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

WASHINGTON, DC

WHEN: July 11, 2000, at 9:00 a.m.

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

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 65, No. 112

Monday, June 12, 2000

Advisory Council on Historic Preservation
See Historic Preservation, Advisory Council

Agricultural Marketing Service
RULES
Tobacco inspection:
Burley tobacco—
Moisture testing, 36781–36782

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Commodity Credit Corporation
See National Agricultural Statistics Service

Animal and Plant Health Inspection Service
NOTICES
Committees; establishment, renewal, termination, etc.:
National Poultry Improvement Plan General Conference Committee, 36884–36885
Meetings:
National Poultry Improvement Plan General Conference Committee, 36885

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 36815

Children and Families Administration
NOTICES
Grant and cooperative agreement awards:
InterTribal Bison Cooperative, 36815–36816

Coast Guard
RULES
Ports and waterways safety:
Cook Inlet, AK; safety zone
Correction, 36788

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commission of Fine Arts
NOTICES
Meetings, 36890

Commodity Credit Corporation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 36885–36886

Consumer Product Safety Commission
NOTICES
Mattresses; standards, labeling, and identification tags; petitions, 36890

Corporation for National and Community Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 36890–36891

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 36891–36892

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
NOTICES
Electricity export and import authorizations, permits, etc.:
H.Q. Energy Services (U.S.) Inc., 36892

Energy Efficiency and Renewable Energy Office
RULES
Energy conservation:
Electric and hybrid vehicle research, development, and demonstration program; petroleum-equivalent fuel economy calculation, 36985–36992

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 36788–36790
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Cyprodinil, 36790–36792
Solid wastes:
Municipal solid waste landfill permit programs; adequacy determinations—
West Virginia, 36792–36795
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 36807
Solid wastes:
Municipal solid waste landfill permit programs; adequacy determinations—
West Virginia, 36807–36808
NOTICES
Meetings:
Dioxin reassessment documents; toxicity equivalence factors for dioxin and related compounds, etc.; peer review workshop, 36898–36900
Superfund; response and remedial actions, proposed settlements, etc.:
Casmalia Disposal Site, CA, 36900
Lancaster Plating Site, NC, 36900
Superfund program:
Federal Agency Hazardous Waste Compliance Docket; Federal facilities; list update, 36993–37004

Federal Aviation Administration
RULES
Airworthiness directives:
International Aero Engines AG, 36783–36785

PROPOSED RULES
Airworthiness directives:
Airbus, 36801–36803
Boeing, 36803–36805
McDonnell Douglas, 36799–36801
Airworthiness standards:
Transport category airplanes—
Powerplant installations; fire protection requirements, 36977–36983
Federal airways, 36805–36807

Federal Communications Commission
PROPOSED RULES
Digital television stations; table of assignments:
Alaska, 36808–36809
Georgia, 36808
Texas, 36809
Virginia, 36808
NOTICES
Frequency allocations and radio treaty matters:
3650-3700 MHz band (extended C-band); government transfer, 36900–36903

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
CED Operating Co., L.P., et al., 36894–36896
Meetings; Sunshine Act, 36897–36898
Applications, hearings, determinations, etc.:
Consumers Energy Co., 36892–36893
Discovery Gas Transmission LLC, 36893
Idaho Power Co., 36893
Indeck Maine Energy, LLC, 36893
Koch Gateway Pipeline Co., 36893–36894
PG&E Gas Transmission, Northwest Corp., 36894
Sinclair Oil Corp., 36894
Wester Generating II, Inc., 36894

Federal Financial Institutions Examination Council
NOTICES
Uniform Retail Credit Classification and Account Management Policy, 36903–36906

Federal Motor Carrier Safety Administration
PROPOSED RULES
Motor carrier safety standards:
Drivers' hours of service—
Fatigue prevention; driver rest and sleep for safe operations; hearing, 36809–36810

Federal Railroad Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 36881–36882

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 36906

Federal Retirement Thrift Investment Board
NOTICES
Meetings:
Employee Thrift Advisory Council, 36906

Federal Trade Commission
NOTICES
Meetings:
Borderless online marketplace; consumer transactions; alternative dispute resolution; public workshop, 36888–36889

