaser of the whole or any part of such cotton and cottonseed. If the proceeds received from the sales of the cotton are less than the amount due on the loan (including principal, interest, ginning charges, and any other charges incurred by CCC), the producer shall be liable for such difference. If the proceeds received from sale of the cotton are greater than the sum of the amount due plus any cost incurred by CCC in conducting the sale of the cotton, the amount of such excess shall be paid to the producer or, if applicable, to any secured creditor of the producer.

§ 1427.174 Maturity of seed cotton loans.

Seed cotton loans mature on demand by CCC but no later than May 31

following the calendar year in which such crop is normally harvested.

§ 1427.175 Liability of the producer.

(a)(1) If a producer makes any fraudulent representation in obtaining a loan, maintaining a loan, or settling a loan or if the producer disposes of or moves the loan collateral without the prior approval of CCC, such loan amount shall be refunded upon demand by CCC. The producer shall be liable for:

(i) The amount of the loan;

(ii) Any additional amounts paid by CCC for the loan;

(iii) All other costs which CCC would not have incurred but for the fraudulent representation or the unauthorized disposition or movement of the loan collateral;

(iv) Applicable interest on such amounts; and

(v) Liquidated damages under paragraph (e) of this section.

(2) Notwithstanding any provision of the note and security agreement, if a producer has made any such fraudulent representation or if the producer has disposed of, or moved, the loan collateral without prior written approval from CCC, the value of such collateral acquired by CCC shall be equal to the sales price of the cotton less any costs incurred by CCC in completing the sale.

(b) If the amount disbursed under a loan, or in settlement thereof, exceeds the amount authorized by this subpart, the producer shall be liable for repayment of such excess, plus interest. In addition, seed cotton pledged as collateral for such loan shall not be released to the producer until such excess is repaid.

(c) If the amount collected from the producer in satisfaction of the loan is less than the amount required under this subpart, the producer shall be personally liable for repayment of the amount of such deficiency plus applicable interest.

(d) If more than one producer executes a note and security agreement with CCC, each such producer shall be jointly and severally liable for the violation of the terms and conditions of the note and security agreement and the regulations in this subpart. Each such producer shall also remain liable for repayment of the entire loan amount until the loan is fully repaid without regard to such producer's claimed share in the seed cotton pledged as collateral for the loan. In addition, such producer may not amend the note and security agreement for the producer's claimed share in such seed cotton, after execution of the note and security agreement by CCC.

(e) The producer and CCC agree that it will be difficult, if not impossible, to prove the amount of damages to CCC if a producer makes any fraudulent representation in obtaining a loan or in maintaining or settling a loan or disposing of or moving the collateral without the prior approval of CCC. Accordingly, if CCC or the county committee determines that the producer has violated the terms or conditions of the note and security agreement, liquidated damages shall be assessed on the quantity of the seed cotton which is involved in the violation. If CCC or the county committee determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed by multiplying the quantity involved in the violation by:

(i) 10 percent of the loan rate applicable to the loan note for the first offense;

(ii) 25 percent of the loan rate applicable to the loan note for the second offense; or

(2) Did not act in good faith about the violation, or for cases other than first or second offense, liquidated damages will be assessed by multiplying the quantity involved in the violation by 25 percent of the loan rate applicable to the loan note.

(f) For first and second offenses, if CCC or the county committee determines that a producer acted in good faith when the violation occurred, the county committee shall:

(1) Require repayment of the loan principal applicable to the loan quantity affected by the violation, and charges plus interest applicable to the amount repaid;

(2) Assess liquidated damages under paragraph (e) of this section; and

(3) If the producer fails to pay such amount within 30 calendar days from the date of notification, call the applicable loan involved in the violation.

(g) For cases other than first or second offenses, or any offense for which CCC or the county committee cannot determine good faith when the violation occurred, the county committee shall:

(1) Assess liquidated damages under paragraph (e) of this section;

(2) Call the applicable loan involved in the violation.

(h) If CCC or the county committee determines that the producer has committed a violation under paragraph (e) of this section, the county committee shall notify the producer in writing that:

(1) The producer has 30 calendar days to provide evidence and information to the county committee regarding the

circumstances which caused the violation, and

(2) Administrative actions will be taken under paragraphs (f) or (g) of this section.

(i) Any or all of the liquidated damages assessed under the provision of paragraph (e) of this section may be waived as determined by CCC.

Subpart E—Standards for Approval of Warehouses for Cotton and Cotton Linters

* * * * *

Subpart F—[Reserved].

Subpart G—Extra Long Staple (ELS) Cotton Competitiveness Payment Program

§ 1427.1200 Applicability.

(a) These regulations set forth the terms and conditions under which CCC shall make payments, in the form of commodity certificates or cash, to eligible domestic users and exporters of extra long staple (ELS) cotton who have entered into an ELS Cotton Domestic User/Exporter Agreement with CCC to participate in the ELS cotton competitiveness payment program under section 136A(c) of the Federal Agriculture Improvement and Reform Act of 1996 and section 1208 of the Farm Security and Rural Investment Act of 2002.

(b) During the effective period of these regulations, CCC may issue marketing certificates or cash payments to domestic users and exporters, at the option of the recipient under this subpart, in any week following a consecutive 4-week period in which:

(1) The lowest adjusted Friday through Thursday average price quotation for foreign growths (LFQ), as quoted for ELS cotton, delivered C.I.F. (cost, insurance and freight) Northern Europe, is less than the Friday through Thursday adjusted average domestic spot price quotation for base quality U.S. Pima cotton, as determined by the Secretary for purposes of administering the ELS Cotton Competitiveness Payment Program, uncompressed, F.O.B. warehouse; and

(2) The LFQ, determined under § 1427.1207, is less than 134 percent of the current crop year loan level for the base quality U.S. Pima cotton as determined by the Secretary.

(c) Additional terms and conditions may be in the ELS Cotton Domestic User/Exporter Agreement, which the domestic user or exporter must execute in order to receive such payments.

(d) CCC shall prescribe the forms to be used in administering the ELS cotton competitiveness payment program.

§ 1427.1201 [Reserved].

§ 1427.1202 Definitions.

Consumption means, the use of eligible ELS cotton by a domestic user in the manufacture in the United States of ELS cotton products.

Cotton product means any product containing cotton fibers that result from the use of an eligible bale of ELS cotton in manufacturing.

Current shipment price means, during the period in which two daily price quotations are available for the LFQ for the foreign growth, quoted C.I.F. northern Europe, the price quotation for cotton for shipment no later than August/September of the current calendar year.

Forward shipment price means, during the period in which two daily price quotations are available for the LFQ for foreign growths, quoted C.I.F. northern Europe, the price quotation for cotton for shipment no earlier than October/November of the current calendar year.

LFQ means, during the period in which only one daily price quotation is available for the growth, the lowest average for the preceding Friday-through-Thursday week of the price quotations for foreign growths of ELS cotton, quoted cost, insurance, and freight C.I.F. northern Europe, after each respective average is adjusted for quality differences between the respective foreign growth and U.S. Pima, of the base quality, provided that the lowest adjusted quotation becomes the LFQ after it is further adjusted to reflect the estimated cost of transportation between an average U.S. location and northern Europe.

(1) *Current LFQ* means the preceding Friday through Thursday average of the current shipment prices for the lowest adjusted foreign growth, C.I.F. northern Europe.

(2) *Forward LFQ* means the preceding Friday through Thursday average of the forward shipment prices for the lowest adjusted foreign growth, quoted C.I.F. northern Europe.

Spot price means the Friday-through-Thursday weekly average of the domestic spot prices reported by the Agricultural Marketing Service, USDA, for base quality U.S. Pima, uncompressed, F.O.B. warehouse, for the San Joaquin and Desert Southwest markets. When both San Joaquin Valley and Desert Southwest spot quotations are available, the U.S. quotation will be a weighted average of the two

quotations, as determined by the Secretary. If only one quotation is available, that quotation will be used.

§ 1427.1203 Eligible ELS cotton.

(a) For the purposes of this subpart, eligible ELS cotton is domestically produced baled ELS cotton that is:

- (1) Opened by an eligible domestic user on or after October 1, 1999, or
- (2) Exported by an eligible exporter on or after October 1, 1999, during a Friday-through-Thursday period in which a payment rate, determined under § 1427.1207, is in effect, and that meets the requirements of paragraphs (b) and (c) of this section;

(b) Eligible ELS cotton must be either:

- (1) Baled lint, including baled lint classified by USDA's Agricultural Marketing Service as Below Grade; or
- (2) Loose.

(c) Eligible ELS cotton must not be:

- (1) ELS for which a payment, under the provisions of this subpart, has been made available;
- (2) Imported ELS cotton;
- (3) Raw (unprocessed) motes;
- (4) Textile mill wastes; or
- (5) Semi-processed or reginned (processed) motes.

§ 1427.1204 Eligible domestic users and exporters.

(a) For the purposes of this subpart, the following persons shall be considered eligible domestic users and exporters of ELS cotton:

(1) A person regularly engaged in the business of opening bales of eligible ELS cotton to manufacturing such cotton into cotton products in the United States (domestic user), and who has entered into an agreement with CCC to participate in the ELS cotton competitiveness payment program; or

(2) A person, including a producer or a cooperative marketing association approved under part 1425 of this chapter, regularly engaged in selling eligible ELS cotton for exportation from the United States (exporter), and who has entered into an agreement with CCC to participate in the ELS Cotton Competitiveness Payment Program.

(b) Payment applications under this subpart must contain documentation required by the CCC-issued provisions of the ELS Cotton Domestic User/Exporter Agreement and instructions.

§ 1427.1205 ELS Cotton Domestic User/Exporter Agreement.

(a) Payments under this subpart shall be made available to eligible domestic users and exporters who have entered into an ELS Cotton Domestic User/Exporter Agreement with CCC and who have complied with the terms and

conditions in this subpart, the ELS Cotton Domestic User/Exporter Agreement and CCC-issued instructions.

(b) ELS Cotton Domestic User/Exporter Agreements may be obtained from CCC. To participate in the program authorized by this subpart, domestic users and exporters must execute the ELS Cotton Domestic User/Exporter Agreement and forward the original and one copy to CCC.

§ 1427.1206 Form of payment.

Payments under this subpart shall be made available in the form of commodity certificates issued under part 1401 of this chapter, or in cash, at the option of the participant, as CCC determines and announces.

§ 1427.1207 Payment rate.

(a) The payment rate for payments made under this subpart shall be determined as follows:

(1) Beginning the Thursday following August 1 and ending the week in which the current LFQ and the forward LFQ may first become available, the payment rate shall be the difference between the U.S. Pima spot price and the LFQ in the fourth week of a consecutive 4-week period in which the U.S. Pima spot price exceeded the LFQ each week, and the LFQ was less than 134 percent of the current crop year loan level for U.S. base quality Pima cotton in all weeks of the 4-week period; and

(2) Beginning the Friday-through-Thursday week after the week in which the current LFQ and the forward LFQ may first become available and ending the Thursday following July 31, the payment rate shall be the difference between the U.S. Pima spot price and the current LFQ in the fourth week of a consecutive 4-week period in which the U.S. Pima spot price exceeded the current LFQ each week, and the current LFQ was less than 134 percent of the current crop year loan level for base quality U.S. Pima in all weeks of the 4-week period. If the current LFQ is not available, the payment rate may be the difference between the U.S. Pima spot price and the forward LFQ.

(b) Whenever a 4-week period under paragraph (a) of this section contains a combination of LFQ, current LFQ and forward LFQ for only one to three weeks, such as may occur in the spring when the LFQ price is succeeded by the current LFQ and the forward LFQ (Spring transition) and at the start of a new marketing year when the current LFQ and the forward LFQ are succeeded by the LFQ (marketing year transition), under paragraphs (a)(1) and (a)(2) of this section, during both the spring transition and the marketing year

transition periods, to the extent practicable, the current LFQ in combination with the LFQ shall be considered during such 4-week periods to determine whether a payment is to be issued. During both the spring transition and the marketing year transition periods, if the current LFQ is not available, the forward LFQ in combination with the LFQ shall be taken into consideration during such 4-week periods to determine whether a payment is to be issued.

(c) For purposes of this subpart, regarding the determination of the U.S. Pima spot price, the LFQ, the current LFQ and the forward LFQ:

(1) If daily quotations are not available for one or more days of the 5-day period, the available quotations during the period will be used;

(2) If the U.S. Pima spot price is not available or if none of the LFQ, current LFQ or forward LFQ is available, the payment rate shall be zero and shall remain zero unless and until sufficient U.S. Pima spot prices and/or LFQ again become available, the U.S. Pima spot price exceeds the LFQ, the current LFQ or the forward LFQ, as the case may be, and the LFQ, the current LFQ, or the forward LFQ, as the case may be, is less than 134 percent of the current crop year loan rate for base quality U.S. Pima for 4 consecutive weeks.

(d) Payment rates for loose, reginned motes and semi-processed motes that are of a quality suitable, without further processing, for spinning, papermaking or bleaching shall be based on a percentage of the basic rate for baled lint, as specified in the ELS Cotton Domestic User/Exporter Agreement.

§ 1427.1208 Payment.

(a) Payments under this subpart shall be determined by multiplying:

(1) The payment rate, determined under § 1427.127, by

(2) The net weight (gross weight minus the weight of bagging and ties) determined under paragraph (b) of this section, of eligible ELS cotton bales that an eligible domestic user opens or an eligible exporter exports during the Friday-through-Thursdays period following a week in which a payment rate is established.

(b) For the purposes of this subpart, the net weight shall be based upon:

(1) For domestic users, the weight on which settlement for payment of the ELS cotton was based (landed mill weight);

(2) For reginned motes processed by an end user who converted such motes, without rebaling, to an end use in a continuous manufacturing process, the

net weight of the reginned motes after final cleaning;

(3) For exporters, the shipping warehouse weight or the gin weight if the ELS cotton was not placed in a warehouse, of the eligible cotton unless the exporter obtains and pays the cost of having all the bales in the shipment reweighed by a licensed weigher and furnishes a copy of the certified reweights.

(c) For the purposes of this subpart, eligible ELS cotton will be considered:

(1) Consumed by the domestic user on the date the bale is opened for consumption; and

(2) Exported by the exporter on the date that CCC determines is the date on which the cotton is shipped for export.

(d) Payments under this subpart shall be made available upon application for payment and submission of supporting documentation, as required by the CCC-issued provisions of the ELS Cotton Domestic User/Exporter Agreement.

PART 1430—DAIRY PRODUCTS

9. The authority citation is revised to read as follows:

Authority: 7 U.S.C. 7981 and 7982; 15 U.S.C. 714b and 714c.

10. Amend Subpart A by revising it to read as follows:

Subpart A—Price Support Program for Milk Sec.

1430.1 Definitions.

1430.2 Price support levels and purchase conditions.

§ 1430.1 Definitions.

For purposes of this subpart, unless the context indicates otherwise, the following definitions shall apply:

AMS means the Agricultural Marketing Service, USDA.

CCC means the Commodity Credit Corporation, USDA.

FSA means the Farm Service Agency, USDA.

USDA means the United States Department of Agriculture.

§ 1430.2 Price support levels and purchase conditions.

(a)(1) The level of price support provided to farmers marketing milk containing 3.67 percent milkfat from dairy cows is \$9.90 per hundredweight for calendar year 2002 through 2007.

(2) Subject to paragraph (b) of this section, price support for milk will be made available through CCC purchases of butter, nonfat dry milk, and Cheddar cheese, offered subject to the terms and conditions of FSA's purchase announcements.

(3) CCC purchase prices for dairy products will be announced by a USDA news release.

(4) CCC may, by special announcement, offer to purchase other dairy products to support the price of milk.

(5) Purchase announcements setting forth terms and conditions of purchase may be obtained upon request from CCC.

(b)(1) The block cheese purchased shall be U.S. Grade A or higher, except that the moisture content shall not exceed 38.5 percent; the barrel cheese shall be U.S. Extra Grade, except that the moisture content shall not exceed 36.5 percent.

(2) The nonfat dry milk purchased shall be U.S. Extra Grade, except that the moisture content shall not exceed 3.5 percent.

(3) The butter purchased shall be U.S. Grade A or higher.

(c) The products purchased shall be manufactured in the United States from milk produced in the United States and shall not have been previously owned by CCC.

(d) Purchases will be made in carlot weights specified in the announcements. Grade and weights shall be evidenced by USDA-issued inspection certificates.

11. Amend Subpart B by revising it to read as follows:

Subpart B—Milk Income Loss Contract Program Sec.

- 1430.200 Applicability.
- 1430.201 Administration.
- 1430.202 Definitions.
- 1430.203 Eligibility.
- 1430.204 Requesting benefits.
- 1430.205 Selection of starting month.
- 1430.206 Transition payments.
- 1430.207 Dairy operation payment quantity.
- 1430.208 Payment rate and dairy operation payment.
- 1430.209 Proof of marketings.
- 1430.210 MLC agents.
- 1430.211 Duration of contracts.
- 1430.212 Contract modifications.
- 1430.213 Reconstitutions.
- 1430.214 Violations.
- 1430.215 [Reserved].
- 1430.216 Contracts not in conformity with regulations.
- 1430.217 Offsets and withholdings.
- 1430.218 Assignments.
- 1430.219 Appeals.
- 1430.220 Misrepresentation and scheme or device.
- 1430.221 Estates, trusts, and minors.
- 1430.222 Death, incompetency, or disappearance.
- 1430.223 Maintenance and inspection of records.
- 1430.224 Refunds; joint and several liability.
- 1430.225 Violations of highly erodible land and wetland conservation provisions.

1430.226 Violations regarding controlled substances.

§ 1430.200 Applicability.

(a) This subpart governs the Milk Income Loss Contract Program. This program provides financial assistance to dairy operations in connection with milk production that is sold in the commercial market.

§ 1430.201 Administration.

(a) This program is administered under the general supervision of the Executive Vice President, CCC, or a designee, and shall be carried out by Farm Service Agency (FSA) State and county committees and employees.

(b) State and county committees, and their employees may not waive or modify any requirement of this subpart, except as provided in paragraph (e) of this section.

(c) The State committee shall take any action required when not taken by the county committee, require correction of actions not in compliance, or require the withholding of any action that is not in compliance with this subpart.

(d) The Executive Vice President, CCC, or a designee, may determine any question arising under the program or reverse or modify any decision of the State or county committee.

(e) The Deputy Administrator, Farm Programs, FSA, may waive or modify program requirements where failure to meet such requirements does not adversely affect the operation of the Milk Income Loss Contract Program.

(f) A representative of CCC may execute Milk Income Loss Contracts and related documents under the terms and conditions determined and announced by CCC. Any document not under such terms and conditions, including any purported execution before the date authorized by CCC, shall be null and void.

§ 1430.202 Definitions.

The definitions in this section shall be applicable for all purposes of administering the Milk Income Loss Contract (MILC) program established by this subpart.

CCC means the Commodity Credit Corporation of the Department.

Class I Milk means milk, including milk components, classified as Class I milk under a Federal milk marketing order.

Contract application means a Milk Income Loss Contract as executed on a form prescribed by CCC.

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

County committee means the FSA county committee.

County office means the FSA office responsible for administering FSA programs to farms located in a specific area in a state.

Dairy operation means any person or group of persons who as a single unit as determined by CCC, produce and market milk commercially produced from cows and whose production facilities are located in the United States.

Department or USDA means the United States Department of Agriculture.

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

Eligible production means milk that was produced by cows in the United States and marketed commercially anytime during the period of December 1, 2001, through September 30, 2005, up to a maximum of 2.4 million pounds per dairy operation per fiscal year.

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

Federal Milk Marketing Order means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

Fiscal Year means the year beginning October 1 (except December 1 for fiscal year 2002) and ending the following September 30 and such that, for example, fiscal year 2003 will run from October 1, 2002 through September 30, 2003.

Hundredweight or cwt. means 100 pounds.

Marketed commercially means sold to the market to which the dairy operation normally delivers whole milk and receives a monetary amount.

MILC means the Milk Income Loss Contract program or the form upon which CCC and the producer agree to the terms of the payment to be made under the MILC program.

Milk handler means the marketing agency to or through which the producer commercially markets whole milk.

Milk marketing means a marketing of milk for which there is a verifiable sales or delivery record of milk marketed for commercial use.

Participating State means each of the 50 States in the United States of America, including the District of Columbia, and the Commonwealth of Puerto Rico, or any other State, territory, or possession of the United States.

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

Producer 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 in the United States, and who directly or indirectly, as determined by the Secretary, shares in the risk of producing milk, and makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of this operation.

Transition period means the period from December 1, 2001, until the time the dairy operation enters into MILC contract with CCC, provided that CCC may set such a deadline for the signing of the transition contract as it deems appropriate in order to accomplish the purposes of the contract.

United States means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico, or any other State, territory, or possession of the United States.

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

§ 1430.203 Eligibility.

To be eligible to receive payments under this subpart, a dairy operation must:

(a) Have produced milk in the United States and commercially marketed the milk produced anytime during the period of December 1, 2001, through September 30, 2005;

(b) Enter into a MILC during the contract application period;

(c) Agree to all terms and conditions in the MILC and those that are otherwise contained in this subpart and comply with instructions issued by CCC;

(d) Provide proof of monthly milk production commercially marketed by all persons in the dairy operation during the contract period, to determine the total pounds of milk that will be converted to hundredweight (cwt.) used for payment;

(e) Submit timely production evidence according to § 1430.209;

(f) Be actively engaged in the business of producing and marketing agricultural products at the time of signing the Milk Income Loss Contract.