Fine Arts Commission
See Commission of Fine Arts

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Sponsor name and address changes—
ADM Animal Health & Nutrition Division, 36787–36788
Food additives:
Paper and paperboard components—
Imidazolium compounds, 36786–36787
NOTICES
Agency information collection activities:
Proposed collection; comment request, 36816–36817
Medical devices:
Premarket approval applications, list; safety and effectiveness summaries availability, 36817–36818

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Hawaii
Pacific Allied Products, Ltd.; plastic food/beverage container manufacturing facility, 36887
Mississippi
Alliant Aerospace Composite Structures Co.; space launch vehicle composite structures manufacturing plant, 36887
Tennessee
Dell Computer Corp.; personal computer manufacturing facilities, 36887–36888

General Services Administration
NOTICES
Environmental statements; availability, etc.:
Washington, DC; Transportation Department; new or renovated headquarters; lease acquisition, 36814–36815

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Inspector General Office, Health and Human Services Department
See National Institutes of Health
NOTICES
Organization, functions, and authority delegations:
Public Health Service, 36815

Health Care Financing Administration
See Inspector General Office, Health and Human Services Department

Historic Preservation, Advisory Council
NOTICES
Meetings, 36884

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Housing, community development, and empowerment programs and Section 8 housing voucher assistance (SuperNOFA), 36837–36838
Section 202 projects; assisted living conversion program; correction, 36838–36840

Inspector General Office, Health and Human Services Department
NOTICES
Reports and guidance documents; availability, etc.:
Individual and small group physician practices; compliance program, 36818–36835

Interior Department
See Land Management Bureau
See Minerals Management Service
See Reclamation Bureau

Internal Revenue Service
RULES
Income taxes:
Annuities valuation, interests for life or terms of years, and remainder or reversionary interests; actuarial tables use, 36907–36944

International Trade Administration
NOTICES
Meetings:
Borderless online marketplace; consumer transactions; alternative dispute resolution; public workshop, 36888–36889
U.S. Automotive Parts Advisory Committee, 36889

International Trade Commission
NOTICES
Import investigations:
EPROM, EEPROM, flash microcontroller semiconductor devices, and products containing same, 36843
Professional electric cutting tools from—
Japan, 36843–36844
Safety eyewear and components, 36844
Tomatoes and peppers; monitoring reports, 36844–36845

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
Arizona, 36840
Resource management plans, etc.:
Cody Resource Area, WY, 36840–36841

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
Gulf of Mexico OCS—
Deepwater areas; exploration, development, and production activities, 36841–36842

National Agricultural Statistics Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 36886

National Credit Union Administration
RULES
Credit unions:
Consumer financial information; privacy requirements, 36782–36783
PROPOSED RULES
Privacy Act; implementation, 36797–36799

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 36835–36836
National Institute of Allergy and Infectious Diseases, 36836
Patent licenses; non-exclusive, exclusive, or partially exclusive:
BioSeek, Inc., 36836–36837

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pollock; steller sea lion protection measures, 36795–36796
PROPOSED RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Atka mackerel, 36810–36813
NOTICES
Coastal zone management programs and estuarine sanctuaries:
State programs—
Intent to evaluate performance, 36889
Permits:
Marine mammals, 36889–36890

National Science Foundation
NOTICES
Reports and guidance documents; availability, etc.:
National Assessment Synthesis Report, 36845–36846

Nuclear Regulatory Commission
RULES
Fee schedules revision; 100% fee recovery (2000 FY), 36945–36975
NOTICES
Reports and guidance documents; availability, etc.:
Materials licenses, consolidated guidance—
Service provider licenses; program-specific guidance, 36846–36847

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
San Joaquin County, CA; Woodbridge Irrigation District and City of Lodi's Lower Mokelumne River Restoration Program, 36842–36843

Research and Special Programs Administration
NOTICES
Hazardous materials transportation:
Intermediate bulk containers; discharge from motor vehicles, 36882–36884

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 36847–36848
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 36850–36856
Boston Stock Exchange, Inc., 36856–36857
Chicago Stock Exchange, Inc., 36857–36860
National Association of Securities Dealers, Inc., 36860–36877
Pacific Exchange, Inc., 36877–36878
Philadelphia Stock Exchange, Inc., 36878–36880
Applications, hearings, determinations, etc.:
Public utility holding company filings, 36848–36850
Reunion Industries, Inc., 36850