(g) In administering this program, the eligibility determination of "dairy operation" shall be made in the same manner as Dairy Market Loss Assistance (DMLA) contracts in that State. New MILC operations must be unaffiliated with prior DMLA operations.

§ 1430.204 Requesting benefits.

(a) A request for benefits or contract application, under this subpart must be submitted on a form as prescribed by the Agency. Contract applications shall be submitted to the FSA office serving the county where the dairy operation is located. Contract applications must be received by FSA by the close of business on the date established by the Deputy Administrator. Contract applications received after such date shall be disapproved.

(b) The dairy operation requesting MILC benefits must certify the accuracy and truthfulness of the information in their contract application. All information provided is subject to verification by CCC. Refusal to allow CCC or any other agency of the Department to verify any information provided will result in disapproval.

(c) Contract applications will be approved by execution by FSA and producer of a MILC. All persons who share in the risk of a dairy operation's total production must sign and certify the contract application.

§ 1430.205 Selection of starting month.

(a) Except as provided in § 1430.206 and beginning with the 2003 Fiscal Year, a dairy operation that enters into a MILC, and does not want its payments to begin with the first month of the fiscal year, must designate the starting month that it desires CCC to begin making payments to them. The starting month must be selected on or before the 15th of the month before the month for which payment is sought. A dairy operation cannot select a month for payment which:

- (1) Has already begun;
- (2) Has already passed; or
- (3) During which no milk was produced by the dairy operation.

(b) Dairy operations may change the starting month on or before the first day of 15th of the month before the month previously selected. Otherwise, the starting month cannot be changed until the next Fiscal Year. If the selected starting month is never modified, it will remain the same throughout the duration of the contract.

(c) MILC payments will be made consecutively to the dairy operation on a monthly basis after the starting month has been designated until the earlier of the following:

(1) The maximum payment quantity is reached as determined in accordance with § 1430.207; or

(2) The end of the applicable Fiscal Year.

(d)(1) Dairy operations that do not designate the month to begin receiving payments from CCC will be issued consecutive payments on a monthly basis, on marketed milk production beginning in the first month of the fiscal year, unless FSA is otherwise notified that selection will be made at a later date.

(2) Dairy operations that desire payments to begin with the first month of the fiscal year will receive payments made by CCC consecutively on a monthly basis until the earlier of the following:

(i) The maximum payment quantity is reached as determined in accordance with § 1430.207; or

(ii) The end of the applicable fiscal year.

(e) All producers involved in the dairy operation must agree to the month designated. The dairy operation assumes the risk of not reaching the maximum payment quantity based on the month selected by the dairy operation. Payments will not be issued for past months for the sole purpose of reaching the maximum payment quantity.

§ 1430.206 Transition payments.

(a) MILC program participants shall receive a payment calculated under § 1430.208 on the quantity of eligible production marketed by the dairy operation during the period beginning December 1, 2001, and ending on the last day of the month preceding the month the operation's MILC is executed.

(b) Transition payments are subject to the following:

(1) The maximum payment quantity on eligible production, as described in § 1430.207;

(2) Consecutive monthly payments beginning on December 1, 2001, and if applicable the beginning of the fiscal year thereafter, until the earlier of the following is reached for a particular fiscal year:

(i) The maximum applicable payment quantity is reached as determined in accordance with § 1430.207; or

(ii) The end of the applicable fiscal year.

(c) With respect to the 2002 Fiscal Year, the dairy operation may elect to forgo their transition payment and choose to begin receiving payments in September, 2002 in accordance with § 1430.205.

(d) Notwithstanding any other provisions in this subpart, dairy

operations that go out of business after December 1, 2001, may enter into a MILC with CCC for a transition payment on the quantity of eligible production marketed by the dairy operation during the transition period while the dairy operation was in business.

§ 1430.207 Dairy operation payment quantity.

(a) The applicant's payment quantity of milk will be determined by CCC, based on the quantity of milk that was produced and commercially marketed by each dairy operation per fiscal year.

(b) The maximum quantity of eligible production for which dairy operations are eligible for payment per any fiscal year, including any in the transition year, under this subpart shall be 2.4 million pounds (24,000 cwt.) per separate and distinct operation. In accordance with these regulations, the Deputy Administrator shall determine what is a separate and distinct operation and that decision shall be final.

§ 1430.208 Payment rate and dairy operation payment.

(a) Payments under this subpart may be made to dairy operations when the Boston Class I milk price under the applicable Federal milk marketing order is below \$16.94 per cwt. No payments will be made to dairy operations for marketings during the months that the Boston Class I milk price under the applicable milk marketing order exceeds \$16.94.

(b) A per-hundredweight payment rate will be determined for the applicable month by:

- (1) Subtracting from \$16.94 the Class I milk price per cwt in Boston; and
- (2) Multiplying the difference, if positive, by 45 percent.

(c) Each eligible dairy operation payment will be calculated, as determined by the Secretary, by:

(1) Converting whole pounds of milk to hundredweight; and

(2) Multiplying the payment rate determined in paragraph (b) of this section by the quantity of eligible production marketed by the operation during the applicable month as determined according to § 1430.205 and other provisions of these regulations.

(d) Payments under this subpart may be made to a dairy operation only up to the first 2.4 million pounds of eligible milk production per applicable fiscal year, including any year in the transition period.

(e) Dairy operations receiving benefits under this subpart, will receive payments on a monthly basis according to the MILC, to the extent practicable, not later than 60 days after the

production evidence and all supporting documents for the applicable month are received by CCC. Payments issued by CCC later than 60 days after all production evidence and supporting documentation are received by CCC will be subject to prompt payment interest as allowed by law.

§ 1430.209 Proof of marketings.

(a) A dairy operation entering into an MILC must, based on instructions issued by the Deputy Administrator, provide adequate proof of the dairy operation's eligible production during the months of each fiscal year designated in the MILC. The dairy operation must also provide proof that the eligible production was commercially marketed during the months beginning December 1, 2001, and ending September 30, 2005. Evidence of milk production claimed for payment shall be provided to CCC with supporting documentation under paragraph (b) of this section. All information provided is subject to verification, spot check, and audit by FSA. Further verification information may be obtained from the dairy operation's milk handler or marketing cooperative if deemed necessary by CCC to verify provided information. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility for benefits under this subpart.

(b) Eligible dairy operations marketing milk during the period specified in the MILC shall provide any available supporting documents from all producers in the dairy operation to assist CCC in verifying that the dairy operation produced and marketed milk commercially from the designated starting month and thereafter. Examples of supporting documentation include, but are not limited to: milk marketing payment stubs, tank records, milk handler records, daily milk marketings, copies of any payments received as compensation from other sources, or any other documents available to confirm the production and production history of the dairy operation. Producers may also be required to allow CCC to examine the herd of cattle as production evidence. If supporting documentation requested is not presented to CCC or FSA, the request for MILC benefits will be disapproved.

§ 1430.210 MILC agents.

(a) MILC benefits may be disbursed by a dairy marketing cooperative that serves special groups or communities, such as an Amish or Mennonite community. Producers in such groups

in a dairy operation may authorize an agent of a dairy cooperative or milk handler affiliated with such cooperative to obtain and disburse MILC benefits to the dairy operation.

(b) The authorized MILC agent must on behalf of the dairy operation do the following:

(1) Obtain an acceptable power of attorney or acceptable equivalent for the producers of the dairy operation that authorizes the agent to enter into an MILC contract;

(2) Enter into a written agreement with CCC for approval to act as a MILC agent on a form prescribed by CCC;

(3) Provide the dairy operation's monthly production evidence to the appropriate FSA office;

(4) Disburse payment to the dairy operation in the producer's monthly milk check or in an otherwise approved manner.

§ 1430.211 Duration of contracts.

(a) Except as provided in §§ 1430.205 and 1430.206, or elsewhere in this subpart, contracts under this subpart entered into by producers in a dairy operation shall cover eligible production marketed by the producers in the dairy operation during the period beginning with the first day of the month the producers in the dairy operation enter into contract and ending on September 30, 2005.

(b) If a dairy goes out of business during the contract period, the MILC will be terminated immediately, except as applicable to earned payments.

§ 1430.212 Contract modifications.

(a) Producers in a dairy operation must notify FSA immediately of any changes that may affect their MILC. Changes include, but are not limited to changes to the starting month to receive payment for the next fiscal year, death of producer on the contract, new member joining the operation, member exiting the operation, transfer of shares by sale or other transfer action, or farm reconstitutions undertaken in accordance with § 1430.213.

(b) CCC may modify an MILC if such modifications are desirable to carry out purposes of the program or to facilitate the program's administration.

§ 1430.213 Reconstitutions.

(a) A dairy operation receiving MILC benefits may reorganize or restructure such that the constitution or makeup of their operation is reconstituted in another organizational framework. However, any operation that changes after December 1, 2001, is subject to a review by FSA to determine if the operation was reorganized for the sole purpose of receiving multiple payments.

(b) A dairy operation that FSA determines has reorganized solely to receive additional MILC payments will be in violation of its contract and dealt in accordance with § 1430.214.

(c) If during the contract period a change in the dairy operation occurs, the modification to the MILC will not take effect until the first day of the fiscal year following the month FSA received notification of the changes. Changes include but are not limited to any producer affiliated with a dairy operation that has an approved MILC with CCC forming a new dairy operation that is not formed solely to receive additional MILC payments.

(d) Changes resulting in the following will take effect immediately upon notification to CCC, in accordance with § 1430.212:

(1) Increases or reductions of shareholders or producers and their corresponding share amounts in the dairy operation; or

(2) Purchases of a new dairy operation by a producer or producers not affiliated with an existing dairy operation that has an approved MILC with CCC.

§ 1430.214 Violations.

(a) If producers in a dairy operation violates the MILC or the requirements of this subpart, CCC may:

(1) Terminate the MILC for the remainder of the fiscal year in which the violation occurs, and allow the producer to retain any payments received under the contract; or

(2) Allow the MILC to remain in effect and require the producer to repay a portion of the payments received commensurate with the violation's severity, as CCC determines.

(3) If the MILC is terminated under this section, the participant shall forfeit all rights to further MILC benefits and shall refund all or part of the payments received as CCC determines appropriate.

(4) A producer or operation with a violation, as determined by CCC, shall refund all MILC funds disbursed under of this part. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

(b) A MILC is violated by the following actions:

(1) Failure to comply with the terms and conditions of the MILC and addendum;

(2) Reconstitutions of the dairy operation for the sole purpose of receiving multiple program benefits;

(3) Failure to comply with highly erodible land conservation and wetland provisions of this 7 CFR part 12 or their successor regulations;

(4) Failure to meet the definition of a dairy operation according to § 1430.202;

(5) Any action that tends to defeat the purpose of the program, as CCC determines.

(c) The Deputy Administrator for Farm Programs (DAFP) of the Farm Service Agency may terminate any MILC by mutual agreement upon request of the participant if DAFP determines that termination is in the best interest of the public.

(d) The DAFP may determine that failure of the dairy operation to perform the MILC does not warrant termination and may require the participant to refund part of the payments received or accept adjustments in the payment as the DAFP determines to be appropriate.

§ 1430.215 [Reserved].

§ 1430.216 Contracts not in conformity with regulations.

If it is discovered that an MILC contract does not comply with this subpart as the result of a misunderstanding by someone who has signed the contract, the contract may be modified by mutual agreement. If the parties to the MILC cannot reach agreement for such modification, it shall be terminated and all payments paid or payable under the contract shall be forfeited or refunded to CCC, except as may otherwise be allowed under § 1430.214.

§ 1430.217 Offsets and withholdings.

CCC may offset or withhold any amount due CCC under this subpart under the provisions of part 1403 of this chapter or any successor regulations.

§ 1430.218 Assignments.

Any producer may assign a payment to be made under this part in accordance with part 1404 of this chapter or successor regulations as designated by the Department.

§ 1430.219 Appeals.

Any producer who is dissatisfied with a determination made pursuant to this subpart may request reconsideration or appeal of such determination under part 11 or 780 of this title.

§ 1430.220 Misrepresentation and scheme or device.

(a) A dairy operation shall be ineligible for the MILC program if FSA determines that it knowingly:

(1) Adopted a 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 take steps deemed necessary to protect the interests of the government.

(b) Any funds disbursed to a producer or operation engaged in a misrepresentation, scheme, or device, shall be refunded to CCC. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

§ 1430.221 Estates, trusts, and minors.

(a) Program documents executed by producers legally authorized to represent estates or trusts will be accepted only if such producers furnish 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.

§ 1430.222 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance or dissolution of a producer that is eligible to receive benefits under this part, such persons as are specified in part 707 of this title may receive such benefits, as determined appropriate by FSA.

§ 1430.223 Maintenance and inspection of records.

(a) Producers approved 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 or FSA. Such records and accounts must be retained for 3 years after the date of payment to the dairy 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 Department, or the Comptroller General of the United States shall have access to the premises of the dairy operation in order to inspect the herd of cattle, 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 producers 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.

§ 1430.224 Refunds; joint and several liability.

(a) In the event of an error on a MILC application, a failure to comply with any term, requirement, or condition for payment arising under the MILC application, or this subpart, all improper payments shall be refunded to CCC together with interest from the date payment was received through the date the refund is received by CCC.

(b) All producers signing a dairy 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 contract application and addendum or this part for such operation.

§ 1430.225 Violations of highly erodible land and wetland conservation provisions.

The provisions of part 12 of this title apply to this part.

§ 1430.226 Violations regarding controlled substances.

The provisions of § 718.11 of this title apply to this part.

PART 1434—NONRECOURSE MARKETING ASSISTANCE LOAN AND LOAN DEFICIENCY PAYMENTS FOR HONEY

18.–19. The authority citation is revised to read as follows:

Authority: 7 U.S.C. 7931.

20. Revise § 1434.1 to read as follows:

§ 1434.1 Applicability.

This part provides the terms and conditions of Commodity Credit Corporation (CCC) nonrecourse marketing assistance loans or loan deficiency payments for honey. Marketing loan gains and loan deficiency payments shall be limited per person in the amounts set out in part 1400 of this chapter.

21. Amend § 1434.6 by redesignating paragraphs (b), (c) and (d) as paragraphs (c), (d) and (e), respectively, and adding a new paragraph (b) to read as follows:

§ 1434.6 Beneficial Interest.

* * * * *

(b) For the 2002 crop of honey, in the case of producers that would be eligible for a loan deficiency payment under this section except for the fact that the producers lost beneficial interest in the crop before October 18, 2002, the

producers shall be eligible for a loan deficiency payment as of the date producers marketed or otherwise lost beneficial interest in the honey, as determined by the Secretary.

* * * * *

22. Amend § 1434.10 by revising paragraph (a) to read as follows:

§ 1434.10 Application, availability, disbursement, and maturity.

(a) A producer must, unless otherwise authorized by CCC, request loans and loan deficiency payments at the appropriate FSA county office responsible for administering the program as provided under part 718 of this title. To receive loans and loan deficiency payments for honey, a producer shall execute a note and security agreement or loan deficiency payment application on or before March

31 of the year following the year in which the honey was extracted.

* * * * *

23. Amend § 1434.18 by revising the introductory text of paragraph (a) to read as follows:

§ 1434.18 Loan Repayments.

(a) A honey producer may repay a nonrecourse marketing assistance loan at a rate that is the lesser of:

* * * * *

24. Amend § 1434.21 by revising paragraphs (a), (b)(3) and (f)(1) to read as follows:

§ 1434.21 Loan deficiency payments.

(a) Loan deficiency payments shall be available for 2002–2007 crop honey.

(b) * * *

(3) Submitted a request for a honey Loan deficiency payment on the form as CCC prescribes.

* * * * *

(f) * * *

(1) The producer will provide correct, accurate, and truthful certifications and representations of the loan quantity and all other matters of fact and interest when submitting a request for a honey loan deficiency payment; and

* * * * *

§ 1434.23 [Amended]

25. Amend § 1434.23 by removing paragraph (c).

Signed in Washington, DC, on October 11, 2002.

Teresa C. Lasseter,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–26524 Filed 10–15–02; 12:32 pm]

BILLING CODE 3410–05–P



Federal Register

**Friday,
October 18, 2002**

Part III

Department of Housing and Urban Development

24 CFR Part 982

**Section 8 Homeownership Program:
Downpayment Assistance Grants and
Streamlining Amendments; Final Rule**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 982

[Docket No. FR-4670-F-02]

RIN 2577-AC28

**Section 8 Homeownership Program:
Downpayment Assistance Grants and
Streamlining Amendments**

AGENCY: Office of Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule implements section 301 of the American Homeownership and Economic Opportunity Act of 2000, which amends the "homeownership option" under the Housing Choice Voucher Program. Under section 301, a Public Housing Agency (PHA) may, in lieu of paying a monthly homeownership assistance payment on behalf of a family, provide homeownership assistance for the family in the form of a single grant to be used toward the downpayment required in connection with the purchase of the home. Implementation of these downpayment assistance grants is anticipated for Federal Fiscal Year 2003. In addition to implementation of section 301, this final rule also clarifies and streamlines several regulatory requirements applicable to both downpayment grants and monthly homeownership assistance payments provided under the homeownership option. This final rule follows publication of a June 13, 2001, proposed rule, and takes into consideration the public comments received on the proposed rule.

DATES: Effective Date: November 18, 2002.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-0477. (This is not a toll-free number.) Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background—HUD's June 13, 2001, Proposed Rule

On June 13, 2001 (66 FR 32198), HUD published a proposed rule for public comment to implement section 301 of the American Homeownership and Economic Opportunity Act of 2000 (Pub.L. 106-569, 114 Stat. 2944, 2952, approved December 27, 2000) (AHEOA).

Section 301 amends the "homeownership option" authorized under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) (1937 Act). Under the section 8(y) homeownership option, a public housing agency (PHA) may choose to provide monthly tenant-based assistance to an eligible family that purchases a dwelling unit that will be occupied by the family. Section 301 amends section 8(y) to authorize an alternative form of assistance under the homeownership option—assistance in the form of a single downpayment assistance grant. Under section 301, a PHA may, in lieu of paying a monthly homeownership assistance payment on behalf of a family, provide homeownership assistance for the family in the form of a single grant to be used toward the downpayment required in connection with the purchase of the home. Implementation of these downpayment assistance grants is anticipated for Federal Fiscal Year 2003.

In addition to implementation of downpayment assistance grants, HUD also proposed to clarify and streamline several regulatory requirements applicable to both downpayment grants and monthly homeownership assistance payments provided under the homeownership option. Specifically, HUD proposed to:

- (1) Provide PHAs with the flexibility to establish a higher minimum income standard than the uniform national requirement described in the current regulations;
- (2) Explicitly reference the eligibility of manufactured homes for purchase under the homeownership option; and
- (3) Remove the requirements providing for the recapture of homeownership assistance upon the sale or refinancing of the home.

In addition to these three changes, HUD also announced that it was considering the feasibility of permitting the purchase of new homes not yet under construction under the homeownership option. The preamble to the June 13, 2001, proposed rule provides additional details regarding the proposed changes to HUD's homeownership option regulations.

II. Significant Changes to June 13, 2001, Proposed Rule

This final rule follows publication of the June 13, 2001, proposed rule, and takes into consideration the public comments received on the proposed rule. The most significant differences between this final rule and the June 13, 2001, proposed rule are as follows:

*A. Changes to Implementation of
Downpayment Assistance Grants*

1. *Payment of reasonable and customary closing costs with downpayment grant.* This final rule authorizes the use of a downpayment grant for the payment of reasonable and customary closing costs. If the PHA permits the downpayment grant to be applied to closing costs, the PHA must define what fees and charges constitute reasonable and customary closing costs by providing such a definition in its administrative plan. However, if the purchase of a home is financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements, including any requirements concerning closing costs (see § 982.632(b) of the homeownership option regulations regarding the applicability of FHA requirements to voucher homeownership assistance and 24 CFR 203.27 regarding allowable fees, charges and discounts for FHA-insured mortgages).

2. *Limitation on eligibility to current voucher families.* This final rule continues to limit eligibility for downpayment assistance grants to current voucher families. The final rule, however, no longer requires that a family must have been receiving tenant-based voucher rental assistance for a specific time period in order to qualify for a downpayment grant. The proposed rule would have mandated a one-year period of prior voucher rental assistance.

3. *Administrative fee.* This final rule announces that the single, one-time administrative fee for a downpayment assistance grant will initially be set at an amount equal to six months of the PHA's on-going regular administrative fee under the voucher program.

4. *Return to tenant-based assistance.* The final rule permits a family to apply for and receive tenant-based rental assistance after receiving a downpayment grant, in accordance with program requirements and PHA policies. However, the PHA may not commence tenant-based rental assistance for occupancy of the new unit so long as any family member owns any title or other interest in the home purchased with homeownership assistance. Further, 18 months must have passed since the family's receipt of the downpayment assistance grant.

5. *Implementation of downpayment assistance grants.* This final rule clarifies that a PHA may not offer downpayment assistance grants until HUD publishes a notice in the **Federal Register** announcing that appropriated funds are available for this use.

B. Other Changes to Homeownership Option

1. *Family choice of housing.* This final rule makes a non-substantive clarification to § 982.601(d) of the Housing Choice Voucher Program regulations concerning a family's ability to choose among the special housing types permitted under the program (including the homeownership option). The current wording of the provision refers to a family's choice to "rent" housing, which may lead to the incorrect conclusion that the provisions concerning family choice do not apply to home purchases under the homeownership option. Accordingly, the final rule replaces the word "rent" in this section with the more inclusive word "use." This change does not alter any existing regulatory requirements, but merely clarifies that a family's ability to choose among the various forms of assistance offered under the voucher program also includes voucher homeownership assistance.

2. *Future receipt of homeownership assistance.* This final rule provides that only adult family members are subject to the restrictions on the future receipt of homeownership assistance. Specifically, a family that includes an individual who was an adult member of a family that previously received either of the two forms of homeownership assistance may not receive the other form of homeownership assistance from any PHA. Further, a PHA may not provide homeownership assistance for a family if any member was an adult member of a family at the time such family received assistance under the homeownership option and defaulted on the mortgage securing purchase of the home.

3. *Clarification of reasonable accommodation requirement.* Consistent with previous HUD guidance, this final rule clarifies that it is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA will determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to provide homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

4. *Removal of recapture provisions.* This final rule adopts the proposal to remove the recapture provisions contained in the June 13, 2001, proposed rule. In addition, this final

rule provides that a PHA shall not impose or enforce any requirement for the recapture of voucher homeownership assistance on the sale or refinancing of a home purchased with assistance under the homeownership option. This change will ensure that families who purchased their homes prior to issuance of this final rule also receive the benefit provided by removal of the onerous recapture requirements.

5. *Inclusion of welfare assistance in determining whether elderly and disabled families meet the minimum income requirement.* This final rule clarifies that, in determining whether an elderly or disabled family meets the minimum income requirement, welfare assistance shall be included only for those adult elderly or disabled family members who will own the home.

6. *Revised minimum income standard for disabled families.* This final rule adopts the revisions to the minimum income requirements contained in the June 13, 2001, proposed rule. Specifically, the final rule permits a PHA to establish a higher minimum income standard than the uniform national standard described in the homeownership option regulations. However, the final rule establishes a separate national standard for disabled families. This minimum income standard for such families will be equal to the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone (or paying his or her share of food and housing costs) multiplied by twelve.

PHAs will have the flexibility to establish a higher income standard for either or both types of families (disabled and non-disabled). However, as described in the proposed rule, a family that meets the applicable HUD minimum income requirement, but not the higher standard established by the PHA, shall be considered to satisfy the minimum income requirement if the family is able to demonstrate that it has been pre-qualified or pre-approved for financing. The pre-qualified or pre-approved financing must meet any PHA established requirements for financing the purchase of the home (including qualifications of lenders and terms of financing). The pre-qualified or pre-approved financing amount must be sufficient to purchase housing that meets housing quality standards in the PHA's jurisdiction.

7. *Timing of new construction.* After careful consideration of all the issues regarding the eligibility of units not yet under construction, HUD, at this time, is not prepared to authorize the purchase of such units with voucher homeownership assistance. However, in

order to expand a family's homeownership choices, the final rule provides that a unit need only be under construction at the time the family enters into the contract of sale—and not at the time the PHA determines the family is eligible for homeownership assistance to purchase the unit, as is currently required by the regulations.

8. *Eligibility of housing where the family will not also own fee title to the real property on which the home is located.* The final rule expands the types of housing eligible for purchase under the homeownership option to include any housing where the family will not also own fee title to the real property on which the home is located. Further, in order to effectuate this change, the final rule revises the list of homeownership expenses to include land lease payments. However, the family must have the right to occupy the site for a period of at least forty years and the home must have a permanent foundation. The right of occupancy period has been increased to forty years (from the proposed thirty year period) to conform to FHA mortgage insurance requirements and manufactured home lending industry practice.

9. *PHA disapproval of seller.* This final rule clarifies that a PHA, in its administrative discretion, may deny approval of a seller for any reason provided for disapproval of an owner under the voucher rental program regulations (see § 982.306(c)). These reasons include: violations of the housing assistance payments (HAP) contract; committing fraud; bribery; or any other corrupt or criminal acts in connection with any Federal housing program; engaging in drug-related or violent criminal activity; non-compliance with HUD's housing quality standards (HQS); failing to meet State or local housing codes; and failure to pay State or local real estate taxes, fines, or assessments. The current regulatory language is unclear as to whether PHAs have the authority to prohibit sellers who engage in these disreputable activities from participating in the homeownership option. This final rule closes this "loophole" by specifying that the PHA disapproval provisions of § 982.306(c) apply to both the rental and homeownership components of the voucher program.

III. Discussion of Public Comments Received on the June 13, 2001, Proposed Rule

The public comment period on the proposed rule closed on August 13, 2001. HUD received twenty-seven comments on the proposed rule. Comments were received from: PHAs;

advocates of low-income housing; legal services providers; national associations representing realtors, home builders, and mortgage bankers; state and local housing services and community development agencies; a housing subsidy recipient; Fannie Mae; the United States Department of Agriculture-Rural Housing Service; and other commenters.

The following section of the preamble presents a summary of the significant issues raised by the public commenters on the proposed rule, and HUD's responses to these issues.

The summary of public comments is organized as follows:

Section IV of the preamble discusses the public comments regarding the implementation of downpayment assistance grants.

Section V of the preamble discusses the public comments regarding the proposed streamlining and clarifying amendments to the homeownership option.

Section VI of the preamble discusses other public comments received on the proposed rule.

IV. Discussion of Public Comments Regarding the Implementation of Downpayment Assistance Grants

A. Comments Regarding Types of Homeownership Assistance Offered by PHA

Comment: A PHA that offers downpayment assistance grants should be required to clarify to the potential homebuyer the benefits of each option. Several commenters wrote that it is important that any potential participants have full knowledge of the advantages and disadvantages of each type of homeownership assistance. The commenters wrote that those families who are considering giving up their tenant-based rental assistance to receive a downpayment grant particularly should be made aware of all anticipated costs and requirements that go along with homeownership and the financial risks that may result from termination of their voucher rental assistance.

HUD Response. HUD agrees that families should be made fully aware of the benefits and disadvantages associated with each type of homeownership assistance. Before the commencement of either form of homeownership assistance, families are already required to satisfactorily complete the pre-assistance homeownership counseling offered by the PHA (see § 982.630). The regulation at § 982.630 identifies several suggested topics for inclusion in the pre-assistance counseling, and provides PHAs with the

flexibility to adapt the subjects covered in the counseling to local circumstances and the needs of individual families. HUD encourages all PHAs who offer both forms of homeownership assistance to explain to applicants in the pre-assistance counseling how both forms of assistance work, and the benefits of each type of homeownership assistance. However, HUD continues to believe that the topics to be covered in counseling should be selected by the individual PHAs, who are in the best position to determine the counseling needs of families within their respective jurisdictions. Accordingly, HUD has not revised the proposed rule to adopt the suggestions made by the commenters.

Comment: A PHA that offers downpayment assistance grants should be required to also offer monthly homeownership assistance payments. Several commenters wrote that downpayment assistance carries substantial economic risks for families, since they will be forfeiting monthly homeownership assistance payments in exchange for a single downpayment grant. The commenters wrote that for many potential participants, the major obstacle to homeownership might be the ability to make monthly payments and not insufficient funds for a downpayment. However, PHAs may prefer to offer downpayment grants because they present less administrative burden than monthly homeownership assistance payments. The commenters suggested that PHAs who offer downpayment assistance should be required (or at a minimum encouraged) to also offer monthly homeownership assistance payments.

HUD Response. HUD does not believe it has the statutory authority to impose the requirement suggested by the commenter. Section 8(y) of the 1937 Act clearly gives individual PHAs the discretion to decide whether they will offer homeownership assistance and, if so, whether one or both forms of assistance will be made available by the PHA. Additionally, mandating that PHAs offer both types of assistance might have the negative consequence of discouraging some PHAs from offering any form of voucher homeownership assistance.

Comment: Support for PHA discretion to offer homeownership assistance. One commenter supported granting PHAs the flexibility to offer either or both types of homeownership assistance.

HUD Response. HUD agrees with the commenter. As noted above, section 8(y) of the 1937 Act makes the determination of whether to offer voucher homeownership assistance a local PHA decision.

B. Comments Regarding Eligibility for Downpayment Assistance

Comment: Support for restricting eligibility to current program participants. Several commenters supported limiting eligibility for downpayment assistance grants to current participants in the tenant-based voucher program. The commenters wrote that the proposal is consistent with the legislative history of section 301, and prevents transforming the voucher program into a short-term downpayment assistance program.

HUD Response. HUD agrees with the commenters, and the final rule continues to limit eligibility for downpayment assistance to current voucher families. Upon re-consideration, however, HUD believes that mandating at least one year of prior voucher rental assistance may be unduly prescriptive and unnecessarily delay the ability of families to move "up and out" and become homeowners. Further, eliminating the one-year requirement will facilitate lease-purchase transactions where the family is entitled to purchase a home it is leasing. Accordingly, the final rule no longer requires that a family must have been receiving tenant-based voucher rental assistance for a specific amount of time in order to qualify for a downpayment assistance grant.

In most PHA jurisdictions, the initial lease term for a family participating in the voucher rental program is one year (see § 982.309). The change regarding the amount a time a family must be receiving voucher rental assistance in order to qualify for a downpayment grant does not override the initial lease term requirements of § 982.309, or the family obligation to comply with the terms of the lease (§ 982.551(e)). Neither does it override any PHA administrative policy restricting moves by the family during the initial lease term. Rather, one of the goals of the change is to facilitate use of a downpayment grant where there is mutual agreement between the family and the owner to terminate the lease prior to the end of the initial term.

Comment: Proposed eligibility restriction should not apply to disabled families requesting a reasonable accommodation. One commenter wrote that eligibility for downpayment assistance should include individuals with disabilities requesting a reasonable accommodation, regardless of the length of time they have been receiving tenant-based voucher rental assistance.

HUD Response. As noted above, this final rule no longer requires that a family have been receiving tenant-based voucher rental assistance for a specific

amount of time in order to qualify for downpayment assistance. Further, the homeownership option contains several special provisions for families with a member who is a person with disabilities. For example, there is no maximum term of homeownership assistance for disabled families (assistance to other families is limited to a fifteen or ten-year term) (see § 982.634). As described elsewhere in this preamble, the final rule establishes a separate, lower national minimum income standard for disabled families (see § 982.627(c)(1)). The PHA is also required to count welfare assistance provided to the disabled family for purposes of determining whether the family satisfies the minimum income requirements (generally, such assistance is not counted for other families) (see § 982.627(c)(2)). In addition, if a PHA determines that a disabled family requires homeownership assistance as a reasonable accommodation, the first-time homeowner requirement does not apply (§ 982.627(b)). Further, on June 22, 2001 (66 FR 33610), HUD published an interim rule implementing the pilot program authorized by section 302 of AHEOA. This pilot program provides disabled families with certain additional benefits under the homeownership option (see § 982.642).

C. Comments Regarding Maximum Amount of Downpayment Grant

Comment: Maximum amount of downpayment grant is insufficient. Three commenters wrote that basing the maximum amount of the downpayment grant on a single year's worth of homeownership assistance payments will benefit only a small number of families, particularly in expensive markets such as New York City. One of the commenters recommended that the final rule either establish a minimum downpayment grant amount (the commenter suggested \$3,000) or base the maximum grant amount on a longer time period of subsidy assistance (the commenter suggested 5 years). A second commenter agreed that the time period for determining the maximum grant amount should be extended, and suggested a 5–10 year period.

HUD Response. HUD does not have the statutory authority to make the change suggested by the commenter. The maximum amount of the downpayment grant is established by section 301 of AHEOA. Specifically, the statute provides that “[t]he amount of the downpayment grant * * * may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family * * *

Comment: The payment standard of the initial PHA should always be used to calculate the maximum downpayment grant. One commenter made this suggestion. The commenter wrote that this requirement appears to impose an unnecessary burden upon the family and the receiving PHA, and may deny homeownership assistance to a deserving family if the receiving PHA does not offer downpayment assistance grants. The commenter urged HUD to require that the policies and procedures of the initial PHA must be used for determining the maximum downpayment grant, regardless of where the property being purchased is located.

HUD Response. HUD does not agree with the commenter. HUD believes the portability requirements should be the same for both monthly homeownership assistance payments and downpayment assistance grants. A family determined eligible for either form of homeownership assistance may purchase a unit outside of the initial PHA's jurisdiction if the receiving PHA is administering a homeownership program and is accepting new homeownership families (see § 982.636).

D. Comments Regarding Use of Downpayment Grant

Comment: HUD should permit the use of downpayment assistance to cover closing costs. Several commenters wrote that closing costs can be substantial, typically amounting to two or three percent of the purchase of the home. Accordingly, the commenters suggested that the final rule authorize the use of downpayment grant funds to cover such costs.

HUD Response. Upon reconsideration of this issue, HUD has revised the rule to allow the use of a downpayment grant for the payment of reasonable and customary closing costs. HUD has determined that permitting families the option of using a downpayment assistance grant to cover such costs will facilitate homeownership. If the PHA permits the downpayment grant to be applied to closing costs, the PHA must define what fees and charges constitute reasonable and customary closing costs by providing such a definition in its administrative plan. However, if the purchase of a home is financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements, including any requirements concerning closing costs (see § 982.632(b) of the homeownership option regulations regarding the applicability of FHA requirements to voucher homeownership assistance and 24 CFR 203.27 regarding allowable fees,

charges, and discounts for FHA-insured mortgages).

E. Comments Regarding Administrative Fee

Comment: HUD should either provide a one-time administrative fee for both types of homeownership assistance or no fee at all. Several commenters wrote that the effect of the one-time administrative fee would be to provide an unfair “bonus” to PHAs offering downpayment assistance grants. The commenters wrote that a PHA that provides a downpayment grant would receive the one-time administrative fee, as well as “freeing-up” a voucher for use by another family. The PHA will collect an ongoing administrative fee for this “freed-up” voucher. The commenters wrote that HUD does not provide a similar one-time administrative fee to PHAs offering the existing homeownership option. Accordingly, PHAs will prefer to offer downpayment assistance grants rather than monthly homeownership assistance payments. Since downpayment grants will primarily benefit higher-income Section 8 families, the commenters wrote that the proposed administrative fee may unfairly penalize lower-income families who might benefit from monthly homeownership assistance payments. The commenters recommended that HUD either provide a one-time administrative fee for the administration of both types of homeownership assistance—or provide no one-time fee at all.

HUD Response. HUD has not revised the proposed rule in response to these comments. The administrative fee is a one-time fee paid to compensate PHAs for the administration of downpayment assistance grants. This administrative fee is paid in lieu of the monthly fee a PHA would receive for the administration of other forms of voucher assistance. The single, one-time fee should not be construed as a “bonus” to PHAs for providing downpayment assistance. Further, HUD disagrees with the commenters that no fee should be paid for the administration of downpayment assistance grants. PHAs providing downpayment assistance grants require compensation for the staff work associated with counseling and other administrative actions in connection with such grants.

Comment: Administrative fee is inadequate. Several commenters objected that the proposed one-time administrative fee of \$250 is too low to adequately compensate PHAs for the administration of downpayment grants. The commenters wrote that the low

administrative fee will make downpayment assistance an unattractive option for PHAs, who will prefer to use their voucher funding to provide monthly tenant-based assistance and earn the higher administrative fee. Two commenters wrote that given the widely varying costs experienced by PHAs in different geographical locations, a flexible administrative fee would be more appropriate than the flat nationwide fee proposed by HUD. The commenter recommended an administrative fee equal to six months of a PHA's regular administrative fee. The commenters wrote that such a fee would be simple to administer and reflect the varying cost structures of PHAs.

HUD Response. Upon reconsideration, HUD agrees that the proposed \$250 administrative fee did not reflect geographic cost differences between PHAs. Through publication of this final rule, HUD announces that the administrative fee is initially set at an amount equal to six months of a PHA's on-going regular administrative fee (see § 982.152(b) of the Housing Choice Voucher program regulations). HUD will monitor the adequacy of this fee amount and will make adjustments as necessary. As is standard practice, any updates to the administrative fee amount will be announced through HUD notice.

F. Comments Regarding Return to Tenant-Based Assistance

Comment: Final rule should permit a family to return to tenant-based assistance after receiving a downpayment assistance grant. Two commenters wrote that a family that receives monthly homeownership assistance payments may elect to move with continued voucher tenant-based assistance (see § 982.637). However, the June 13, 2001, proposed rule does not provide a similar safety net to a family selecting a one-time downpayment assistance grant. The commenters wrote that households receiving Section 8 assistance, even at the higher end of the income spectrum, are financially vulnerable and subject to personal and economic hardship. Thus, a household that is well qualified for downpayment assistance initially may find itself in a difficult financial situation one or more years down the road due to a loss of employment, illness, or death. The commenters wrote that it would be unduly harsh to prohibit such a family from returning to voucher rental assistance simply because it elected to receive a one-time downpayment grant. One of the commenters wrote that if disqualification is sought, a more equitable approach would be to

disqualify participating households from receiving tenant-based assistance for a period equivalent to the number of months used to calculate the amount of the downpayment assistance grant. The other commenter suggested that, at a minimum, a family should be allowed to return to voucher rental assistance within 18 months following the downpayment assistance grant.

HUD Response. HUD agrees with the commenters that families receiving a downpayment grant should be permitted to return to tenant-based rental assistance under certain circumstances. This final rule permits a family that has received a one-time downpayment assistance grant to apply for, and receive, tenant-based rental assistance in accordance with program requirements and PHA policies. However, the PHA may not commence tenant-based rental assistance for occupancy of the new unit so long as any family member owns any title or other interest in the home purchased with homeownership assistance. Further, 18 months must have passed since the family's receipt of the downpayment assistance grant.

G. Comments Regarding Voucher Renewals

Comment: Voucher renewal policy for downpayment grants is unclear and may be inequitable. Two commenters expressed uncertainty regarding the voucher renewal policy for downpayment grants announced in the June 13, 2001, proposed rule. The commenters requested clarification on whether downpayment grants are required to be funded from PHA reserves. The commenters noted that if a PHA uses reserves to assist additional families, it is not entitled to HUD reimbursement. The commenters wrote that such a voucher renewal policy would be inequitable and discourage PHAs from offering downpayment assistance grants.

HUD Response. HUD intends to issue further non-regulatory guidance on renewal funding in the near future.

H. Miscellaneous Comments Regarding Downpayment Grants

Comment: HUD should require PHAs to take an active role in ensuring the long-term success of participating families. One commenter wrote that, although the PHA's involvement with the family ceases once the downpayment grant is made, the PHA remains in the important position of being the family's sole safety net if mortgage and maintenance expenses prove to be unaffordable. According to the commenter, the PHA is also the last

line of defense in preventing a predatory lender from encouraging the family to move into homeownership. For these reasons, the commenter suggested that HUD require PHAs to review the participant's financing, sales contract, appraisal, and any other documents deemed necessary by the PHA. In this manner, the PHA can ensure that the sales price of the home and the monthly mortgage payments are affordable and the borrower is not subject to abusive loan terms or predatory lending. The commenter also requested that HUD clarify that new homeowners receiving a downpayment grant are required to complete all required pre-purchase homeownership counseling and must obtain the required home inspections (with approval by the PHA) prior to obtaining the grant. The commenter wrote that HUD should consider reporting requirements, perhaps through the Section 8 Management Assessment Program (SEMAP), that would enable HUD to ensure that the PHA has adopted all necessary safeguards under the homeownership option.

HUD Response. HUD has not adopted the suggestions made by the commenter. HUD agrees that families receiving downpayment grants should be protected from entering into unaffordable financing arrangements and from abusive lending practices. However, HUD does not believe that additional regulatory requirements are necessary to accomplish these goals. Many of the regulatory protections afforded to families receiving monthly homeownership assistance payments also apply to downpayment grants. For example, families receiving a downpayment grant must participate in pre-assistance counseling, and a PHA may establish requirements for financing purchase of the home. Although PHA involvement with the family ends once the downpayment grant is provided, HUD expects that PHAs will undertake the same efforts to ensure that financing requirements are appropriate for a downpayment grant as they would for monthly homeownership assistance payments. PHAs are encouraged to review lender qualifications and the loan terms before authorizing a downpayment grant. PHAs should disapprove proposed financing if the PHA determines that the debt is unaffordable or the lender or the loan terms do not meet PHA qualifications.

Comment: Downpayment assistance option needs to be included in the PHA Plan template. One commenter wrote that the homeownership component of the PHA Annual and Five-Year Plan template needs to be revised to include

downpayment grants along with monthly homeownership assistance payments. The commenter suggested that PHAs should be required to identify whether they offer downpayment grants in addition to monthly homeownership assistance payments, and their reasons for offering downpayment assistance. The commenter wrote that including downpayment assistance grants in the template will better ensure that PHAs, potential participants, lenders, and others better understand the program and all of its ramifications in advance.

HUD Response. HUD intends to address downpayment grants through future amendments to the PHA Plan instructions.

Comment: Downpayment grants will unnecessarily divert scarce voucher subsidy to higher-income families. One commenter wrote that downpayment assistance grants will principally benefit higher-income families who can afford monthly mortgage payments. The commenter wrote that the proposed rule would, therefore, "have very minimal impact on [lower-income] voucher recipients who may wish to become homeowners." The commenter also wrote that there are already several available downpayment assistance resources available to voucher families, such as HOME program funds, the Federal Home Loan Bank, state housing finance authority funds, and other state housing funds. The commenter suggested that PHAs work with their respective state housing and finance agencies, lending institutions, and local nonprofits to identify and develop downpayment assistance resources rather than using valuable voucher assistance for this purpose.