Sentencing Commission, United States
See United States Sentencing Commission

Statistical Reporting Service
See National Agricultural Statistics Service

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See Research and Special Programs Administration

Treasury Department
See Internal Revenue Service

United States Sentencing Commission
NOTICES
Sentencing guidelines and policy statements for Federal courts, 36880–36881

Veterans Affairs Department
NOTICES
Meetings:
Women Veterans Advisory Committee, 36884

Separate Parts In This Issue

Part II
Department of the Treasury, Internal Revenue Service, 36907–36944

Part III
Nuclear Regulatory Commission, 36945–36975

Part IV
Department of Transportation, Federal Aviation Administration, 36977–36983

Part V
Department of Energy, Energy Efficiency and Renewable Energy Office 36985–36992

Part VI
Environmental Protection Agency, 36993–37004

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.

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.

7 CFR
29.....36781

10 CFR
170.....36946
171.....36946
474.....36986

12 CFR
716.....36782

Proposed Rules:
792.....36797

14 CFR
39.....36783

Proposed Rules:
25.....36978
39 (3 documents) 36799, 36801, 36803
71.....36805

21 CFR
176.....36786
510.....36787

26 CFR
1.....36908
20.....36908
25.....36908

33 CFR
165.....36788

40 CFR
52.....36788
180.....36790
258.....36792

Proposed Rules:
52.....36807
258.....36807

47 CFR

Proposed Rules:
73 (4 documents) 36808, 36809

49 CFR

Proposed Rules:
350.....36809
390.....35809
394.....36809
395.....36809
398.....36809

50 CFR
679.....36795

Proposed Rules:
679.....36810

Rules and Regulations

Federal Register
Vol. 65, No. 113
Monday, June 12, 2000

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB–99–10]

RIN 0581–AB65

Tobacco Inspection; Subpart B—Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is adopting, as a final rule, with changes, an interim final rule revising the regulations governing permissive inspection of tobacco that special tests and services be provided by AMS, as requested by the industry. This action incorporates recommendations made by the Burley Tobacco Advisory Committee and the buying segment of the tobacco industry that moisture testing be performed by AMS on all burley tobacco marketed during the 1999–2000 marketing season. The revisions will continue to provide regulatory authority to conduct moisture testing and collect fees and charges for these services.

EFFECTIVE DATE: July 12, 2000.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456; or Fax: (202) 205–0235.

SUPPLEMENTARY INFORMATION: The Department published in the **Federal Register** on December 2, 1999 (64 FR 67469) an interim final rule amending the regulations at 7 CFR part 29, subpart B. The Department requested comments on the regulation. The comment period expired on January 31, 2000, and AMS received no comments on the amendments.

This final rule revises the regulations governing the permissive inspection of tobacco pursuant to the provisions of the Tobacco Inspection Act (49 Stat. 741, 7 U.S.C. 511 *et seq.*).

The Burley Tobacco Advisory Committee made a recommendation at its June 10, 1999, meeting that AMS conduct moisture testing on all burley tobacco offered for sale at designated auction markets. The recommendation was contingent on successful price negotiations between the buying segment and burley tobacco warehouse operators. The committee further recommended that tobacco marketed in an experimental unitized package be turned 90 degrees within the row as a condition of the testing process.

During the 1998–99 marketing season, approximately 60 million pounds of burley tobacco was sold in the experimental unitized package and tested for moisture content by the warehouse operators. The unitized bale is a new experimental package consisting of an even number of traditional burley bales with one additional bale opened and evenly arranged on top which is securely bound with metal wires to form a rectangular cube.

Due to integrity issues between the buying and warehouse segments of the industry, it was recommended that a third party entity perform the moisture testing. After three months of discussions and negotiations by the buying segment and the Burley Auction Warehouse Association, representing 95 percent of burley tobacco warehouse operators, a commitment was obtained from the four major tobacco companies purchasing burley tobacco to reimburse AMS $.0020 per pound for providing moisture testing services. These testing services were conducted on all burley tobacco during the 1999–2000 marketing season, including the traditional lot consisting of a maximum of eight bales and the experimental unitized package, offered for sale at designated markets.

Therefore, at the recommendation of the Burley Tobacco Advisory Committee and the buying segment of the tobacco industry, the Department implemented revised regulations to conduct special testing services for interested parties and charge fees to recover the costs of providing the service as determined by the Deputy Administrator, Tobacco Programs.