HUD Response. HUD does not agree with the commenter. Downpayment assistance grants are statutorily authorized by section 8(y). The statutory language makes clear that the provision of such assistance is solely at the discretion of individual PHAs. The PHA is in the best position to assess the availability and amount of other housing resources in its community and determine whether it is appropriate to offer downpayment assistance grants. Further, since a family provided a downpayment grant will no longer receive monthly rental assistance, implementation of this program will "free up" resources to assist additional families on the PHA waiting list.

V. Discussion of Public Comments Regarding Streamlining and Clarifying Amendments to Homeownership Option

A. Comments Regarding Minimum Income Requirements

Comment: Support for proposed minimum income revisions. Several commenters expressed support for the proposed revisions to the minimum income requirements. The commenter wrote that the flexibility provided by the proposed rule is both welcome and necessary. According to the commenters, the current minimum income requirement is well below the amount necessary to purchase in many areas, and raises false hopes in voucher families desiring homeownership. The commenters also wrote that allowing PHAs to establish minimum income requirements that more accurately reflect local housing costs will encourage lender participation.

HUD Response. HUD appreciates the support expressed by the commenters. HUD agrees that increased flexibility is necessary to allow successful PHA implementation of the homeownership option. This final rule adopts the proposed changes granting PHAs the flexibility to establish a higher minimum income standard that more accurately reflects local housing costs.

Comment: PHAs should have increased flexibility in establishing minimum income standards, especially for elderly and disabled families. Several commenters made this suggestion. The commenters wrote that, in at least some areas of the country, the current minimum income standard is already too high, especially for the elderly, persons with disabilities, and others living on fixed incomes or government benefits. The commenters wrote that lower income families are good candidates to purchase homes due to favorable underwriting standards employed by lenders and the secondary market, are also often able to take advantage of existing local affordable housing programs. The commenters wrote that although HUD may provide guidance for the determination of the minimum income requirement, ultimately the PHA should define the minimum income amount that will be required under the PHA's program.

HUD Response. HUD agrees that the current uniform national minimum income standard is too high for disabled families in some areas of the country. Accordingly, this final rule establishes a separate national standard for such families equal to the monthly Federal SSI benefit for an individual living alone (or paying his or her share of food

and housing costs) multiplied by twelve.¹ HUD agrees that there are a number of loan products and grant programs tailored for disabled families that, when combined with voucher homeownership assistance, would allow families below the current minimum income standard to successfully purchase a home. The new national standard for disabled families is based on the SSI benefit, since most families who will benefit from this change will be receiving such assistance.

HUD also continues to believe that the current income standard may be too low for certain high-cost areas of the country. The minimum income requirement is included in section 8(y), and is intended to ensure that families participating in the program have sufficient resources to meet their monthly mortgage payments and other ongoing homeownership obligations (such as real estate taxes, repairs, and other maintenance costs). HUD agrees with the commenters that PHAs are in the best position to establish a standard that accurately reflects local housing conditions, while ensuring compliance with the statutory goal of ensuring that families participating in the homeownership option have a satisfactory minimum amount of income. Accordingly, consistent with the June 13, 2001, proposed rule, this final rule permits a PHA to establish a higher minimum income standard than the uniform national standard for either or both types of families (disabled and non-disabled). Although HUD believes that PHAs should have the flexibility to tailor the minimum income standard to local housing conditions, it also wants to make sure that PHA-established income limits do not hinder use of the homeownership option by families who can qualify for a mortgage from a reputable lending institution. Accordingly, as described in the proposed rule, a family that meets the applicable HUD minimum income requirement, but not the higher PHA-specific income standard shall be considered to satisfy the minimum income requirement if the family is able to demonstrate that it has been pre-qualified or pre-approved for financing. The pre-qualified or pre-approved financing must meet any PHA established requirements for financing the purchase of the home (including qualifications of lenders and terms of financing). The pre-qualified or pre-

¹ The monthly SSI benefit for an individual living alone (or paying his or her share of food and housing costs) currently equals \$545. Multiplied by twelve, this equals a \$6540 minimum income threshold for a disabled family under this final rule.

approved financing amount must be sufficient to purchase housing that meets the housing quality standards in the PHA's jurisdiction.

B. Comments Regarding the Eligibility of Units Not Yet Under Construction

Comment: Support for eligibility of new construction. The commenters writing on this proposal unanimously endorsed the eligibility of units not yet under construction for purchase under the homeownership option. Four of the commenters specifically addressed the environmental concerns raised in the preamble to the proposed rule. These commenters wrote that it is the Federal funding obtained by the developer to construct the units—not the homeownership assistance provided to the family—that typically triggers any environmental requirements under the National Environmental Policy Act of 1969 (NEPA) or environmental authorities. The commenters wrote that individual units are not deeded to the family until the developer is ready to begin construction on the units or, in some instances, after construction of the units is completed. Accordingly, the required environmental reviews will be performed in connection with the provision of HOME, Community Development Block Grant (CDBG), Rural Housing Service, or other Federal construction funding. The commenters suggested that the final rule simply defer to the environmental requirements posed by the applicable programs and funding sources for the underlying development.

HUD Response. After careful review of all the issues regarding the eligibility of units not yet under construction (including environmental issues), HUD at this time is not prepared to authorize the purchase of such units with voucher homeownership assistance. The environmental requirements for the Housing Choice Voucher Program are located in 24 CFR part 58. Although, as several of the commenters noted, part 58 categorically excludes individual actions on one to four family properties from review under NEPA, it also requires compliance with other applicable environmental laws (such as those regarding historic preservation, floodplains and wetlands) (see § 58.35(a)(4)). The broader categorical exclusion for homeownership assistance at § 58.35(b)(5) explicitly applies only to “existing dwelling units and dwelling units under construction.” Even if other Federal agencies provide some funding for the units and perform the required environmental reviews, HUD cannot ensure that the reviews will be

conducted in compliance with HUD's regulations.

Although HUD at this time is not prepared to authorize the use of the homeownership option for the purchase of units not yet under construction, it believes that another way to address the concerns raised by the restriction is to revise the existing requirement regarding the timing of new construction. The current regulation at § 982.628 requires that a unit must be under construction at the time the PHA determines the family is eligible for homeownership assistance to purchase the unit. Requiring that construction commence at such an early stage in the homeownership process diminishes the housing choices available to the family, and is unnecessary to ensure compliance with applicable environmental requirements since the voucher family has not yet entered into a binding commitment to purchase the home with Federal funds. Accordingly, this final rule amends § 982.628 to require that a unit need only be under construction at the time the family enters into the contract of sale. HUD will consider a unit to be “under construction” if the footers have been poured.

C. Comments Regarding Eligibility of Manufactured Homes

Comment: Support for proposed changes. Several commenters expressed support for the proposed changes regarding the eligibility of manufactured homes.

HUD Response. HUD appreciates these favorable comments. As noted below, HUD has further expanded the types of housing eligible for purchase under the homeownership option.

Comment: HUD should further expand eligibility to include other types of housing where the homeowner does not also own the underlying real property. Three commenters wrote that HUD should expand the types of eligible housing to include other similar housing types—such as manufactured homes in resident-owned, or nonprofit owned, manufactured home parks and units in land trust networks. The commenters wrote that such a change would expand the housing options for low-income families and conform to the existing secondary market.

HUD Response. HUD has adopted the change suggested by the commenters. This final rule expands the types of eligible housing to include any housing where the family will not also own fee title to the real property on which the home is located. However, the family must have the right to occupy the site for a period of at least forty years.

Further, the home must have a permanent foundation. These requirements are necessary to satisfy the homeownership goals of section 8(y). The statute contemplates the purchase of real property, which necessitates long-term site control.

For all practical purposes, the requirement for a permanent foundation will usually only come into consideration when the purchase involves a manufactured home. HUD notes that the purchase of a manufactured home without a permanent foundation and a short-term pad lease is not eligible for voucher homeownership assistance. Manufactured home owners with short-term lease arrangements are eligible for rental assistance for the pad under section 8(o)(12), but not homeownership assistance under section 8(y).

Comment: HUD must revise list of homeownership expenses to fully implement manufactured home eligibility. Two commenters wrote that in order to fully implement these changes, HUD must revise the list of homeownership expenses for a homeowner other than a cooperative member at § 982.635(c) to include the cost of pad rental and land lease or land trust payments. A corresponding change for cooperative members at § 982.635(c)(3) is unnecessary because these expenses are already included in the cooperative charges.

HUD Response. HUD has adopted the suggestion made by the commenter. This final rule revises § 982.635(c) to include land lease payments. These payments include the cost of leasing the land for both manufactured homes and other housing types where the family does not also own the real property on which the home is located.

Comment: HUD should extend right of occupancy requirement to forty years. One commenter wrote that this change would conform to the policies of certain lenders regarding the purchase of a manufactured home where the borrower does not also own the property on which the home is located. Specifically, these lenders require that the borrower have a leasehold on the property of at least ten years beyond the term of the first mortgage loan.

HUD Response. HUD agrees and has revised the proposed rule in response to this public comment. The revised requirement is consistent with standard FHA mortgage underwriting practices.

D. Comments Regarding Removal of Recapture Provisions

Comment: Support for removal of recapture provisions. Most commenters submitting comments on this issue

applauded HUD's proposal to remove the recapture provisions. The commenters agreed with HUD that recaptures might discourage participation in the homeownership option and pose an undue administrative burden on PHAs.

HUD Response. HUD appreciates the support expressed by these commenters. This final rule adopts the proposal to remove the recapture provisions contained in the June 13, 2001, proposed rule. In addition, this final rule provides that a PHA shall not impose or enforce any requirement for the recapture of voucher homeownership assistance on the sale or refinancing of a home purchased with assistance under the homeownership option. This change will ensure that families who purchased their homes prior to issuance of this final rule also receive the benefit provided by removal of the onerous recapture requirements.

Comment: HUD should allow recaptures of downpayment assistance as a local program option. One commenter wrote that, while the recapture of long-term mortgage assistance may be complex and serve as a disincentive for home maintenance, deferred second mortgages for the principal amount of downpayment assistance are common tools in homebuyer assistance programs and are important to local political support for this type of assistance.

HUD Response. HUD has not adopted the suggestion made by the commenter. As noted, this final rule removes the recapture requirements for the homeownership option. HUD does not believe it would be appropriate to establish separate recapture policies for monthly homeownership assistance payments and downpayment grants. In order to have a consistent policy concerning recaptures of homeownership assistance, recaptures of downpayment grants are not authorized.

VI. Discussion of Other Public Comments

Comment: Restrictions on future receipt of homeownership assistance should only apply to family members listed on the title to the home. Two commenters wrote that the prohibition of future receipt of homeownership assistance is unduly harsh for family members who may not be able to take title to, or own, the previous home (including minor children who are not legally able to contract for the purchase of a home). The commenters wrote that any prohibition against receipt of future homeownership assistance should be

directed only to those family members who are taking title to the property.

HUD Response. HUD agrees with the commenters that the current prohibitions may be too severe, especially for minor children who are not able to contract for purchase of the home. However, HUD does not agree that the restriction on future receipt of homeownership assistance should be limited to those members of the family who hold title to the property. The change suggested by the commenters would permit a family to circumvent the restriction by simply having another adult family member take title to the home. Accordingly, the final rule modifies the prohibitions on future receipt of assistance to those family members who were adults at the time the family received prior homeownership assistance. Specifically, a family that includes an individual who was an adult member of a family that previously received either of the two forms of homeownership assistance may not receive the other form of homeownership assistance from any PHA. Further, a PHA may not provide homeownership assistance for a family if any member was an adult member of a family at the time when such family received assistance under the homeownership option, and defaulted on the mortgage securing purchase of the home.

Comment: Reasonable accommodation requirements are onerous. Two commenters objected to the language of § 982.625(e)(2), which requires PHAs to offer either form of homeownership assistance as a reasonable accommodation for a person with disabilities. The commenters wrote that this provision would require a PHA that has elected not to offer homeownership assistance to create an entire homeownership program in order to address a single family's request. The commenters wrote that this requirement imposes an undue administrative burden on PHAs and should be removed at the final rule stage.

HUD Response. HUD is cognizant of the financial difficulty of administering a single unit homeownership program on behalf of a disabled family. The preamble to HUD's September 17, 2000 (65 FR 55134), final rule implementing the homeownership option provides useful guidance in this regard. As the preamble noted:

The provision of homeownership assistance as a reasonable accommodation is determined on a case-by-case basis by the PHA. The PHA will determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. It is the sole

responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. For example, depending on the individual circumstances, the PHA may determine that it is a reasonable accommodation to provide homeownership assistance when the PHA has implemented a limited homeownership program and is currently assisting the maximum number of homeowners in the PHA program. On the other hand, the PHA may determine that it is not reasonable to provide homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program. (See 65 FR 55145, first column.)

For purposes of clarity, the final rule amends HUD's homeownership option regulations to codify the preamble guidance quoted above. Codification will make this language easier to find, since PHAs and voucher families are more likely to refer to the regulations than to the preamble of the final rule for policy guidance. Further, HUD believes that codification of this guidance will clarify the regulations for voucher families, and better assist PHAs in determining whether homeownership assistance should be provided as a reasonable accommodation. HUD emphasizes that inclusion of this language in the regulations does not establish new procedures or modify existing policies concerning the reasonable accommodation requirements. Rather, the final rule simply repeats current HUD guidance on these requirements.

Comment: Support for reasonable accommodation requirements. One commenter wrote in support of the reasonable accommodation requirements. The commenter urged HUD to require PHAs to offer the homeownership option as a reasonable accommodation, even if the PHA does not otherwise offer Section 8 homeownership assistance. The commenter wrote that accessible and affordable rental units are often difficult to locate. Accordingly, purchase of an accessible unit may be the only viable option for a person with disabilities.

HUD Response. As noted above, it is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA will determine what is reasonable based on the specific circumstances and individual needs of the person with a disability.

Comment: Final rule should provide that voucher homeownership assistance may be used to purchase PHA-owned properties. Two commenters wrote that HUD should allow the purchase of PHA-owned units under the homeownership

option. The commenters also suggested that HUD establish appropriate procedures for inspection of these units to remove the potential of any conflict of interest.

HUD Response. HUD has not incorporated the changes suggested by the commenters in this final rule. Rather, HUD is promulgating the necessary regulatory procedures regarding the sale of PHA-owned properties under the homeownership option in a separate rule.

Comment: HUD should establish guidance regarding PHA coordination in offering the homeownership option.

Two commenters wrote that HUD should encourage smaller PHAs to collaborate with neighboring PHAs that are offering the homeownership option. The commenters wrote that such efforts to pool resources will provide families with more housing choices (including more geographic flexibility on where they can live), attract more lenders to the program due to increased volume, and create more efficient homeownership programs.

HUD Response. HUD encourages PHAs to develop strategies to facilitate efficient use of administrative and other resources in implementing voucher homeownership assistance. Nothing in the homeownership option regulations prohibits one or more PHAs from collaborating to administer a combined homeownership program or to administer complementary homeownership programs.

Comment: HUD should establish homebuyer education requirement. One commenter wrote that HUD should require potential homebuyers to partake in homeownership education before the provision of voucher homeownership assistance.

HUD Response. The existing homeownership regulations already address the concerns expressed by the commenter. As noted above in this preamble, families participating in the homeownership option are required to attend and satisfactorily complete the pre-assistance homeownership and housing counseling program offered by the PHA. Accordingly, no regulatory change is required.

VII. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the

Order). Any changes made to the rule as a result of that review are identified in the docket file, which is available for public inspection in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This final rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). That finding remains applicable to this final rule and is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (RFA), has reviewed and approved this final rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

(1) *A Substantial Number of Small Entities will not be Affected.* The final rule is exclusively concerned with public housing agencies that administer tenant-based housing assistance under section 8 of the United States Housing Act of 1937. Specifically, the final rule implements an alternative to the basic homeownership option under which a PHA may elect to provide a one-time downpayment assistance grant to eligible families. The final rule also makes several clarifying and streamlining amendments to the regulations governing basic homeownership voucher assistance, which is also administered by PHAs.

Under the definition of "small governmental jurisdiction" in section 601(5) of the RFA, the provisions of the RFA are applicable only to those few PHAs that are part of a political jurisdiction with a population of under 50,000 persons. The number of entities potentially affected by this rule is therefore not substantial.

(2) *No Significant Economic Impact.* The final rule does not change the amount of funding available under the Housing Choice Voucher Program. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule is exclusively concerned with homeownership voucher assistance. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Catalog of Domestic Assistance Number

The Catalog of Domestic Assistance Number for the Housing Choice Voucher Program is 14.871.

List of Subjects in 24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 982 as follows:

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

1. The authority citation for 24 CFR part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

2. In § 982.4(b), add the definition of "Downpayment assistance grant" in alphabetical order, and revise the definition of "Homeownership assistance" to read as follows:

§ 982.4 Definitions.

* * * * *

(b) * * *

Downpayment assistance grant. A form of homeownership assistance in the homeownership option: A single downpayment assistance grant for the family. If a family receives a downpayment assistance grant, a PHA may not make monthly homeownership assistance payments for the family. A downpayment assistance grant is applied to the downpayment for purchase of the home or reasonable and customary closing costs required in connection with purchase of the home.

* * * * *

Homeownership assistance. Assistance for a family under the homeownership option. There are two alternative and mutually exclusive forms of homeownership assistance by a PHA for a family: monthly homeownership assistance payments, or a single downpayment assistance grant. Either form of homeownership assistance may be paid to the family, or to a mortgage lender on behalf of the family.

* * * * *

3. Section 982.601(d) is revised to read as follows:

§ 982.601 Overview.

* * * * *

(d) *Family choice of housing and housing type.* The family chooses whether to use housing that qualifies as a special housing type under this subpart, or as any specific special housing type, or to use other eligible housing in accordance with requirements of the program. The PHA may not restrict the family's freedom to choose among available units in accordance with § 982.353.

* * * * *

4. Section 982.625 is amended by:

a. Redesignating paragraphs (c) and (d) as paragraphs (f) and (g), respectively;

b. Adding new paragraphs (c), (d), (e), (h) and (i); and

c. In the introductory paragraph of newly redesignated paragraph (g), remove the reference to "(d)(1), (d)(2), or (d)(3)" and add "(g)(1), (g)(2), or (g)(3)" in its place. The additions and revisions read as follows:

§ 982.625 Homeownership option: General.

* * * * *

(c) *Forms of homeownership assistance.* (1) A PHA may provide one of two forms of homeownership assistance for a family:

(i) Monthly homeownership assistance payments; or

(ii) A single downpayment assistance grant.

(2) *Prohibition against combining forms of homeownership assistance.* A family may only receive one form of homeownership assistance. Accordingly, a family that includes a person who was an adult member of a family that previously received either of the two forms of homeownership assistance may not receive the other form of homeownership assistance from any PHA.

(d) *PHA choice to offer homeownership options.* (1) The PHA may choose to offer either or both forms of homeownership assistance under this subpart, or choose not to offer either form of assistance. However, the PHA must offer either form of homeownership assistance if necessary as a reasonable accommodation for a person with disabilities in accordance with § 982.601(b)(3).

(2) It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA will determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

(e) *Family choice.* (1) The family chooses whether to participate in the homeownership option if offered by the PHA.

(2) If the PHA offers both forms of homeownership assistance, the family chooses which form of homeownership assistance to receive.

* * * * *

(h) *Recapture of homeownership assistance.* A PHA shall not impose or enforce any requirement for the recapture of voucher homeownership assistance on the sale or refinancing of a home purchased with assistance under the homeownership option.

(i) *Applicable requirements.* The following specify what regulatory provisions (under the heading "homeownership option") are applicable to either or both forms of homeownership assistance (except as otherwise specifically provided):

(1) *Common provisions.* The following provisions apply to both forms of homeownership assistance:

(i) Section 982.625 (General);

(ii) Section 982.626 (Initial requirements);

(iii) Section 982.627 (Eligibility requirements for families);

(iv) Section 982.628 (Eligible units);
(v) Section 982.629 (Additional PHA requirements for family search and purchase);

(vi) Section 982.630 (Homeownership counseling);

(vii) Section 982.631 (Home inspections, contract of sale, and PHA disapproval of seller);

(viii) Section 982.632 (Financing purchase of home; affordability of purchase);

(ix) Section 982.636 (Portability);

(x) Section 982.638 (Denial or termination of assistance for family); and

(xi) Section 982.641 (Applicability of other requirements).

(2) *Monthly homeownership assistance payments.* The following provisions only apply to homeownership assistance in the form of monthly homeownership assistance payments:

(i) Section 982.633 (Continued assistance requirements; family obligations);

(ii) Section 982.634 (Maximum term of homeownership assistance);

(iii) Section 982.635 (Amount and distribution of monthly homeownership assistance payment);

(iv) Section 982.637 (Move with continued tenant-based assistance); and

(v) Section 982.639 (Administrative fees).

(3) *Downpayment assistance grant.* The following provision only applies to homeownership assistance in the form of a downpayment assistance grant: Section 982.643 (Downpayment assistance grants).

5. Revise § 982.627(c)(1), (c)(2)(iii), (c)(3), and (e) to read as follows:

§ 982.627 Homeownership option: Eligibility requirements for families.

* * * * *

(c) *Minimum income requirements.*

(1) At commencement of monthly homeownership assistance payments for the family, or at the time of a downpayment assistance grant for the family, the family must demonstrate that the annual income, as determined by the PHA in accordance with § 5.609 of this title, of the adult family members who will own the home at commencement of homeownership assistance is not less than:

(i) In the case of a disabled family (as defined in § 5.403(b) of this title), the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone (or paying his or her share of food and housing costs) multiplied by twelve; or

(ii) In the case of other families, the Federal minimum wage multiplied by 2,000 hours.

(2) * * *

(iii) In the case of an elderly or disabled family, the PHA shall include welfare assistance for the adult family members who will own the home in determining if the family meets the minimum income requirement.

(3) A PHA may establish a minimum income standard that is higher than those described in paragraph (c)(1) of this section for either or both types of families. However, a family that meets the applicable HUD minimum income requirement described in paragraph (c)(1) of this section, but not the higher standard established by the PHA shall be considered to satisfy the minimum income requirement if:

(i) The family demonstrates that it has been pre-qualified or pre-approved for financing;

(ii) The pre-qualified or pre-approved financing meets any PHA established requirements under § 982.632 for financing the purchase of the home (including qualifications of lenders and terms of financing); and

(iii) The pre-qualified or pre-approved financing amount is sufficient to purchase housing that meets HQS in the PHA's jurisdiction.

* * * * *

(e) *Prohibition against assistance to family that has defaulted.* The PHA shall not commence homeownership assistance for a family that includes an individual who was an adult member of a family at the time when such family received homeownership assistance and defaulted on a mortgage securing debt incurred to purchase the home.

6. Amend § 982.628 as follows:

- a. Revise paragraphs (a)(2) and (a)(3);
- b. Redesignate paragraph (b) as paragraph (c); and
- c. Add new paragraph (b). The revisions and additions read as follows:

§ 982.628 Homeownership option: Eligible units.

(a) * * *

(2) The unit is either under construction or already existing at the time the family enters into the contract of sale.

(3) The unit is either a one-unit property (including a manufactured home) or a single dwelling unit in a cooperative or condominium.

* * * * *

(b) *Purchase of home where family will not own fee title to the real property.* Homeownership assistance may be provided for the purchase of a home where the family will not own fee title to the real property on which the home is located, but only if:

(1) The home is located on a permanent foundation; and

(2) The family has the right to occupy the home site for at least forty years.

* * * * *

7. Amend § 982.631 as follows:

- a. Revise the section heading;
- b. Revise paragraph (a);
- c. Revise the second sentence of paragraph (b)(4);
- d. Revise the first sentence of paragraph (c)(1); and
- e. Add paragraph (d). The revisions and addition read as follows:

§ 982.631 Homeownership option: Home inspections, contract of sale, and PHA disapproval of seller.

(a) HQS inspection by PHA. The PHA may not commence monthly homeownership assistance payments or provide a downpayment assistance grant for the family until the PHA has inspected the unit and has determined that the unit passes HQS.

(b) * * *

(4) * * * The PHA may not commence monthly homeownership assistance payments, or provide a downpayment assistance grant for the family, until the PHA has reviewed the inspection report of the independent inspector.

* * * * *

(c) *Contract of sale.* (1) Before commencement of monthly homeownership assistance payments or receipt of a downpayment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. * * *

* * * * *

(d) *PHA disapproval of seller.* In its administrative discretion, the PHA may deny approval of a seller for any reason provided for disapproval of an owner in § 982.306(c).

8. Amend § 982.635 as follows:

- a. In paragraph (c)(2)(vi), remove the word "and";
- b. In paragraph (c)(2)(vii), replace the period at the end of the paragraph with "; and";
- c. Add paragraph (c)(2)(viii); and
- d. In paragraph (e), revise the first sentence. The revisions and additions read as follows:

§ 982.635 Homeownership option: Amount and distribution of monthly homeownership assistance payment.

* * * * *

(c) * * *

(2) * * *

(viii) Land lease payments (where a family does not own fee title to the real property on which the home is located; see § 982.628(b)).

* * * * *

(e) *Automatic termination of homeownership assistance.* Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. * * *

§ 982.640 [Removed]

9. Remove § 982.640.

10. Revise § 982.641(b)(4) to read as follows:

§ 982.641 Homeownership option: Applicability of other requirements.

* * * * *

(b) * * *

(4) Section 982.306 (PHA disapproval of owner) (except that a PHA may disapprove a seller for any reason described in paragraph (c), see § 982.631(d)).

* * * * *

11. Add § 982.643 to read as follows:

§ 982.643 Homeownership option: Downpayment assistance grants.

(a) *General.* (1) A PHA may provide a single downpayment assistance grant for a participant that has received tenant-based or project-based rental assistance in the Housing Choice Voucher Program.

(2) The downpayment assistance grant must be applied toward the downpayment required in connection with the purchase of the home and/or reasonable and customary closing costs in connection with the purchase of the home.

(3) If the PHA permits the downpayment grant to be applied to closing costs, the PHA must define what fees and charges constitute reasonable and customary closing costs. However, if the purchase of a home is financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements, including any requirements concerning closing costs (see § 982.632(b) of this part regarding the applicability of FHA requirements to voucher homeownership assistance and § 203.27 of this title regarding allowable fees, charges and discounts for FHA-insured mortgages).

(b) *Maximum downpayment grant.* A downpayment assistance grant may not exceed twelve times the difference between the payment standard and the total tenant payment.

(c) *Payment of downpayment grant.* The downpayment assistance grant shall be paid at the closing of the family's purchase of the home.

(d) *Administrative fee.* For each downpayment assistance grant made by the PHA, HUD will pay the PHA a one-

time administrative fee in accordance with § 982.152(a)(1)(iii).

(e) *Return to tenant-based assistance.*

A family that has received a downpayment assistance grant may apply for and receive tenant-based rental assistance, in accordance with program requirements and PHA policies. However, the PHA may not commence tenant-based rental

assistance for occupancy of the new unit so long as any member of the family owns any title or other interest in the home purchased with homeownership assistance. Further, eighteen months must have passed since the family's receipt of the downpayment assistance grant.

(f) *Implementation of downpayment assistance grants.* A PHA may not offer

downpayment assistance under this paragraph until HUD publishes a notice in the **Federal Register**.

Dated: October 8, 2002.

Michael M. Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 02-26343 Filed 10-17-02; 8:45 am]

BILLING CODE 4210-33-P



Federal Register

**Friday,
October 18, 2002**

Part IV

Environmental Protection Agency

40 CFR Part 63

**National Emission Standards for
Hazardous Air Pollutants for Friction
Materials Manufacturing Facilities; Final
Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-7385-9]

RIN 2060-AG87

National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing friction materials manufacturing facilities. Some of these facilities, specifically those that perform solvent mixing, have been identified as major sources of hazardous air pollutants (HAP) including n-hexane, toluene, and trichloroethylene.

Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lungs, skin, mucous membranes, and effects on the central nervous system, liver, and kidney.

Today's final rule will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). Implementation of today's final rule will reduce HAP emissions by approximately 290 tons per year (tpy).

EFFECTIVE DATE: October 18, 2002.

ADDRESSES: Docket No. A-97-57 contains supporting information used in developing the final rule. The docket is located at the Air and Radiation Docket and Information Center in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC, and may be inspected from 8:30 a.m. to 4:30 p.m.,

Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. If no State or local representative is available, contact the EPA Regional Office staff listed in § 63.13. For information concerning the analyses performed in developing this rule, contact Kevin Cavender, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emission Standards Division, Metals Group, (Mail Code 439-02), Research Triangle Park, NC 27711, telephone number (919) 541-2364, electronic mail address cavender.kevin@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include those listed in the following table:

Category	NAICS code	Examples of regulated entities
Industry	33634, 327999, 333613	Friction materials manufacturing facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.9485 of today's final rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review. The NESHAP for friction materials manufacturing was proposed on October 4, 2001 (66 FR 50768). Today's action announces EPA's final decisions on the rule. Under section 307(b)(1) of the CAA, judicial review of today's final rule is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by December 17, 2002. Only those objections to this rule which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through the Technology Transfer Network

(TTN). Following the Administrator's signature, a copy of the final rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Outline. The information presented in this preamble is organized as follows:

- I. Background and Public Participation
 - A. What is the statutory authority for NESHAP?
 - B. What criteria are used in the development of NESHAP?
 - C. How was the rule developed?
 - D. How can I get copies of this document and other related information?
- II. Summary of the Final Rule
 - A. Who must comply with this rule?
 - B. What sources are affected?
 - C. What are the compliance dates?
 - D. What are the emission limitations?
 - E. What are the initial and continuous compliance requirements?
 - F. What are the notification, recordkeeping, and reporting requirements?
- III. Summary of Major Changes Since Proposal
- IV. Summary of Responses to Major Comments
 - A. De Minimis Use Exemption
 - B. MACT Standard
 - C. Compliance Deadline
- V. Summary of Impacts
 - A. What are the health impacts?

- B. What are the air emission reduction impacts?
- C. What are the cost impacts?
- D. What are the economic impacts?
- E. What are the non-air quality environmental and energy impacts?
- VI. Administrative Requirements
 - A. Executive Order 12866, Regulatory Planning and Review
 - B. Executive Order 13132, Federalism
 - C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
 - D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
 - E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
 - F. Unfunded Mandates Reform Act of 1995
 - G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
 - H. Paperwork Reduction Act
 - I. National Technology Transfer and Advancement Act of 1995
 - J. Congressional Review Act

I. Background and Public Participation

A. What Is the Statutory Authority for NESHAP?

Section 112 of the CAA requires us to list all categories and subcategories of major sources of HAP emissions and to establish NESHAP for their control. Major sources are those that emit or have the potential to emit at least 10 tpy

of any single HAP or 25 tpy of any combination of HAP. An initial list of source categories and accompanying schedules for regulation were published on December 3, 1993 (58 FR 63941). Friction materials manufacturing was not among the initially listed source categories. A subsequent notice published on June 4, 1996 (61 FR 28197) added friction products manufacturing to the list of major source categories scheduled for regulation by November 15, 2000. The listing was based on information obtained in a 1992 survey of the industry from which we concluded that some facilities that manufacture friction products have the potential to be major sources of HAP emissions. Friction products manufacturing includes facilities that manufacture, assemble, or rebuild friction products such as brakes or clutches. Based on information obtained during the development of this final rule, we have determined that only facilities that manufacture friction materials have the potential to emit HAP at major source levels. As such, this final rule will affect only friction materials manufacturers and will not affect facilities that only assemble or rebuild friction products. Friction materials manufacturing was added to the source category list on February 12, 2002 (67 FR 6521), replacing friction products manufacturing.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction of HAP emissions that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than the standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources for categories or subcategories

with 30 or more sources (or the best-performing five sources for categories or subcategories with fewer than 30 sources) (CAA section 112(d)(3)).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor taking into consideration the cost of achieving the emission reductions, any non-air quality health and environmental impacts, and energy requirements (CAA section 112(d)(2)).

C. How Was the Rule Developed?

We proposed the NESHAP for friction materials manufacturing on October 4, 2001 (66 FR 50768). The preamble for the proposed standards described the rationale for the proposed standards. Public comments were solicited at the time of proposal. The public comment period lasted from October 4, 2001 to December 3, 2001. Industry representatives, regulatory agencies, environmental groups, and the general public were given the opportunity to comment on the proposed rule and to provide additional information during the public comment period. Although we offered at proposal the opportunity for oral presentation of data, views, or arguments concerning the proposed rule, no one requested a hearing, and a hearing was not held.

We received a total of four letters containing comments on the proposed rule during and after the public comment period. Commenters included a Federal government agency, a law firm representing a friction materials manufacturing company, and an industry trade association. Today's final rule reflects our full consideration of all of the comments received. Major public comments on the proposed rule, along with our responses to those comments, are summarized in this preamble.

D. How Can I Get Copies of This Document and Other Related Information?

EPA has established an official public docket for this action under Docket ID No. A-97-57. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1742, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742).

You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Air and Radiation Docket and Information Center. Once in the system, select "search," then key in the appropriate docket identification number.

II. Summary of the Final Rule

This section presents a summary of the requirements of today's final rule.

A. Who Must Comply With This Rule?

The final rule applies to any owner or operator of a friction materials manufacturing facility that is, or is part of, a major source of HAP emissions. Friction materials manufacturing includes any facility engaged in the manufacture of friction materials such as brake and clutch linings.

B. What Sources Are Affected?

The final rule affects each existing or new solvent mixer at a friction materials manufacturing facility which uses a solvent in their mixer that contains one or more HAP as an ingredient to the friction material composition.

C. What Are the Compliance Dates?

All existing affected sources must be in compliance no later than October 18, 2005. An affected source is an existing source if its construction began before October 4, 2001. A new or reconstructed affected source with an initial start up date on or after October 4, 2001, but before October 18, 2002 must be in compliance by October 18, 2002. A new or reconstructed source with an initial start up date after October 18, 2002 must be in compliance upon initial start up. An affected source is considered reconstructed if it meets definition of "reconstruction" in 40 CFR 63.2.

D. What Are the Emission Limitations?

Today's final rule will require owners or operators of new and existing large solvent mixers to limit emissions of total organic HAP discharged to the atmosphere to 30 percent or less of that

which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a 7-day block average. Owners or operators of new and existing small solvent mixers will be required to limit emissions of total organic HAP discharged to the atmosphere to 15 percent or less of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a 7-day block average.

E. What Are the Initial and Continuous Compliance Requirements?

For owners or operators of solvent mixers using a solvent recovery system, initial compliance will be determined by measuring and recording the weight of solvent added to each affected mixer and the weight of solvent recovered for each mix batch over the first 7 consecutive days after the compliance date. For owners or operators of solvent mixers using solvent substitution, initial compliance will be determined by recording the use of a non-HAP material as a substitute for a HAP solvent for each mix batch. For owners or operators of new and existing large solvent mixers, initial compliance is demonstrated if the average amount of solvent discharged to the atmosphere recorded for each mix batch over the 7-day period does not exceed 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution. For owners or operators of new and existing small solvent mixers, initial compliance is demonstrated if the average amount of solvent discharged to the atmosphere recorded for each mix batch over the 7-day period does not exceed 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution. Today's final rule also includes performance specifications for the weight measurement device as well as procedures for conducting the measurements and computing the results.

For owners or operators of solvent mixers using a solvent recovery system, continuous compliance will be determined by continuing to measure and record the weight of solvent added to each affected mixer and the weight of solvent recovered for each mix batch. For owners or operators of solvent mixers using solvent substitution, continuous compliance will be determined by continuing to record the use of a non-HAP material as a substitute for HAP solvent for each mix batch. For owners or operators of new and existing large solvent mixers, continuous compliance is demonstrated

by maintaining each 7-day block average at or below 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution. For owners or operators of new and existing small solvent mixers, continuous compliance is demonstrated by maintaining each 7-day block average at or below 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

The notification, recordkeeping, and reporting requirements in today's final rule rely on the NESHAP General Provisions in 40 CFR part 63, subpart A. Table 1 in the final rule shows each of the requirements in the General Provisions (§§ 63.2 through 63.15) and whether they apply.

Under the final rule, owners or operators subject to these standards must submit each of the notifications contained in the General Provisions that applies to them. These include an initial notification of applicability, which for existing sources is required within 120 days of the promulgation date; and a notification of compliance status, which must be submitted before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

In addition, owners or operators subject to these standards will need to prepare and maintain all records required by the General Provisions to document compliance with each enforceable provision of the proposed rule. Records needed to show continuous compliance with the emission limitation in the final rule are to be kept for 5 years.

We are also requiring owners or operators of all affected sources to submit semiannual compliance reports which highlight any deviations from the emission limitation and other provisions of the final rule. Each report will be due no later than 30 days after the end of the reporting period. If no deviations occurred, owners or operators are only required to submit a statement that there were no deviations from the emission limitation during the reporting period. More detailed information will be required, as specified in the final rule, if a deviation occurred or there was a startup, shutdown, or malfunction event. Owners or operators must submit an immediate report if they undertake actions during a startup, shutdown, or malfunction that are inconsistent with the procedures in their approved

startup, shutdown, and malfunction plan, required by § 63.6(e)(3) of the General Provisions. Deviations that occur during a period of startup, shutdown, or malfunction are not violations if the owner or operator demonstrates to our satisfaction that the affected source was operating in accordance with the startup, shutdown, and malfunction plan.

III. Summary of Major Changes Since Proposal

This section describes the major changes made to the proposed rule based on public comments. We extended the compliance period for existing sources from 2 years to 3 years. We subcategorized the friction materials manufacturing source category into small and large solvent mixer subcategories and established new MACT floor and beyond-the-floor control options for those subcategories. We chose the MACT floor option of 70 percent emission reduction as the standard for new and existing large solvent mixers and the beyond-the-floor option of 85 percent emission reduction as the standard for new and existing small solvent mixers. We now allow owners and operators the option of complying with the standards by using solvent recovery, as proposed, or substitution to a non-HAP containing solvent. We revised the initial and continuous compliance requirements to reflect the change in standards. We also added definitions for small solvent mixer, large solvent mixer, and solvent substitution.

IV. Summary of Responses to Major Comments

This section summarizes the major comments we received on the proposed rule and our responses to those comments. A more comprehensive summary of comments and responses can be found in Docket No. A-97-57.

A. De Minimis Use Exemption

Comment: One commenter recommended that the final rule clarify the intended applicability of the rule by including a *de minimis* use (production) exemption that would exempt from the standard facilities that produce very small amounts of friction material.

Response: A follow-up contact with the commenter revealed that the commenter's concerns are based on research and development (R&D) activities. Because § 63.9485(b) of the rule includes an exemption for R&D facilities, as they are defined in section 112(c)(7) of the CAA, any R&D activities related to friction materials would not be covered under the friction materials

manufacturing NESHAP. As such, no change has been made in the final rule to address this comment.

B. MACT Standard

1. Additional Emission Reductions

Comment: One commenter noted that the proposed rule affects only a few sources and will reduce baseline HAP emissions from the industry by only 50 percent, allowing 330 tpy of emissions to not be recovered through implementation of the proposed rule. The commenter stated that it was troubling that the proposal did not include a mechanism for addressing these remaining emissions.

Response: Emissions due to the use of HAP solvents in solvent mixing operations account for 99 percent of the baseline HAP emissions. The emission standards contained in both the proposed rule and the final rule are based on what we believe to be the maximum technically and economically feasible level of emissions control achievable for solvent mixers. As such, the rule effectively addresses the solvent mixing component of HAP emissions from friction materials manufacturing. However, fugitive emissions resulting from the residual solvent in the mixed material, which accounts for approximately 70 percent of the estimated HAP emissions that will remain once the final rule is implemented, are not addressed. These emissions occur in later process equipment (extruders, granulators, dryers, hot presses, and curing ovens.) None of these pieces of equipment are currently equipped with HAP emission controls. Therefore, the MACT floor is no additional emission reduction for these sources. The commenter did not provide any data that would indicate that control of these fugitive sources would be economically feasible, and we do not believe that it would be cost-effective to capture and control the fugitive emissions from these sources. For these reasons, we have decided, as proposed, not to regulate these sources. No change has been made in the final rule to address this comment.

2. Consideration of Mixer Type/ Configuration and Cost of Compliance

Comment: According to one commenter, the proposed rule is factually flawed because it fails to account for the type and configuration of three of the mixers currently operated by the commenter's facility, which constitute 50 percent of the facility's operations. The commenter noted that these three small solvent mixers do not perform the mixing and drying in an

enclosed space amenable to complete capture of VOC emissions, in contrast to the Plant A mixer used by EPA to establish MACT. The commenter stated that the proposed rule incorrectly assumes that all mixers in the industry can be retrofitted relatively easily with VOC capture and recovery systems.

The commenter stated that it would be impossible, due to design and process parameters, to control the emissions from these three small uncontrolled mixers to achieve the proposed 85 percent overall standard. According to the commenter, the two major components of the three small uncontrolled mixers (mixing bowl and mixing assembly) are separate from each other, unlike the fourth mixer at the facility (and more typical of the industry) in which the mixing assembly is integral to the mixing bowl. In the case of the three small uncontrolled mixers, materials are dumped into the mixing bowl, the bowl is rolled under the mixing assembly, and the assembly is lowered and raised pneumatically in and out of the mixing bowl as needed. According to the commenter, the presence of the mixing assembly makes it impossible to get an acceptable vacuum seal to extract solvent vapors during the mixing process. The commenter stated that it would be very difficult if not impossible to install capture devices on the mixer, extrusion, and conveying processes to achieve the required minimum 90 percent capture efficiency. The commenter argued that the engineering obstacles to retrofitting the three small uncontrolled mixers with emission controls are so severe that the three mixers would need to be replaced under any scenario, at very substantial cost.

Response: We agree with the commenter that the proposed rule did not account for the cost to replace the existing small solvent mixers in order for the facility to meet the required 85 percent standard for small solvent mixers. In addition, we agree that because of their configuration, the small solvent mixers cannot be retrofitted with a system to capture and recover the hexane solvent, and, therefore, must be replaced. Based on information we have received from the commenter, we have revised our cost estimates for the final rule to include the cost for a new large solvent mixer to replace the existing small solvent mixers, as well as a solvent recovery system. We now estimate a capital cost of approximately \$900,000, an annual cost of approximately \$115,000 (without recovery credits, *i.e.*, the value of the recovered solvent), and an annual cost credit of approximately \$15,600 (with

recovery credits) for the commenter's facility to achieve the required 70 percent emission reduction for the new large solvent mixer. For monitoring, recordkeeping, and reporting, we estimate a capital cost of approximately \$2,300 and an annual cost of approximately \$12,000. Overall, we estimate a total annual cost of approximately \$126,000 (without recovery credits) and an annual cost credit of approximately \$3,600 (with recovery credits).