This rule has been determined to be ''non significant'' for purposes of Executive Order 12866, and therefore, has not be reviewed by the Office of Management and Budget.

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

Additionally, in conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of ''small business'' which are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. There are approximately 190 tobacco warehouses and approximately 30,000 producers and most warehouses and producers may be classified as small entities. The Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities because the fees are not mandatory but apply only when special inspections or services are requested. This rule continues revisions that amended the regulation governing the permissive inspection of tobacco to conduct special testing services for interested parties and charge fees to recover the costs of providing the service as determined by the Deputy Administrator, Tobacco Programs.

The rule is changed slightly to make it clearer that the amount of the fees for special tests and services will be determined by agreement.

Lists of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

Accordingly, the interim final rule amending 7 CFR part 29 which was published at 64 FR 67469 on December 2, 1999, is adopted as a final rule with the following changes:

PART 29—TOBACCO INSPECTION

Subpart B—Permissive Inspection

1. The authority citation for 7 CFR part 29, subpart B, continues to read as follows:

Authority: 7 U.S.C. 511m and 511r.

2. Section 29.56 is amended by revising the last sentence to read as follows:

§ 29.56 Permissive inspection.

* * * Special tests and services may be performed for interested persons to the extent that available facilities will permit, subject to the payment of fees as provided in § 29.123.

3. In § 29.123, paragraph (e) is revised to read as follows:

§ 29.123 Fees and charges.

* * * * *

(e) Fees for special tests and services will be determined by agreement between the Deputy Administrator, Tobacco Programs, and the applicant or applicants for service.

Dated: June 6, 2000.

Kathleen A. Merrigan,

Administrator, Agricultural Marketing Service.

[FR Doc. 00–14730 Filed 6–9–00; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 716

Privacy of Consumer Financial Information

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board is issuing a final rule to amend the requirements for privacy and opt out notice where there is a joint relationship on a loan. The amendment provides that a credit union is required to provide a separate initial notice and a separate opt out notice to each borrower and guarantor only if the credit union actually shares their nonpublic personal information with nonaffiliated third parties outside of one of the permissible exceptions. This amendment does not affect the right of borrowers and guarantors to receive notices if they are otherwise entitled to receive them as members of the credit union.

EFFECTIVE DATE: This rule is effective November 13, 2000. However, compliance is not required until July 1, 2001.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp or Regina M. Metz, Staff Attorneys, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 2000, the NCUA Board issued a proposed rule and, on May 8, 2000, a final rule applicable to all federally-insured credit unions, as required by the Gramm-Leach-Bliley Act (GLB Act). 65 FR 10988 (March 1, 2000) and 65 FR 31722 (May 18, 2000). The Board received 99 comments on its proposal. The final rule required credit unions to have a privacy policy and provide certain disclosures and notices to individuals about whom credit unions collect nonpublic personal information. In drafting the rule, the NCUA participated as part of an interagency group composed of representatives from the NCUA, the Federal Trade Commission, the Office of Comptroller of the Currency, Board of Governors of the Federal Reserve System, Secretary of the Treasury, and Securities and Exchange Commission (collectively, the Agencies). The final rule took into account the unique circumstances of federally-insured credit unions and their members but, as required by the GLB Act, was consistent and comparable with the regulations of the other Agencies.

The other Agencies' final regulations, which were issued after the NCUA, permit a financial institution to provide a single initial notice and opt out notice if two or more consumers jointly obtain a financial product or service. Unlike the other Agencies, NCUA's rule specifically excluded from the provisions governing joint relationships, the authority to provide only one notice in the case of a loan. 65 FR at 31743, 31745. The Board's rationale for the exclusion was that ''co-makers and guarantors should receive the notice and right to opt out because of the extent and nature of nonpublic personal information provided to the credit union in conjunction with these types of transactions.'' 65 FR at 31728. Upon further reflection, the Board is persuaded by the 50 commenters that objected to requiring separate notices for all joint account holders. The commenters noted that the administrative and financial burden of tracking down joint account holders is substantial and that one notice is consistent with other consumer loan regulations. The Board believes that to accomplish its goal of protecting borrowers and guarantors from the sharing of their nonpublic personal information, notice to all borrowers and guarantors is not necessary and has amended its rule to require notices only under limited circumstances. The Board is amending the rule to provide that a credit union must only provide separate notices to individuals, other than the primary borrower, if a credit union is actually sharing nonpublic personal information about them.

Final Amendment

Sections 716.4(f)(2) and 716.7(d)(6) of this amendment only require a credit union to provide a separate initial notices and opt out notice to all borrowers and guarantors if the credit union shares their nonpublic personal information with nonaffiliated third parties other than for purposes permitted under §§ 716.13, 716.14 and 716.15. In addition, no annual notices are required.

This amendment does not affect the notice requirements for existing members in § 716.4(d) or the duty in §§ 716.4, 716.5 and 716.7 to provide initial, annual and opt out notices to co-borrowers and guarantors who have a member relationship with the credit union, in addition to a co-borrower or guarantor relationship. Finally, this provision does not affect the right of a co-borrower or guarantor to opt out as permitted for other types of joint relationships.

This provision is effective November 13, 2000, and compliance is mandatory July 1, 2001. This means that, like the recently passed final rule, all notices required by this amendment must be mailed by July 1, 2001. 65 FR at 31749.

The Board is issuing this rule as a final rule because it decreases the regulatory burden and there is a strong public interest in having a final privacy rule in place that allows federally-insured credit unions ample time to comply. Accordingly, and for good cause, because the rule decreases the regulatory burden, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedures are impracticable, unnecessary, and contrary to the public interest.

Regulatory Procedures

A. Paperwork Reduction Act

The final rule does not impose any additional paperwork requirements on federally-insured credit unions.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires, subject to certain exceptions, that NCUA prepare an initial regulatory flexibility analysis (IRFA) with a proposed rule and a final regulatory flexibility analysis (FRFA) with a final rule, unless NCUA certifies that the rule will not have a significant economic impact on a substantial number of small credit unions. For purposes of the Regulatory Flexibility Act, and in accordance with NCUA's authority under 5 U.S.C. 601(4), NCUA has determined that small credit unions are those with less than one million dollars in assets. *See* 12 CFR 791.8(a). NCUA's final rule will apply to approximately 1,626 small credit unions, out of a total of approximately 10,627 federally-insured credit unions.

The NCUA Board has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit union. The reason for this determination is that the final rule decreases the regulatory burden for all federally-insured credit union. This will result in reduced costs for all federally-insured credit unions.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This final rule will apply to all federally-insured credit unions, but 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. Section 507 of the GLB Act states that state law may provide greater consumer protections than this proposed rule. In that event, federal law would not preempt state law. NCUA has determined the final rule does not constitute a policy that has federalism implications for purposes of the executive order.

D. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. NCUA has recommended to The Office of Management and Budget that it determine that this is not a major rule, and is awaiting its determination.

E. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that the final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is clear, understandable regulations that impose minimal regulatory burden. This rule reduces a requirement for federally-insured credit unions and so it meets the agency's goal of reducing regulatory burden.

List of Subjects 12 CFR Part 716

Consumer protection, Credit unions, Privacy, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on June 5, 2000.

Becky Baker,

Secretary of the Board.

For the reasons set out in the preamble, NCUA amends 12 CFR part 716 as follows:

PART 716—PRIVACY OF CONSUMER FINANCIAL INFORMATION

1. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 6801 *et seq.*, 12 U.S.C. 1751 *et seq.*

2. Amend § 716.4 by redesignating paragraph (f) as paragraph (f)(1) and adding paragraphs (f)(2) to read as follows:

§ 716.4 Initial privacy notice to consumers required.

* * * * *

(f)(1) * * *

(2) *Special rule for loans.* (i) You are required to provide an initial notice to a borrower or guarantor on a loan if you share his or her nonpublic personal information with nonaffiliated third parties other than for purposes under §§ 716.13, 716.14 and 716.15. (ii) You may satisfy the annual notice requirements of § 716.5 by providing one notice to those borrowers and guarantors jointly.

* * * * *

3. Amend § 716.7 by adding paragraphs (d)(6) to read as follows:

§ 716.7 Form of opt out notice to consumers and opt out methods.

* * * * *

(d) * * *

(6) *Special rule for loans.* (i) You are required to provide an initial opt out notice to a borrower or guarantor on a loan if you share his or her nonpublic personal information with nonaffiliated third parties other than for purposes under §§ 716.13, 716.14 and 716.15.