Based on 70 percent reduction of uncontrolled emissions for the new large solvent mixer, we estimate an emission reduction of approximately 250 tpy. Using these cost and emission reduction values, we estimate a cost per ton of approximately \$500/ton (without recovery credits) and a cost per ton credit of approximately \$14/ton (with recovery credits). Based on these low cost per ton values, we conclude that replacing the existing small solvent mixers and with a large solvent mixer and installing a solvent recovery system (condenser) capable of meeting the required 70 percent standard for large mixers is cost-effective. The associated secondary air impacts and energy impacts are also estimated to be low; secondary emissions are less than 3 tpy, and energy impacts are only approximately 1,100 million Btu/yr. No change has been made in the final rule to address this comment.

3. Assumed Mixer Size

Comment: One commenter disagreed with EPA's premise (described below) for using Plant A's vacuum system efficiency in determining MACT for the proposed rule. As noted by the commenter, the proposed rule states that vacuum systems remove solvents from the mixed material by evaporation at low pressure, so the higher the volatility of the solvent, the more easily it can be removed by a vacuum system. The proposal preamble states that, of the solvents used, hexane is the most volatile, while toluene is the least volatile. The preamble also indicates that, based on the available data, Plant A's vacuum system efficiency of 95 percent is the best of the existing systems. Because Plant A also uses the least volatile solvent, the proposed rule assumes that a vacuum system efficiency of 95 percent can be achieved for all three of the solvents used at the existing facilities. The commenter argued that this premise neglects other parameters, such as mixer size, mixer cycle, mixer type, or differences in product chemistry.

The commenter stated that EPA incorrectly assumed that typical mixer

batch sizes range from 300 to 1,000 pounds of material. Based on information from the docket, the commenter estimated that the weight of a typical batch at Plant A is 331 pounds (including solvent). The commenter contrasted this amount with the 3,300 pounds (not including solvent) commonly mixed in one of the mixers at the commenter's facility, concluding that the subject mixer at the commenter's facility is about 10 times larger than the mixer at Plant A.

The commenter argued that, when large batches are mixed, less solvent is volatilized in the mixer, and VOC capture is reduced. According to the commenter, operational experience at the commenter's facility indicates that larger batches generate more internal heat than smaller batches. The commenter pointed out that excess heat, if not properly controlled, would begin to cure the mix and make it unusable. As a result, the potential for heat generation limits the ability to remove solvent in the facility's large mixer.

In addition, the commenter noted that it is significantly harder to remove VOC solvent in a larger solvent mixer than a smaller solvent mixer per unit time. The commenter pointed out that drying rates decrease linearly with time, and a larger volume of identical materials would take a longer period of time to achieve the same level of dryness. According to the commenter, drying theories suggest that internal diffusion and/or internal capillary effects limit the drying process. The commenter pointed out that in drying, it is necessary to remove free moisture from both the surface and the interior of the material. As free moisture is removed from the surface of the material, the rate of drying is constant, but when the surface can no longer supply sufficient free moisture, the rate of drying falls. The drying rate is then limited by the time it takes for the moisture to migrate from the interior of the material to the surface. The commenter believes that the further the solvent has to travel to the surface, the longer it will take or the harder it will be to remove. The commenter argued that the larger the mixer, the larger the mass of material, and the larger the mass of material, the farther the interior solvent content will have to travel, and the harder it will be to remove that solvent.

The commenter argued that the distinction in mixer size is fundamental and that finalizing this MACT standard for existing sources without considering the differences in mixer size may effectively make it impossible for the commenter's facility to perform solvent

mixing operations using any of its current mixers or other mixers of similar size.

Response: We agree with the commenter's argument regarding the impact of mixer size on solvent recovery. Accordingly, we have decided to subcategorize the friction materials manufacturing source category into small and large solvent mixer subcategories and have established new control options for these subcategories. For the final rule, we have chosen the beyond-the-floor option (85 percent emission reduction) as the standard for new and existing small solvent mixers and the MACT floor option (70 percent emission reduction) as the standard for new and existing large solvent mixers. For large solvent mixers, beyond-the-floor control similar to that achieved by small solvent mixers was determined to be technically infeasible. As noted in our response in section IV.C, we also have extended the compliance date for existing sources from 2 years to 3 years after the effective date.

4. Assumed Solvent Recovery Efficiency

Comment: One commenter disagreed with EPA's conclusion that the same level of solvent recovery can be achieved at the same cost for different solvent mixers using different solvents at different facilities. More specifically, the commenter expressed concern regarding the statement in the preamble to the proposed rule that the hexane removal efficiency at the commenter's facility would increase from 80 percent to 90 percent if the outlet gas temperature from the condenser was reduced from 60°F to 32°F. The commenter contends that it is impractical and erroneous to predict a condenser efficiency of 90 percent for hexane at the facility solely by lowering the outlet temperature from 60°F to 32°F. The commenter acknowledged that reducing the temperature would improve efficiency, but the commenter believes the following variables must also be taken into account: (1) Volumetric flow rate of the gas stream; (2) inlet temperature of the gas stream; (3) concentration and composition of the VOC in the gas stream; (4) moisture content of the gas stream; (5) properties of the VOC, such as heat of condensation, heat capacity, and vapor pressure; and (6) degree of subcooling (difference between the condensing temperature and the outlet temperature of the condenser exhaust).

The commenter explained that many of the materials used in brake mixes at the commenter's facility are hygroscopic or contain moisture as delivered. Because of the potential that this

moisture could cause icing problems in the condenser, the facility maintains the coolant temperature at or slightly above 35°F. The commenter believes that it would be impractical or impossible to operate the existing condenser with an outlet gas temperature of 32°F because the coolant temperature would have to be below the freezing point of water.

In addition, the commenter disagrees with our position stated in the preamble to the proposed rule that establishing separate standards for individual solvents would be unwise. The commenter noted that the efficiency of a comparable condenser would be better for toluene than for hexane for the following reasons. First, a lower temperature would be needed to condense hexane than to condense toluene because hexane has a much higher vapor pressure. Second, at the facility's operating vacuum level, the boiling point of hexane is much lower than the boiling point of toluene, which means a condenser for hexane would have to operate at about -43°F to match the same amount of subcooling as a condenser for toluene operating at 32°F.

Response: We disagree with the commenter's position regarding the need for separate standards for each type of solvent. We understand that the HAP vapor pressures and specific control conditions differ for different solvents, and that, for a given condenser design and set of operating conditions, the removal efficiency would be better for toluene than for hexane. However, a properly designed and operated condenser can achieve a 90 percent removal efficiency on mixer exhausts at a reasonable cost for any of the three solvents currently being used at friction materials manufacturing facilities. Refrigerated condensers are commercially available which can reduce the exhaust temperature to well below -50°F. In addition, multi-stage condensers are available and can be used when water vapor poses a problem with water freezing on the cold condenser surfaces. No change has been made in the final rule to address this comment.

C. Compliance Deadline

Comment: One commenter noted that EPA has proposed a compliance deadline for existing sources of 2 years from the publication date of the final rule. The commenter pointed out that EPA is authorized by the CAA to set a 3-year compliance deadline (42 U.S.C. 7412(i)(3)(A)). The commenter argued that EPA's proposed 2-year compliance deadline is not based on any finding supported by the administrative record that mixers of the type and size used by

the commenter's facility can achieve MACT compliance within this time frame. The commenter's facility is in the process of developing alternative manufacturing techniques which, when fully developed and implemented, would eliminate VOC emissions from the mixing operations at the facility. The commenter stated that, upon achieving this goal, the rule should no longer apply to the facility's operations.

While some of the facility's mixing operations will be converted to non-VOC emitting techniques, the commenter could not ensure that all of the unique formulations can be converted, tested, and approved for implementation by the various transportation agencies and/or boards within 2 years after publication of the final rule. According to the commenter, the proposed rule would force the facility to spend several million dollars unnecessarily if it is compelled to meet the 2-year compliance deadline and would delay the implementation of the long-term program. Based on these arguments, the commenter recommended that EPA specify a 3-year compliance deadline in the final rule.

Response: Based on information from the commenter, the uncontrolled small solvent mixers at the commenter's facility are not amenable to control and will need to be replaced. (See section IV.B.3.) The facility will need time to replace the mixers, install the necessary control equipment, and bring the system into compliance. Therefore, to provide the commenter with sufficient time to achieve compliance, we have decided to extend the compliance deadline for existing sources to 3 years, which is consistent with section 112(i)(3)(A) of the CAA. If the commenter's facility wanted to comply by using non-VOC techniques with the new solvent mixer, the 3-year compliance time should also provide the facility with sufficient time to conduct the tests and obtain the approvals necessary to implement the techniques. The existing large mixer at the commenter's facility is already in compliance with the 70 percent standard for large solvent mixers.

V. Summary of Impacts

A. What Are the Health Impacts?

The primary HAP that would be addressed by this proposed rule include n-hexane, toluene, and trichloroethylene. Each are associated with a variety of adverse health effects, including chronic health disorders (e.g., reproductive and developmental effects, and effects on the central nervous system (CNS)), and acute health disorders (e.g., irritation of the lung,

skin, and mucus membranes and effects on the CNS, liver, and kidneys). Acute inhalation exposure of humans to high levels of hexane causes mild CNS effects, including dizziness, giddiness, slight nausea, and headache. Chronic exposure to hexane in air causes numbness in the extremities, muscular weakness, blurred vision, headache, and fatigue. One study reported testicular damage in rats exposed to hexane through inhalation. No information is available on the carcinogenic effects of hexane in humans or animals. We have classified hexane in Group D, not classifiable as to human carcinogenicity.

Acute and chronic inhalation exposure to trichloroethylene can affect the human CNS, producing symptoms such as dizziness, headache, confusion, euphoria, facial numbness, and weakness. High, short-term exposures to humans by inhalation have also been associated with effects on the liver, kidneys, gastrointestinal system, and skin. Human evidence is not adequate to establish a causal link between trichloroethylene exposure and cancer, but animal inhalation studies have reported increases in lung, liver, and testicular tumors. We have classified trichloroethylene as intermediate between probable and possible human carcinogen (Group B/C). We are currently reassessing its potential carcinogenicity.

Acute inhalation of toluene by humans may cause effects to the CNS, such as fatigue, sleepiness, headache, and nausea, as well as irregular heartbeat. Adverse CNS effects have been reported in chronic abusers exposed to high levels of toluene. Symptoms include tremors, decreased brain size, involuntary eye movements, and impaired speech, hearing, and vision. Chronic (long-term) inhalation exposure of humans to lower levels of toluene also causes irritation of the upper respiratory tract, eye irritation, sore throat, nausea, dizziness, headaches, and difficulty with sleep. Studies of children whose mothers were exposed to toluene by inhalation or mixed solvents during pregnancy have reported CNS problems, facial and limb abnormalities, and delayed development. However, these effects may not be attributable to toluene alone. We have classified toluene in Group D, not classifiable as to human carcinogenicity.

B. What Are the Air Emission Reduction Impacts?

Estimates of organic HAP emissions from the use of solvents are based on a mass balance using solvent usage data collected during the industry survey,

estimates of solvent recovery efficiencies for existing controls, and the promulgated solvent emission limitations of 30 percent emissions (or 70 percent emission reduction) for new and existing large solvent mixers and 15 percent emissions (or 85 percent emission reduction) for new and existing small solvent mixers. We assumed that one currently uncontrolled small mixer will be fitted with a solvent recovery system, and three currently uncontrolled small mixers (which are not amenable to control) will be replaced with a new mixer, and the new mixer will be equipped with a solvent recovery system. The remaining three existing mixers (one large, two small) currently meet the promulgated standards and as such should require no additional upgrades. We estimate that today's final rule will reduce organic HAP emissions by approximately 290 tpy from a baseline level of approximately 660 tpy. Emissions of volatile organic compounds (VOC) will also be reduced by approximately 290 tpy because these HAP are also VOC.

C. What Are the Cost Impacts?

We obtained process and emissions data from the facilities with the best-controlled solvent mixers and incorporated these data into the control cost algorithms for condensers in the OAQPS Control Cost Manual. We also obtained cost data from one facility to replace existing solvent mixers not amenable to control. We then applied these costs to those facilities that we project will be impacted by today's final rule.

As stated above, we project that four mixers located at two facilities will be impacted by the final rule. To meet the promulgated standard, we assumed that one existing small mixer will be equipped with a solvent recovery system, and three existing small mixers (which are not amenable to control) will be replaced with a new mixer, and the new mixer will be equipped with a solvent recovery system. One impacted facility is assumed to incur capital costs to install one or more new mixers to meet the promulgated standard, as well as annual costs to operate and maintain the new equipment. Both impacted facilities are assumed to incur capital costs to install condensers to meet the promulgated standard, as well as annual costs to operate and maintain the condensers.

Monitoring is also an important component of MACT and the cost estimate. We expect that all four facilities affected by the final rule will incur some additional annual costs due

to the monitoring, recordkeeping, and reporting requirements of the final rule.

Implementation of the final rule is expected to result in a nationwide capital cost of approximately \$947,000, with total annualized costs of approximately \$213,000 per year (without recovery credits) and \$60,000 per year (with recovery credits).

D. What Are the Economic Impacts?

Based on the cost estimates provided above, we believe the economic impacts associated with today's final rule will be negligible. In 1992, there were 53 facilities manufacturing friction materials. Of these 53 facilities, four are affected by the final rule and will incur control and monitoring costs. When we consider the solvent recovery credits along with control technology costs, the total economic impact of this final rule is a cost to the industry of \$60,000 per year, which is less than 1 percent of industry revenues. We consider impacts of less than 1 percent of industry revenues to be minor. In addition, we do not believe these impacts to be significant enough to alter the market price for friction materials.

E. What Are the Non-air Environmental and Energy Impacts?

Indirect air impacts of today's final rule will result from increased electricity usage associated with operation of control devices (i.e., condensers) installed to meet the promulgated standard. Assuming that facilities will purchase electricity from a power plant, we estimate that the final rule will increase secondary emissions of criteria pollutants from power plants by less than 3.0 tpy. These criteria pollutants include particulate matter, sulfur dioxide, nitrogen oxides, and carbon monoxide. The overall energy demand is expected to increase by approximately 40 kilowatts nationwide under the final rule. This energy demand is based on the electricity required to operate the vacuum and condenser systems needed to comply with the promulgated standard. Both the indirect air impact and energy impact are considered minor.

Because impacted facilities are expected to reuse or sell the solvent recovered by the condensers, we do not anticipate any significant wastewater or solid waste impacts as a result of the final rule.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must

determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or
- (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials

early in the process of developing the regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, it must include a certification from EPA's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

Today's final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected facilities are owned or operated by State governments, and the rule requirements will not supercede State regulations that are more stringent. Thus, the requirements of Executive Order 13132 do not apply to this final rule.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Today's final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal

government and Indian tribes, as specified in Executive Order 13175. No tribal governments own or operate friction materials manufacturing facilities. Thus, Executive Order 13175 does not apply to this final rule.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives that EPA considered.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the rule. Today’s final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. No children’s risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this final rule has been determined not to be “economically significant” as defined under Executive Order 12866.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Today’s final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local,

and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA’s regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today’s final rule does not contain a Federal mandate that may result in estimated costs of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of this proposed rule for any year has been estimated to be approximately \$213,000 without solvent recovery credits and \$60,000 with solvent recovery credits. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today’s final rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements

under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today’s final rule on small entities, small entity is defined as: (1) A small business that has no more than 500 employees for NAICS codes 327999 and 333613 or no more than 750 employees for NAICS code 33634; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today’s final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that only one company meets one of the definitions of small entity—a small business that has no more than 500 employees for NAICS code 333613. This company owns only one of the four facilities subject to this final rule. The mixer at this facility is equipped with a solvent recovery system capable of meeting the requirements of this final rule. As such, the additional burden to this facility as a result of this final rule will only be approximately \$16,400 per year for recordkeeping and reporting costs associated with demonstrating continued compliance with the final rule. There are several firms subject to this final rule whose costs will be a greater percentage of sales than this small business.

H. Paperwork Reduction Act

The information collection requirements in today’s final rule will be submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document (ICR No. 2025.02), and you may obtain a copy from Sandy Farmer by mail at the Office of Environmental Information, Collection Strategies Division (2822), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; by electronic mail at farmer.sandy@epa.gov; or by calling (202) 260–2740. You may also download a copy off the Internet at <http://www.epa.gov/icr>. The information

requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to NESHAP. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA's policies set forth in 40 CFR part 2, subpart B.

The final rule will require maintenance inspections of the control devices but will not require any notifications or reports beyond those required by the NESHAP General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual public reporting and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the final rule) is estimated to be approximately 1,390 labor hours per year, at a total annual cost of approximately \$65,300. This burden estimate includes the cost to install and operate the weight measurement device; one-time submission of a startup, shutdown, and malfunction plan, with semiannual reports for any event when the procedures in the plan were not followed; semiannual compliance reports; maintenance inspections; notifications; and recordkeeping. Total capital/startup costs associated with the recordkeeping requirements over the 3-year period of the ICR are estimated at approximately \$940, with operation and maintenance costs of approximately \$250/yr.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: (1) Review instructions; (2) develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; (3) adjust the existing ways to comply with any previously applicable instructions and requirements; (4) train personnel to be able to respond to a collection of information; (5) search existing data sources; (6) complete and review the collection of information; and (7)

transmit or otherwise disclose the 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 currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) Public Law 104-113 (15 U.S.C. 272 note) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory and procurement activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), American Society of Mechanical Engineers (ASME), National Fire Protection Association (NFPA), and Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves a technical standard. The EPA is promulgating test methods based on the weighing portion of EPA Method 28 (section 10.1) for weighing of recovered solvent. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards that could be used in addition to this EPA method. The search for emissions measurement procedures identified two voluntary consensus standards potentially applicable to this final rule. However, after reviewing the available standards, EPA determined that these two standards, identified for measuring recovered solvent on a scale, were impractical alternatives to the EPA test methods for the purposes of today's final rule. Therefore, EPA does not intend to adopt these standards for this purpose.

The voluntary consensus standard ASTM E319-85 (Reapproved 1997), "Standard Practice for the Evaluation of Single-Pan Mechanical Balances," is impractical for the purposes of this

rulemaking primarily because this standard is not a complete weighing procedure because it does not include a pretest procedure.

The voluntary consensus standard ASME Power Test Codes, "Supplement on Instruments and Apparatus, part 5, Measurement of Quantity of Materials, Chapter 1, Weighing Scales," is impractical for the purposes of this rulemaking because it does not specify the number of initial calibration weights to be used nor a specific pretest weight procedure.

Section 63.9525 to subpart QQQQ lists the testing procedures included in today's final rule. Under § 63.8 of the NESHAP General Provisions, a source may apply to EPA for permission to use an alternative method in place of any of the EPA testing methods.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until December 17, 2002. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 9, 2002.

Christine Todd Whitman,
Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding subpart QQQQ to read as follows:

Subpart QQQQ—National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

What This Subpart Covers

Sec.

- 63.9480 What is the purpose of this subpart?
 63.9485 Am I subject to this subpart?
 63.9490 What parts of my plant does this subpart cover?
 63.9495 When do I have to comply with this subpart?

Emission Limitations

- 63.9500 What emission limitations must I meet?

General Compliance Requirements

- 63.9505 What are my general requirements for complying with this subpart?

Initial Compliance Demonstration Requirements

- 63.9510 By what date must I conduct my initial compliance demonstration?
 63.9515 How do I demonstrate initial compliance with the emission limitation that applies to me?
 63.9520 What procedures must I use to demonstrate initial compliance?
 63.9525 What are the installation, operation, and maintenance requirements for my weight measurement device?

Continuous Compliance Requirements

- 63.9530 How do I demonstrate continuous compliance with the emission limitation that applies to me?

Notifications, Reports, and Records

- 63.9535 What notifications must I submit and when?
 63.9540 What reports must I submit and when?
 63.9545 What records must I keep?
 63.9550 In what form and how long must I keep my records?

Other Requirements and Information

- 63.9555 What parts of the General Provisions apply to me?
 63.9560 Who implements and enforces this subpart?
 63.9565 What definitions apply to this subpart?
 63.9570 How do I apply for alternative compliance requirements?
 63.9571–63.9579 [Reserved]

Table

Table 1 to Subpart QQQQ—Applicability of General Provisions to Subpart QQQQ

Subpart QQQQ—National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

What This Subpart Covers

§ 63.9480 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for friction

materials manufacturing facilities that use a solvent-based process. This subpart also establishes requirements to demonstrate initial and continuous compliance with all applicable emission limitations in this subpart.

§ 63.9485 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a friction materials manufacturing facility (as defined in § 63.9565) that is (or is part of) a major source of hazardous air pollutants (HAP) emissions on the first compliance date that applies to you, as specified in § 63.9495. Your friction materials manufacturing facility is a major source of HAP if it emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) The requirements in this subpart do not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act.

§ 63.9490 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at your friction materials manufacturing facility.