(ii) You may satisfy your annual opt out notice requirement by providing one notice to those borrowers and guarantors jointly.

* * * * *

[FR Doc. 00–14785 Filed 6–9–00; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–45–AD; Amendment 39–11783; AD 2000–12–05]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines AG V2500–A1/–A5/–D5 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to International Aero Engines AG (IAE) V2500–A1/–A5/–D5 series turbofan engines, that requires revisions to the Airworthiness Limitations Section (ALS) and Maintenance Scheduling Section (MSS) of the Instructions for Continued Airworthiness (ICA), located in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This action would add additional critical life-limited parts for enhanced inspection. This action is prompted by additional focused inspection procedures that have been developed by the manufacturer. The actions specified by this AD are intended to prevent critical life-limited

rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective date August 11, 2000.

ADDRESSES: The rulemaking docket may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Diane Cook, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7133, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 99–08–11, Amendment 39–11117 (64 FR 17956, April 13, 1999), to require revisions to the Airworthiness Limitations Section (ALS) and Maintenance Scheduling Section (MSS) of the Instructions for Continued Airworthiness (ICA), located in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, for International Aero Engines AG (IAE) V2500–A1/–A5/–D5 series turbofan engines to include focused inspection procedures for additional critical life-limited parts at each piece-part exposure was published in the **Federal Register** on October 7, 1999 (64 FR 54580). This AD will also require an air carrier's approved continuous airworthiness maintenance program to incorporate these additional inspection procedures.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Publication of Inspection Procedures

Two commenters request that the comment period be extended until after the proposed inspection procedures have been provided to operators to allow time to review those inspection procedures. The FAA does not agree. The FAA believes that the nature and scope of the added inspections will not be significantly different from existing inspections. However, the effective date of this AD has been extended to 90 days after publication to allow time for the specific procedures to be published. Operators may submit comments on the specific procedures once they are published and the FAA will consider extending the effective date further or initiating additional rulemaking, as necessary. The extra time until the AD becomes effective should also allow the manufacturer to issue a manual revision. The FAA does not believe, however, that this final rule need be delayed pending the publication of the inspection procedures, or extend the initial compliance time to accommodate the manufacturer's manual revision cycle.

Time Limits Manual

One commenter states that paragraph (a) of the Compliance section refers to the V2500 Time Limits Manuals as if they are part of the V2500 Engine Manuals. However, the Time Limits Manuals are separate documents with part numbers T–V2500–1IA and T–V2500–3IA. The commenter believes that all references to the Engine Manuals and their part numbers should be replaced with references to the Time Limits Manuals and their part numbers. The FAA does not concur. The V2500 Engine Manuals E–V2500–1IA and E–2500–3IA contain the required Instructions for Continued Airworthiness, including the Chapter 5 Time Limits Manual section. Since the Time Limits Manuals T–V2500–1IA and T–V2500–3IA are referenced in the V2500 Engine Manual chapter 5 requirements, the AD references the Engine Manuals.

Compliance Section Paragraph Identification

One commenter notes that the Compliance Section of the proposed rule does not conform to FAA's conventional paragraph identification structure (*e.g.* a, 1, i, *etc.*). The FAA concurs and the paragraph structure will be changed. Additionally, an error was discovered in the proposed supersedure and paragraph (a)(2) has been changed from ''Whenever a Group A part identified in this paragraph (see 2.1 for definition of Group A) * * * to ''Whenever a Group A part identified in this paragraph (see 3.0 for definition of Group A) * * * Also, it was determined that subparagraph designators (a)(2) (A) and (B) were unnecessary and they have been dropped.

Discussion Section Wording

One commenter notes that the preamble published with this Notice of Proposed Rulemaking (NPRM) does not include the same explaination of when the enhanced disk inspections are required compared to the preamble published for the current AD. This commenter requests that those guidelines be added to the final rule. The FAA does not agree. The inspection program established by the current AD remains unchanged. This NPRM proposed to add additional parts to the list of parts that must be inspected, but did not proposed to change how air carriers must manage the inspection program. Future AD's may be issued to introduce additional intervention strategies in order to further reduce uncontained engine failures, including AD's that add new parts to the list of parts requiring inspection. However, the inspection program established by the current AD will remain unless specifically altered in a future proposal.

Request To Remove ''of This Chapter'' From Paragraph (e) of the Compliance Section

One commenter requests that the FAA remove the statement ''of this chapter'' from the first sentence of paragraph (e) of this AD. The commenter feels that removing the statement will improve the clarity of the paragraph. The FAA agrees. The statement ''of this chapter'' has been removed from the first sentence of paragraph (e).

Economic Analysis

No comments were received on the economic analysis contained in the proposed rules. The FAA has determined that the annual cost of complying with this AD does not create a significant economic impact on small entities.

Adoption of the Proposed Rule

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it does 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 final rule.

For the reasons discussed above, I certify that this action: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a

substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11117 (64 FR 17956, April 13, 1999), and by adding a new airworthiness directive, Amendment 39–11783, to read as follows:

2000–12–05 International Aero Engines AG: Amendment 39–11783. Docket No. 98–ANE–45–AD. Supersedes AD 99–08–11, Amendment 39–11117.

Applicable Engines

International Aero Engines AG (IAE) V2500–A1/–A5/–D5 series turbofan engines, installed on but not limited to Airbus Industrie A319, A320, and A321 series, and McDonnell Douglas MD–90 series airplanes.

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 (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 critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

Inspections

(a) Within the next 90 days after the effective date of this AD, revise the Airworthiness Limitations Section (ALS) and Maintenance Scheduling Section (MSS) of the Instructions for Continued Airworthiness (ICA), located in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, part number (P/N) E–V2500–1IA and P/N E–V2500–3IA, and for air carrier operations revise the approved continuous airworthiness maintenance program, by

(1) Adding the following to paragraph 1, entitled ''Airworthiness Limitations:'' ''Refer to paragraph 2—Maintenance Scheduling for information that sets forth the operator's maintenance requirements for the V2500 On-Condition engine.''

(2) Adding the following paragraph 2, entitled ''Maintenance Scheduling:'' ''Whenever a Group A part identified in this paragraph (see 3.0 for definition of Group A) satisfies both of the following conditions:

The part is considered completely disassembled when accomplished in accordance with the disassembly instructions in the engine manufacturer's engine manual; and

The part has accumulated more than 100 cycles in service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine; then that part is considered to be at the piece-part level and it is mandatory to perform the inspections for that part as specified in the following:

Part nomenclature	Part No. (P/N)	Inspect per engine manual chapter
Fan Disk	All	Chapter 72–31–12, Subtask 72–31–12–230–054.
Stage 1 HP Turbine Hub	All	Chapter 72–45–11, Task 72–45–11–200–002.
Stage 2 HP Turbine Hub	All	Chapter 72–45–31, Task 72–45–31–200–004''.

(b) Except as provided in paragraph (c) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the ALS and MSS of the ICA in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, P/N E–V2500–1IA and P/N E–V2500–3IA.

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 Engine Certification Office (ECO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector (PMI), who may add comments and then send it to the ECO.

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

Ferry Flights

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

Continuous Airworthiness Maintenance Program

(e) FAA-certificated air carriers that have an approved continuous airworthiness maintenance program in accordance with the recordkeeping requirement of § 121.369(c) of the Federal Aviation Regulations [14 CFR 121.369(c)] must maintain records of the mandatory inspections that result from revising the ALS and MSS of the ICA in the Time Limits Manual (Chapter 05–10–00) of the Engine Manuals, P/N E–V2500–1IA and P/N E–V2500–3IA, and the air carrier's continuous airworthiness program. Alternately, certificated air carriers may establish an approved system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369(c) of the Federal Aviation Regulations [14 CFR 121.369(c)]; however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated. Records of the piece-part inspections are not required under § 121.380(a)(2)(vi) of the Federal Aviation Regulations [14 CFR 121.380(a)(2)(vi)]. All other operators must maintain the records of mandatory inspections required by the applicable regulations governing their operations.

Note 3: The requirements of this AD have been met when the engine manual changes are made and air carriers have modified their continuous airworthiness maintenance plans to reflect the requirements in the Engine Manuals.

(f) This amendment becomes effective on August 11, 2000.

Issued in Burlington, Massachusetts, on June 6, 2000.