(b) The affected source covered by this subpart is each new, reconstructed, or existing solvent mixer (as defined in § 63.9565) at your friction materials manufacturing facility.

(c) A solvent mixer at your friction materials manufacturing facility is new if you commence construction of the solvent mixer after October 18, 2002. An affected source is reconstructed if it meets the definition of “reconstruction” in § 63.2, and reconstruction is commenced after October 18, 2002.

(d) A solvent mixer at your friction materials manufacturing facility is existing if it is not new or reconstructed.

§ 63.9495 When do I have to comply with this subpart?

(a) If you have an existing solvent mixer, you must comply with each of the requirements for existing sources no later than October 18, 2005.

(b) If you have a new or reconstructed solvent mixer and its initial startup date is after October 18, 2002, you must comply with the requirements for new and reconstructed sources upon initial startup.

(c) If your friction materials manufacturing facility is an area source that increases its emissions or its potential to emit such that it becomes a (or part of a) major source of HAP emissions, then paragraphs (c)(1) and (2) of this section apply.

(1) For any portion of the area source that becomes a new or reconstructed affected source, you must comply with the requirements for new and reconstructed sources upon startup or no later than October 18, 2002, whichever is later.

(2) For any portion of the area source that becomes an existing affected source, you must comply with the requirements for existing sources no later than 1 year after the area source becomes a major source or no later than October 18, 2005, whichever is later.

(d) You must meet the notification and schedule requirements in § 63.9535. Several of the notifications must be submitted before the compliance date for your affected source.

Emission Limitations

§ 63.9500 What emission limitations must I meet?

(a) For each new, reconstructed, or existing large solvent mixer at your friction materials manufacturing facility, you must limit HAP solvent emissions to the atmosphere to no more than 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a 7-day block average.

(b) For each new, reconstructed, or existing small solvent mixer at your friction materials manufacturing facility, you must limit HAP solvent emissions to the atmosphere to no more than 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a 7-day block average.

General Compliance Requirements

§ 63.9505 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitation in this subpart at all times, except during periods of startup, shutdown, or malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

Initial Compliance Demonstration Requirements

§ 63.9510 By what date must I conduct my initial compliance demonstration?

(a) If you use a solvent recovery system and/or solvent substitution, you

must conduct your initial compliance demonstration within 7 calendar days after the compliance date that is specified for your source in § 63.9495.

(b) If you use a control technique other than a solvent recovery system and/or solvent substitution, you must comply with the provisions in § 63.9570.

§ 63.9515 How do I demonstrate initial compliance with the emission limitation that applies to me?

(a) You have demonstrated initial compliance for each new, reconstructed, or existing large solvent mixer subject to the emission limitation in § 63.9500(a) if the HAP solvent discharged to the atmosphere during the first 7 days after the compliance date, determined according to the provisions in § 63.9520, does not exceed a 7-day block average of 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

(b) You have demonstrated initial compliance for each new, reconstructed, or existing small solvent mixer subject to the emission limitation in § 63.9500(b) if the HAP solvent discharged to the atmosphere during the first 7 days after the compliance date, determined according to the provisions in § 63.9520, does not exceed a 7-day block average of 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

(c) You must submit a notification of compliance status containing the results of the initial compliance demonstration according to § 63.9535(e).

§ 63.9520 What procedures must I use to demonstrate initial compliance?

(a) If you use a solvent recovery system, you must use the procedures in paragraphs (a)(1) through (8) of this section to demonstrate initial compliance with the emission limitations in § 63.9500(a) and (b).

(1) Record the date and time of each mix batch.

(2) Record the identity of each mix batch using a unique batch ID, as defined in § 63.9565.

(3) Measure and record the weight of HAP solvent loaded into the solvent mixer for each mix batch.

(4) Measure and record the weight of HAP solvent recovered for each mix batch.

(5) If you use a solvent recovery system, you must determine the percent of HAP solvent discharged to the atmosphere for each mix batch according to Equation 1 of this section as follows: (Eq. 1)

$$P_b = \left(1 - \frac{S_{rec}}{S_{mix}} \right) (100) \quad (\text{Eq. 1})$$

Where:

P_b = Percent of HAP solvent discharged to the atmosphere for each mix batch, percent;

S_{rec} = Weight of HAP solvent recovered for each mix batch, lb;

S_{mix} = Weight of HAP solvent loaded into the solvent mixer for each mix batch, lb.

(6) If you use solvent substitution for a mix batch, you must record the use of a non-HAP material as a substitute for a HAP solvent for that mix batch and assign a value of 0 percent to the percent of HAP solvent discharged to the atmosphere for that mix batch (P_b).

(7) Determine the 7-day block average percent of HAP solvent discharged to the atmosphere according to Equation 2 of this section as follows:

$$P_7 = \frac{1}{n} \sum_{i=1}^n P_b \quad (\text{Eq. 2})$$

Where:

$\%P_7$ = 7-day block average percent of HAP solvent discharged to the atmosphere, percent;

i = mix batch;

n = number of mix batches in 7-day block average.

(8) Have valid data for at least 90 percent of the mix batches over the 7-day averaging period.

(b) If you use a control technique other than a solvent recovery system and/or solvent substitution, you may apply to EPA for approval to use an alternative method of demonstrating compliance with the emission limitations for solvent mixers in § 63.9500(a) and (b), as provided in § 63.9570.

§ 63.9525 What are the installation, operation, and maintenance requirements for my weight measurement device?

(a) If you use a solvent recovery system, you must install, operate, and maintain a weight measurement device to measure the weight of HAP solvent loaded into the solvent mixer and the weight of HAP solvent recovered for each mix batch.

(b) For each weight measurement device required by this section, you must develop and submit for approval a site-specific monitoring plan that addresses the requirements of paragraphs (b)(1) through (6) of this section:

(1) Procedures for installing the weight measurement device;

(2) The minimum accuracy of the weight measurement device in pounds

and as a percent of the average weight of solvent to be loaded into the solvent mixer;

(3) Site-specific procedures for how the measurements will be made;

(4) How the measurement data will be recorded, reduced, and stored;

(5) Procedures and acceptance criteria for calibration of the weight measurement device; and

(6) How the measurement device will be maintained, including a routine maintenance schedule and spare parts inventory list.

(c) The site-specific monitoring plan required in paragraph (b) of this section must include, at a minimum, the requirements of paragraphs (c)(1) through (3) of this section:

(1) The weight measurement device must have a minimum accuracy of ± 0.05 kilograms (± 0.1 pounds) or ± 1 percent of the average weight of solvent to be loaded into the solvent mixer, whichever is greater.

(2) An initial multi-point calibration of the weight measurement device must be made using 5 points spanning the expected range of weight measurements before the weight measurement device can be used. The manufacturer's calibration results can be used to meet this requirement.

(3) Once per day, an accuracy audit must be made using a single Class F calibration weight that corresponds to 20 to 80 percent of the average weight of solvent to be loaded into the solvent mixer. If the weight measurement device cannot reproduce the value of the calibration weight within ± 0.05 kilograms (0.1 pounds) or ± 1 percent of the average weight of solvent to be loaded into the solvent mixer, whichever is greater, the scale must be recalibrated before being used again. The recalibration must be performed with at least five Class F calibration weights spanning the expected range of weight measurements.

(d) You must operate and maintain the weight measurement device according to the site-specific monitoring plan.

(e) You must maintain records of all maintenance activities, calibrations, and calibration audits.

Continuous Compliance Requirements

§ 63.9530 How do I demonstrate continuous compliance with the emission limitation that applies to me?

(a) If you use a solvent recovery system and/or solvent substitution, you must demonstrate continuous compliance with the emission limitations for solvent mixers in § 63.9500(a) and (b) according to the

provisions in paragraphs (a)(1) through (3) of this section.

(1) Except for during malfunctions of your weight measurement device and associated repairs, you must collect and record the information required in § 63.9520(a)(1) through (8) at all times that the affected source is operating and record all information needed to document conformance with these requirements.

(2) For new, reconstructed, or existing large solvent mixers, maintain the 7-day block average percent of HAP solvent discharged to the atmosphere at or below 30 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

(3) For new, reconstructed, or existing small solvent mixers, maintain the 7-day block average percent of HAP solvent discharged to the atmosphere at or below 15 percent of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution.

(b) If you use a control technique other than a solvent recovery system and/or solvent substitution, you must demonstrate continuous compliance with the emission limitations for solvent mixers in § 63.9500(a) and (b) according to the provisions in § 63.9570.

(c) You must report each instance in which you did not meet the emission limitations for solvent mixers in § 63.9500(a) and (b). This includes periods of startup, shutdown, or malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.9540.

(d) During periods of startup, shutdown, or malfunction, you must operate in accordance with your startup, shutdown, and malfunction plan.

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.9535 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.8(f)(4) and 63.9(b), (c), (d), and (h) that apply to you by the specified dates.

(b) If you use a control technique other than a solvent recovery system and/or solvent substitution, you must comply with the provisions in § 63.9570.

(c) As specified in § 63.9(b)(2), if you start up your affected source before October 18, 2002, you must submit your initial notification no later than 120 calendar days after October 18, 2002.

(d) As specified in § 63.9(b)(3), if you start up your new affected source on or after October 18, 2002, you must submit your initial notification no later than 120 calendar days after you become subject to this subpart.

(e) You must submit a notification of compliance status according to § 63.9(h)(2)(ii). You must submit the notification of compliance status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

§ 63.9540 What reports must I submit and when?

(a) Unless the Administrator has approved a different schedule, you must submit each semiannual compliance report according to the requirements in paragraphs (a)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.9495 and ending on June 30 or December 31, whichever date comes first after the compliance date that is specified for your source in § 63.9495.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after your first compliance report is due.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71 of this chapter, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A) of this chapter, you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the

dates in paragraphs (a)(1) through (4) of this section.

(b) Each compliance report must include the information in paragraphs (b)(1) through (3) of this section, and if applicable, paragraphs (b)(4) through (6) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with the official's name, title, and signature, certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there were no deviations from the emission limitations for solvent mixers in § 63.9500(a) and (b), a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which a monitoring system was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which a monitoring system was out-of-control during the reporting period.

(c) For each deviation from an emission limitation occurring at an affected source, you must include the information in paragraphs (b)(1) through (4) and (c)(1) and (2) of this section. This includes periods of startup, shutdown, or malfunction.

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(d) If you had a startup, shutdown, or malfunction during the semiannual reporting period that was not consistent with your startup, shutdown, and malfunction plan, you must submit an immediate startup, shutdown, and malfunction report according to the requirements in § 63.10(d)(5)(ii).

(e) If you have obtained a title V operating permit for an affected source pursuant to 40 CFR part 70 or 71 of this chapter, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A) of this chapter. If you submit a compliance report for an

affected source along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A) of this chapter, and the compliance report includes all the required information concerning deviations from any emission limitation in this subpart, then submission of the compliance report satisfies any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report does not otherwise affect any obligation you may have to report deviations from permit requirements to your permitting authority.

§ 63.9545 What records must I keep?

(a) You must keep the records in paragraphs (a)(1) and (2) of this section that apply to you.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any initial notification or notification of compliance status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, or malfunction.

(b) You must keep the records required in § 63.9525 to show proper operation and maintenance of the weight measurement device.

(c) You must keep the records required in § 63.9530 to show continuous compliance with the emission limitations for solvent mixers in § 63.9500(a) and (b).

§ 63.9550 In what form and how long must I keep my records?

(a) You must keep your records in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.9555 What parts of the General Provisions apply to me?

Table 1 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.9560 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraphs (c)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local or tribal agencies are as follows:

(1) Approval of alternatives to the emission limitations in § 63.9500(a) and (b) under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.9565 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

Batch ID means a unique identifier used to differentiate each individual mix batch.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limitation (including any operating limit);

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Friction ingredients means any of the components used in the manufacture of

friction materials, excluding the HAP solvent. Friction ingredients include, but are not limited to, reinforcement materials, property modifiers, resins, and other additives.

Friction materials manufacturing facility means a facility that manufactures friction materials using a solvent-based process. Friction materials are used in the manufacture of products used to accelerate or decelerate objects. Products that use friction materials include, but are not limited to, disc brake pucks, disc brake pads, brake linings, brake shoes, brake segments, brake blocks, brake discs, clutch facings, and clutches.

HAP solvent means a solvent that contains 10 percent or more of any one HAP, as listed in section 112(b) of the Clean Air Act, or any combination of HAP that is added to a solvent mixer. Examples include hexane, toluene, and trichloroethylene.

Initial startup means the first time that equipment is put into operation. Initial startup does not include operation solely for testing equipment. Initial startup does not include subsequent startups (as defined in this section) following malfunction or shutdowns or following changes in product or between batch operations.

Large solvent mixer means a solvent mixer with a design capacity greater than or equal to 2,000 pounds, including friction ingredients and HAP solvent.

Mix batch means each batch of friction materials manufactured in a solvent mixer.

Responsible official means responsible official as defined in § 63.2.

7-day block average means an averaging technique for a weekly compliance determination where the calculated values for percent HAP solvent discharged to the atmosphere are averaged together for all mix batches (for which there are valid data) in a 7-day block period according to the equation provided in § 63.9520(a)(6).

Small solvent mixer means a solvent mixer with a design capacity less than 2,000 pounds, including friction ingredients and HAP solvent.

Solvent mixer means a mixer used in the friction materials manufacturing process in which HAP solvent is used as one of the ingredients in at least one batch during a semiannual reporting period. Trace amounts of HAP solvents in resins or other friction ingredients do not qualify mixers as solvent mixers.

Solvent recovery system means equipment used for the purpose of recovering the HAP solvent from the exhaust stream. An example of a solvent recovery system is a condenser.

Solvent substitution means substitution of a non-HAP material for a HAP solvent.

Startup means bringing equipment online and starting the production process.

Startup, shutdown, and malfunction plan means a plan developed according to the provisions of § 63.6(e)(3).

§ 63.9570 How do I apply for alternative compliance requirements?

(a) If you use a control technique other than a solvent recovery system and/or solvent substitution, you may request approval to use an alternative method of demonstrating compliance with the emission limitations in § 63.9500(a) and (b) according to the procedures in this section.

(b) You can request approval to use an alternative method of demonstrating

compliance in the initial notification for existing sources, the notification of construction or reconstruction for new sources, or at any time.

(c) You must submit a description of the proposed testing, monitoring, recordkeeping, and reporting that will be used and the proposed basis for demonstrating compliance.

(1) If you have not previously performed testing, you must submit a proposed test plan. If you are seeking permission to use an alternative method of compliance based on previously performed testing, you must submit the results of testing, a description of the procedures followed in testing, and a description of pertinent conditions during testing.

(2) You must submit a monitoring plan that includes a description of the control technique, test results verifying

the performance of the control technique, the appropriate operating parameters that will be monitored, and the frequency of measuring and recording to establish continuous compliance with the emission limitations in § 63.9500(a) and (b). You must also include the proposed performance specifications and quality assurance procedures for the monitors. The monitoring plan is subject to the Administrator's approval. You must install, calibrate, operate, and maintain the monitors in accordance with the monitoring plan approved by the Administrator.

(d) Use of the alternative method of demonstrating compliance must not begin until approval is granted by the Administrator.

§§ 63.9571–63.9579 [Reserved]

TABLE 1 TO SUBPART QQQQQ—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQQ
[As required in § 63.9505, you must comply with each applicable General Provisions requirement according to the following table]

Citation	Subject	Applies to subpart QQQQQ?	Explanation
§ 63.1	Applicability	Yes.	
§ 63.2	Definitions	Yes.	
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4	Prohibited Activities	Yes.	
§ 63.5	Construction/Reconstruction	Yes.	
§ 63.6(a)–(c), (e)–(f), (i)–(j)	Compliance with Standards and Maintenance Requirements.	Yes.	
§ 63.6(d)	[Reserved].		
§ 63.6(g)	Use of an Alternative Nonopacity Emission Standard.	No	Subpart QQQQQ contains no work practice standards.
§ 63.6(h)	Compliance with Opacity and Visible Emission Standards.	No	Subpart QQQQQ contains no opacity or VE limits.
§ 63.7(a)(1)–(2)	Applicability and Performance Test Dates	No	Subpart QQQQQ includes dates for initial compliance demonstrations.
§ 63.7(a)(3), (b)–(h)	Performance Testing Requirements	No	Subpart QQQQQ does not require performance tests.
§ 63.8(a)(1)–(2), (b), (c)(1)–(3), (f)(1)–(5).	Monitoring Requirements	Yes.	
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Additional Monitoring Requirements for Control Devices in § 63.11.	No	Subpart QQQQQ does not require flares.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	No	Subpart QQQQQ does not require CMS.
§ 63.8(c)(5)	Continuous Opacity Monitoring System (COMS) Minimum Procedures.	No	Subpart QQQQQ does not require COMS.
§ 63.8(c)(6)	Zero and High Level Calibration Check Requirements.	No	Subpart QQQQQ specifies calibration requirements.
§ 63.8(c)(7)–(8)	Out-of-Control Periods	No	Subpart QQQQQ specifies out-of-control periods and reporting requirements.
§ 63.8(d)	CMS Quality Control	No	Subpart QQQQQ requires a monitoring plan that specifies CMS quality control procedures.
§ 63.8(e)	CMS Performance Evaluation	No	Subpart QQQQQ does not require CMS performance evaluations.
§ 63.8(f)(6)	Relative Accuracy Test Audit (RATA) Alternative.	No	Subpart QQQQQ does not require continuous emissions monitoring systems (CEMS).
§ 63.8(g)(1)–(5)	Data Reduction	No	Subpart QQQQQ specifies data reduction requirements.
§ 63.9(a)–(d), (h)–(j)	Notification Requirements	Yes	Except that subpart QQQQQ does not require performance tests or CMS performance evaluations.
§ 63.9(e)	Notification of Performance Test	No	Subpart QQQQQ does not require performance tests.

TABLE 1 TO SUBPART QQQQQ—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQQ—Continued
 [As required in § 63.9505, you must comply with each applicable General Provisions requirement according to the following table]

Citation	Subject	Applies to sub-part QQQQQ?	Explanation
§ 63.9(f)	Notification of VE/Opaity Test	No	Subpart QQQQQ contains no opacity or VE limits.
§ 63.9(g)	Additional Notifications When Using CMS	No	Subpart QQQQQ does not require CMS performance evaluations.
§ 63.10(a), (b), (d)(1), (d)(4)–(5), (e)(3), (f). § 63.10(c)(1)–(6), (9)–(15)	Recordkeeping and Reporting Requirements ... Additional Records for CMS	Yes. No	Subpart QQQQQ specifies record requirements.
§ 63.10(c)(7)–(8)	Records of Excess Emissions and Parameter Monitoring Exceedances for CMS.	No	Subpart QQQQQ specifies record requirements.
§ 63.10(d)(2)	Reporting Results of Performance Tests	No	Subpart QQQQQ does not require performance tests.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	No	Subpart QQQQQ contains no opacity or VE limits.
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart QQQQQ does not require CMS.
§ 63.10(e)(4)	Reporting COMS Data	No	Subpart QQQQQ does not require COMS.
§ 63.11	Control Device Requirements	No	Subpart QQQQQ does not require flares.
§§ 63.12–63.15	Delegation, Addresses, Incorporation by Reference Availability of Information.	Yes.	

[FR Doc. 02–26309 Filed 10–17–02; 8:45 am]

BILLING CODE 6560–50–P



Federal Register

**Friday,
October 18, 2002**

Part V

The President

**Memorandum of October 16, 2002—
Notification to the Congress of Trade
Negotiation**

Presidential Documents

Title 3—

Memorandum of October 16, 2002

The President

Notification to the Congress of Trade Negotiation

Memorandum for the United States Trade Representative

You are authorized and directed to notify the Congress, pursuant to section 2104(a)(1) of the Trade Act of 2002 (19 U.S.C. 3804(a)(1)), of my intention to enter into negotiations on a Free Trade Agreement with the five member countries of the Southern African Customs Union (Botswana, Lesotho, Namibia, South Africa, and Swaziland).

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



THE WHITE HOUSE,
Washington, October 16, 2002.

Reader Aids

Federal Register

Vol. 67, No. 202

Friday, October 18, 2002

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000**

Laws **741-6000**

Presidential Documents

Executive orders and proclamations **741-6000**

The United States Government Manual **741-6000**

Other Services

Electronic and on-line services (voice) **741-6020**

Privacy Act Compilation **741-6064**

Public Laws Update Service (numbers, dates, etc.) **741-6043**

TTY for the deaf-and-hard-of-hearing **741-6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: <http://www.access.gpo.gov/nara>

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: http://www.archives.gov/federal_register/

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <http://listserv.access.gpo.gov> and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings)*; then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://hydra.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, OCTOBER

61467-61760.....	1
61761-61974.....	2
61975-62164.....	3
62165-62310.....	4
62311-62626.....	7
62627-62862.....	8
62863-63048.....	9
63049-63236.....	10
63237-63528.....	11
63529-63812.....	15
63813-64026.....	16
64027-64306.....	17
64307-64516.....	18

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7598.....	62161
7599.....	62165
7600.....	62167
7601.....	62169
7602.....	62863
7603.....	62865
7604.....	62867
7605.....	63527
7606.....	63811
7607.....	64025
7608.....	64027
7609.....	64029
7610.....	64031

Executive Orders:

12978 (See Notice of October 16, 2002).....	64307
13275.....	62869

Administrative Orders:

Memorandums: October 1, 2002.....	62163
Memorandum of October 16, 2002.....	64515
Notices: Notice of October 16, 2002.....	64307

Presidential Determinations:

No. 2002-32 of September 30, 2002.....	62311
--	-------

4 CFR

Proposed Rules:

21.....	61542
---------	-------

5 CFR

534.....	63049
2634.....	61761
2635.....	61761

7 CFR

1.....	63237
29.....	61467
300.....	63529
301.....	61975, 62627, 63529
319.....	63529
723.....	62871
729.....	62871
868.....	62313
905.....	62313
906.....	62318
920.....	62320
996.....	63503
997.....	63503
998.....	63503
999.....	63503
1260.....	61762
1400.....	61468
1412.....	61470
1421.....	63506
1425.....	64454

1427.....	64454
1430.....	64454
1434.....	64454
1437.....	62323
1470.....	63242
1942.....	63019, 63536
4284.....	63537

Proposed Rules:

97.....	61545
300.....	61547
319.....	61547
993.....	63568
1424.....	61565
1710.....	62652
1721.....	62652

8 CFR

103.....	61474
214.....	61474
217.....	63246

Proposed Rules:

103.....	61568, 63313
212.....	63313
214.....	61568, 63313
245.....	63313
248.....	61568, 63313
264.....	61568
299.....	63313

9 CFR

94.....	62171
331.....	61767
381.....	61767
417.....	62325

10 CFR

20.....	62872
32.....	62872
35.....	62872
50.....	64033
63.....	62628
170.....	64033

Proposed Rules:

30.....	62403
40.....	62403
70.....	62403

11 CFR

Proposed Rules:

110.....	62410
----------	-------

12 CFR

8.....	62872
204.....	62634
226.....	61769

Proposed Rules:

220.....	62214
614.....	64320

13 CFR

121.....	62292, 62334, 62335
123.....	62335

Proposed Rules:	154.....62918	4044.....63544	62381, 62383, 62385, 62388, 62389, 62392, 62395, 62889, 62891, 63268, 63270
121.....61829	161.....62918		
14 CFR	250.....62918	30 CFR	
21.....63193	284.....62918	47.....63254	61.....62395
23.....62636	19 CFR	Proposed Rules	62.....62894
25.....62339, 63050, 63250, 64309	10.....62880	6.....64196	63.....64498
36.....63193	163.....62880	7.....64196	70.....63551
39.....61476, 61478, 61481, 61770, 61771, 61980, 61983, 61984, 61985, 62341, 62347, 63813, 63815, 63817, 63821, 64039	178.....62880	18.....64196	81.....61786, 62184
71.....63823, 63824, 63825, 63826, 63827, 63828	Proposed Rules:	19.....64196	180.....63503
91.....63193	24.....62920	20.....64196	258.....62647
97.....62638, 62640	101.....62920	22.....64196	300.....61802
Proposed Rules:	111.....63576	23.....64196	420.....64216
25.....61836	20 CFR	27.....64196	1518.....62189
39.....61569, 61842, 61843, 62215, 62654, 63573, 63856, 64321, 64322, 64325, 64326, 64328	Proposed Rules:	33.....64196	Proposed Rules:
71.....62410, 62412, 62413, 62414, 62415, 62416, 63858	655.....64067	35.....64196	52.....62221, 62222, 62425, 62426, 62427, 62431, 62432, 62926, 63353, 63354, 63583, 63586, 64347
119.....64330	21 CFR	36.....64196	60.....64014
121.....61996, 62142, 62294	101.....61773	31 CFR	61.....62432
129.....62142	163.....62171	1.....62886	81.....62222
135.....62142	173.....61783	351.....64276	122.....63867
207.....61996	510.....63054	357.....64276	228.....62659
208.....61996	520.....63054	359.....64276	300.....61844
221.....61996	522.....63054	360.....64276	372.....63060
250.....61996	558.....63054	363.....64276	450.....63867
253.....61996	1308.....62354	Proposed Rules:	
256.....61996	Proposed Rules:	103.....64067, 64075	
302.....61996	310.....62218	32 CFR	
380.....61996	358.....62218	806b.....64312	42 CFR
389.....61996	22 CFR	33 CFR	81.....62096
399.....61996	22.....62884	100.....63265	413.....61496
15 CFR	23 CFR	117.....61987, 63255, 63259, 63546, 63547	457.....61956
902.....63223, 64311	450.....62370	165.....61494, 61988, 62178, 62373, 63261, 63264, 64041, 64044, 64046	460.....61496, 63966
990.....61483	650.....63539	Proposed Rules:	482.....61805, 61808
Proposed Rules:	24 CFR	154.....63331	483.....61808
30.....62911	92.....61752	155.....63331	484.....61808
50.....62657	982.....64484	165.....64345	43 CFR
806.....63860	Proposed Rules:	36 CFR	4.....61506
17 CFR	200.....63198	1201.....63267	268.....62618
1.....62350, 63966	25 CFR	1254.....63267	271.....62618
3.....62350	103.....63543	Proposed Rules:	2930.....61732
4.....62350	Proposed Rules:	Ch. 1.....64347	3430.....63565
9.....62350	170.....62417	37 CFR	3470.....63565
11.....62350	26 CFR	Proposed Rules:	3800.....61732
16.....62350	Proposed Rules:	201.....63578	6300.....61732
17.....62350	1.....62417, 63330, 64331	38 CFR	8340.....61732
18.....62350	20.....63330	1.....62642	8370.....61732
19.....62350	25.....61997, 63330	17.....62887	9260.....61732
21.....62350	31.....64067	36.....62646, 62889	Proposed Rules:
31.....62350	301.....64067	39.....62642	268.....62626
36.....62350	27 CFR	Proposed Rules:	271.....62626
37.....62350, 62873	4.....62856	3.....63352	2930.....61746
38.....62350, 62873	5.....62856	39 CFR	44 CFR
39.....62350, 62873	7.....62856	111.....63549	64.....63271
40.....62350, 62873	13.....62856	952.....62178	65.....63273, 63829, 63834
41.....62350	46.....63543	957.....62178	67.....63275, 63837, 63849
140.....62350	Proposed Rules:	958.....62178	201.....61512
145.....62350, 63538	4.....61998, 62860	960.....62178	206.....61512, 62896
150.....62350	5.....62860	962.....62178	Proposed Rules:
170.....62350	7.....62860	964.....62178	67.....63358, 63360, 63867, 63872
171.....62350	13.....62860	965.....62178	45 CFR
190.....62350	55.....63862	Proposed Rules:	Proposed Rules:
18 CFR	28 CFR	111.....63582	46.....62432
Proposed Rules:	Proposed Rules:	40 CFR	46 CFR
35.....63327	549.....63059	511.....61784, 61786, 62179, 62184, 62376, 62378, 62379,	10.....64313

47 CFR	223.....61516	372.....61818	397.....62681
0.....63279	237.....61516	382.....61818	575.....62528
1.....63850	242.....61516	383.....61818	653.....61996
15.....63290	245.....61516	386.....61818	654.....61996
20.....63851	247.....61516	387.....61818	
25.....61814	1804.....62190	388.....61818	
61.....63850	1833.....61519	390.....61818, 63019	50 CFR
64.....62648	1852.....61519	391.....61818	16.....62193
69.....63850	1872.....61519	393.....61818, 63966	17.....61531, 62897, 63968
73.....61515, 61816, 62399, 62400, 62648, 62649, 62650, 63290, 63852, 63853, 64048, 64049	Proposed Rules:	397.....62191	300.....64311
90.....63279	2.....64010	571.....61523	600.....61824, 62204, 64311
95.....63279	11.....64010	573.....64049	635.....61537, 63854
Proposed Rules:	23.....64010	577.....64049	648.....62650, 63223, 63311
25.....61999	206.....62590	579.....63295	654.....61990
64.....62667	208.....62590	594.....62897	660.....61824, 61994, 62204, 62401, 63055, 63057
73.....61572, 61845, 63873, 63874, 63875, 63876, 64080	209.....62590	Proposed Rules:	679.....61826, 61827, 62212, 62651, 62910, 63312, 64066, 64315
48 CFR	225.....62590	27.....61996	Proposed Rules:
206.....61516	242.....62590	37.....61996	17.....61845, 62926, 63064, 63066, 63067, 63738
207.....61516	252.....62590	40.....61996	600.....62222
217.....61516	49 CFR	177.....62681	660.....62001, 63599
	40.....61521	219.....61996, 63022	679.....63600
	350.....61818, 63019	225.....63022	
	360.....61818	240.....63022	
	365.....61818	376.....61996	
		382.....61996	

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 18, 2002**COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration**

Fishery conservation and management:

- Alaska; fisheries of Exclusive Economic Zone—
- Bering Sea and Aleutian Islands and Gulf of Alaska groundfish; Steller sea lion protection measures; published 10-18-02

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards: Friction materials manufacturing facilities; published 10-18-02

Air quality implementation plans; approval and promulgation; various States:

- Alaska; published 9-18-02
- Texas; published 9-18-02

**TRANSPORTATION DEPARTMENT
Coast Guard**

Alternate hull examination program for passenger vessels, and underwater surveys for nautical school, offshore supply, passenger, and sailing school vessels; published 10-18-02

TRANSPORTATION DEPARTMENT

Aviation economic regulations: Revenue and nonrevenue passengers; definitions; published 9-18-02

**TRANSPORTATION DEPARTMENT
Federal Aviation Administration**

Airworthiness directives: Sikorsky; published 10-3-02

COMMENTS DUE NEXT WEEK**AGRICULTURE DEPARTMENT
Agricultural Marketing Service**

Kiwifruit grown in—

California; comments due by 10-21-02; published 8-22-02 [FR 02-21364]

AGRICULTURE DEPARTMENT**Agricultural Marketing Service**

Mango promotion, research, and information order; comments due by 10-25-02; published 8-26-02 [FR 02-21535]

AGRICULTURE DEPARTMENT**Food Safety and Inspection Service**

Meat and poultry inspection: Federal Meat Inspection and Poultry Products Inspection Acts; State designations—

- Maine; termination; comments due by 10-23-02; published 10-2-02 [FR 02-24979]

AGRICULTURE DEPARTMENT**Grain Inspection, Packers and Stockyards Administration**

Review inspection requirements; comments due by 10-21-02; published 8-21-02 [FR 02-21158]

**COMMERCE DEPARTMENT
Economic Analysis Bureau**

International services surveys: BE-22; annual survey of selected services transactions with unaffiliated foreign persons; comments due by 10-25-02; published 8-26-02 [FR 02-21691]

**COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration**

Endangered and threatened species: Incidental taking—

- Southern California; drift gillnet fishing prohibited; loggerhead sea turtles; comments due by 10-21-02; published 9-20-02 [FR 02-23841]

Fishery conservation and management: Caribbean, Gulf of Mexico, and South Atlantic fisheries—

South Atlantic shrimp; comments due by 10-21-02; published 9-4-02 [FR 02-22544]

Magnuson-Stevens Act provisions—

- Domestic fisheries; exempted fishing permit applications; comments

due by 10-21-02; published 10-4-02 [FR 02-25335]

West Coast States and Western Pacific fisheries—

Coral reef ecosystems; comments due by 10-24-02; published 9-24-02 [FR 02-24013]

West Coast salmon; comments due by 10-25-02; published 10-10-02 [FR 02-25865]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

District of Columbia sex offender registration; comments due by 10-21-02; published 8-21-02 [FR 02-20468]

DNA information; collection and use; comments due by 10-21-02; published 8-21-02 [FR 02-20606]

ENERGY DEPARTMENT

Financial assistance:

Grants and cooperative agreements with for-profit organizations; uniform administrative requirements; comments due by 10-25-02; published 8-26-02 [FR 02-20967]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; State authority delegations:

New Hampshire; comments due by 10-21-02; published 9-19-02 [FR 02-23728]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; State authority delegations:

New Hampshire; comments due by 10-21-02; published 9-19-02 [FR 02-23729]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; State authority delegations:

Utah; comments due by 10-21-02; published 9-19-02 [FR 02-23378]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; State authority delegations:

Utah; comments due by 10-21-02; published 9-19-02 [FR 02-23379]

Air quality implementation plans; approval and promulgation; various States:

Utah; comments due by 10-21-02; published 9-20-02 [FR 02-23817]

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 10-21-02; published 9-20-02 [FR 02-23987]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Kentucky; comments due by 10-24-02; published 9-24-02 [FR 02-24091]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Kentucky; comments due by 10-24-02; published 9-24-02 [FR 02-24092]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Utah; comments due by 10-21-02; published 9-20-02 [FR 02-23816]

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; emergency exceptions, etc.:

Caffeine; comments due by 10-23-02; published 10-17-02 [FR 02-26438]

Superfund program:

National oil and hazardous substances contingency plan—

- National priorities list update; comments due by 10-21-02; published 9-19-02 [FR 02-23585]

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:

National oil and hazardous substances contingency plan—

- National priorities list update; comments due by 10-21-02; published 9-19-02 [FR 02-23586]

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:

National oil and hazardous substances contingency plan—

- National priorities list update; comments due

by 10-23-02; published 9-23-02 [FR 02-23988]

Toxic substances:

Significant new uses—
3-Hydroxy-1,1-dimethylbutyl derivative, etc.; comments due by 10-21-02; published 9-20-02 [FR 02-23749]

Water pollution; effluent guidelines for point source categories:

Construction and development; storm water discharges; comments due by 10-22-02; published 6-24-02 [FR 02-12963]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Telecommunications Act of 1996; implementation—
Customer proprietary network and other customer information; telecommunications carriers' use; non-accounting safeguards; unauthorized long distance changes; comments due by 10-21-02; published 9-20-02 [FR 02-23200]

Radio stations; table of assignments:

Colorado and Texas; comments due by 10-21-02; published 9-9-02 [FR 02-22757]

Ohio; comments due by 10-21-02; published 9-12-02 [FR 02-23140]

Oklahoma and Texas; comments due by 10-21-02; published 9-12-02 [FR 02-23141]

Oregon; comments due by 10-21-02; published 9-12-02 [FR 02-23139]

Texas; comments due by 10-21-02; published 9-12-02 [FR 02-23138]

FEDERAL DEPOSIT INSURANCE CORPORATION

State banks chartered as limited liability companies; insurance eligibility; comments due by 10-21-02; published 7-23-02 [FR 02-18467]

**HEALTH AND HUMAN SERVICES DEPARTMENT
Centers for Medicare & Medicaid Services**

Medicare:

National and local coverage determinations; review; comments due by 10-21-02; published 8-22-02 [FR 02-21530]

**HEALTH AND HUMAN SERVICES DEPARTMENT
Inspector General Office,
Health and Human Services
Department**

Medicare and State health care programs; fraud and abuse:

Beneficiary coinsurance and deductible amounts; waiver under anti-kickback statute; safe harbor; comments due by 10-25-02; published 9-25-02 [FR 02-24344]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Mortgage and loan insurance programs:

Puerto Rico; condominium development; FHA approval; comments due by 10-21-02; published 8-21-02 [FR 02-21225]

Single family mortgage insurance—

One-time and up-front premiums; submission schedule; comments due by 10-21-02; published 8-21-02 [FR 02-21227]

Rehabilitation Loan Insurance Program; comments due by 10-21-02; published 8-21-02 [FR 02-21228]

**INTERIOR DEPARTMENT
Fish and Wildlife Service**

Endangered and threatened species:

California tiger salamander; Sonoma County distinct population segment; comments due by 10-21-02; published 7-22-02 [FR 02-18451]

Hearing, etc.; comments due by 10-21-02; published 8-26-02 [FR 02-21628]

Critical habitat designations—

Cushenbury milk-vetch, etc. (carbonate plants from San Bernardino Mountains, CA); comments due by 10-21-02; published 9-20-02 [FR 02-23942]

Topeka shiner; comments due by 10-21-02; published 8-21-02 [FR 02-20939]

**INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office**

Permanent program and abandoned mine land reclamation plan submissions:

Kansas; comments due by 10-23-02; published 9-23-02 [FR 02-24016]

JUSTICE DEPARTMENT

Privacy Act; implementation; comments due by 10-24-02; published 9-24-02 [FR 02-24207]

NUCLEAR REGULATORY COMMISSION

Electronic maintenance and submission of information; comments due by 10-21-02; published 9-6-02 [FR 02-21888]

NUCLEAR REGULATORY COMMISSION

Electronic maintenance and submission of information; comments due by 10-21-02; published 9-6-02 [FR 02-21889]

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:

Leyse, Robert H.; comments due by 10-23-02; published 8-9-02 [FR 02-20172]

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Dry cask independent spent fuel and monitored retrievable storage installations; siting and design; geological and seismological characteristics; comments due by 10-22-02; published 9-5-02 [FR 02-22596]

SECURITIES AND EXCHANGE COMMISSION

Security futures products:

Margin related to security futures products; reserve requirements; comments due by 10-23-02; published 9-23-02 [FR 02-24027]

TRANSPORTATION DEPARTMENT

Coast Guard

Load lines:

Great Lakes—
Lake Michigan; river barges; limited service domestic voyages; comments due by 10-23-02; published 4-23-02 [FR 02-09834]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air traffic operating and flight rules, etc.:

Niagara Falls, NY; special flight rules in vicinity—

Canadian flight management procedures; comments due by 10-21-02; published 9-4-02 [FR 02-22267]

Airworthiness directives:

Boeing; comments due by 10-21-02; published 9-25-02 [FR 02-24306]

Bombardier; comments due by 10-21-02; published 9-25-02 [FR 02-24282]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Bombardier; comments due by 10-25-02; published 9-25-02 [FR 02-24178]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Britten Norman (Bembridge) Ltd.; comments due by 10-24-02; published 9-17-02 [FR 02-23515]

Cameron Balloons Ltd.; comments due by 10-21-02; published 9-13-02 [FR 02-23288]

Dornier; comments due by 10-25-02; published 9-25-02 [FR 02-24307]

Hartzell Propeller Inc.; comments due by 10-21-02; published 9-19-02 [FR 02-23777]

McDonnell Douglas; comments due by 10-21-02; published 9-4-02 [FR 02-22436]

Mitsubishi Heavy Industries, Ltd.; comments due by 10-21-02; published 9-13-02 [FR 02-23289]

Pilatus Britten-Norman Ltd.; comments due by 10-21-02; published 9-17-02 [FR 02-23514]

Pratt & Whitney; comments due by 10-21-02; published 9-19-02 [FR 02-23776]

Airworthiness standards:

Special conditions—
Raytheon Aircraft Co. Model HS.125 Series 700A airplanes; comments due by 10-24-02; published 9-24-02 [FR 02-24242]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Occupant crash protection—
Future air bags designed
to create less risk of
serious injuries for small
women and young
children, etc.; phase-in
requirements; comments
due by 10-24-02;
published 9-24-02 [FR
02-24236]

**TREASURY DEPARTMENT
Internal Revenue Service**

Income taxes:

Foreign corporations; gross
income; exclusions;
comments due by 10-22-
02; published 8-2-02 [FR
02-19127]

Correction; comments due
by 10-22-02; published
9-17-02 [FR C2-19127]

Returned or recharacterized
IRA contributions;
earnings calculation;
comments due by 10-21-
02; published 7-23-02 [FR
02-18452]

Taxpayer identifying
numbers; requirement on
submissions; comments

due by 10-23-02;
published 7-26-02 [FR 02-
18792]

**VETERANS AFFAIRS
DEPARTMENT**

Disabilities rating schedule:

Respirator and
cardiovascular conditions;
evaluation of hypertension
with heart disease;
comments due by 10-21-
02; published 8-22-02 [FR
02-21366]

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 "PLUS" (Public Laws
Update Service) on 202-741-
6043. This list is also
available online at [http://
www.nara.gov/fedreg/
plawcurr.html](http://www.nara.gov/fedreg/plawcurr.html).

The text of laws is not
published in the **Federal
Register** but may be ordered

in "slip law" (individual
pamphlet) form from the
Superintendent of Documents,
U.S. Government Printing
Office, Washington, DC 20402
(phone, 202-512-1808). The
text will also be made
available on the Internet from
GPO Access at [http://
www.access.gpo.gov/nara/
nara005.html](http://www.access.gpo.gov/nara/nara005.html). Some laws may
not yet be available.

H.R. 3214/P.L. 107-241

To amend the charter of the
AMVETS organization. (Oct.
16, 2002; 116 Stat. 1496)

H.R. 3838/P.L. 107-242

To amend the charter of the
Veterans of Foreign Wars of
the United States organization
to make members of the
armed forces who receive
special pay for duty subject to
hostile fire or imminent danger
eligible for membership in the
organization, and for other
purposes. (Oct. 16, 2002; 116
Stat. 1497)

H.J. Res. 114/P.L. 107-243

Authorization for Use of
Military Force Against Iraq

Resolution of 2002 (Oct. 16,
2002; 116 Stat. 1498)

Last List October 16, 2002

**Public Laws Electronic
Notification Service
(PENS)**

PENS is a free electronic mail
notification service of newly
enacted public laws. To
subscribe, go to [http://
hydra.gsa.gov/archives/
publaws-l.html](http://hydra.gsa.gov/archives/publaws-l.html) or send E-mail
to listserv@listserv.gsa.gov
with the following text
message:

SUBSCRIBE PUBLAWS-L

Your Name.

Note: This service is strictly
for E-mail notification of new
laws. The text of laws is not
available through this service.
PENS cannot respond to
specific inquiries sent to this
address.