David A. Downey,

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

[FR Doc. 00–14787 Filed 6–9–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 99F–1581]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of imidazolium compounds, 2–(C_{17} and C_{17}-unsaturated alkyl)-1–[2–(C_{18} and C_{18}-unsaturated amido)ethyl]-4,5-dihydro-1-methyl, methyl sulfates as a debonding agent in the manufacture of paper and paperboard intended for use in contact with aqueous and fatty food and in contact with dry food. This action is in response to a petition filed by Witco Corp.

DATES: This rule is effective June 12, 2000. Submit written objections and requests for a hearing by July 12, 2000.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 4, 1999 (64 FR 30038), FDA announced that a food additive petition (FAP 9B4669) had been filed by Witco Corp., One American Lane, Greenwich, CT 06831–2559. The petition proposed to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) and § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) to provide for the safe use of imidazolium compounds, 2–(C_{17} and C_{17}-unsaturated alkyl)-[2–(C_{18} and C_{18}-unsaturated amido)ethyl]-4,5-dihydro-1-methyl, methyl sulfates as a debonding agent in the manufacture of paper intended for use in contact with food. The name of the additive was incorrect in the June 4, 1999, notice, but is being used correctly as imidazolium compounds, 2–(C_{17} and C_{17}-unsaturated alkyl)-1–[2–(C_{18} and C_{18}-unsaturated amido)ethyl]-4,5-dihydro-1-methyl, methyl sulfates in this document.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations in §§ 176.170 and 176.180 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the environmental effects of this rule as announced in the notice of filing for the petition. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by July 12, 2000. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 346, 348, 379e.

2. Section 176.170 is amended in the table in paragraph (a)(5) by alphabetically adding an entry under the headings ''List of substances'' and ''Limitations'' to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * * * *	
Imidazolium compounds, 2–(C_{17} and C_{17}-unsaturated alkyl)-1–[2–(C_{18} and C_{18}-unsaturated amido)ethyl]-4,5-dihydro-1-methyl, methyl sulfates (CAS Reg. No. 72749–55–4).	For use only at a level not to exceed 0.5 percent by weight of the dry paper and paperboard.
* * * * * * *	

* * * * *

3. Section 176.180 is amended in the table in paragraph (b)(2) by alphabetically adding an entry under the headings ''List of substances'' and ''Limitations'' to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * * *	* * *
Imidazolium compounds, 2–(C_{17} and C_{17}-unsaturated alkyl)-1–[2–(C_{18} and C_{18}-unsaturated amido)ethyl]-4,5-dihydro-1-methyl, methyl sulfates (CAS Reg. No. 72749–55–4).	For use only at levels not to exceed 0.5 percent by weight of the dry paper and paperboard.
* * * *	* * *

Dated: May 31, 2000.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–14700 Filed 6–9–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's address for ADM Animal Health & Nutrition Division.

DATES: This rule is effective June 12, 2000.

FOR FURTHER INFORMATION CONTACT: Norman J. Turner, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0214.

SUPPLEMENTARY INFORMATION: ADM Animal Health & Nutrition Division, P.O. Box 2508, Fort Wayne, IN 46801–2508, has informed FDA of a change of sponsor's address to 1000 North 30th St., Box 1C, Quincy, IL 62305–3115. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor's address.

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

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for ''ADM Animal Health & Nutrition Division'' and in the table in paragraph (c)(2) by revising the entry for ''017519'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * *	* * *
ADM Animal Health & Nutrition Division, 1000 North 30th St., Box 1C, Quincy, IL 62305–3115	017519
* * * *	* * *

(2) * * *

Drug labeler code	Firm name and address
* * * *	* * *
017519	ADM Animal Health & Nutrition Division, 1000 North 30th St., Box 1C, Quincy, IL 62305–3115
* * * *	* * *

Dated: May 29, 2000.

Claire M. Lathers,

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

[FR Doc. 00–14699 Filed 6–9–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska 00–002]

RIN 2115–AA97

Safety Zone; Port Graham, Cook Inlet, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; correction.

SUMMARY: This document corrects a temporary final rule published in the **Federal Register** of May 15, 2000, concerning temporary regulations at Port Graham, Cook Inlet, Alaska and the heavy-lift vessel SWAN. That document contained an arrival date that has been changed; thus a correction is necessary.

DATES: The temporary final rule published on May 15, 2000 is effective beginning on June 10, 2000.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Rick Rodriguez, Chief of Port Operations, USCG Marine Safety Office, Anchorage, at (907) 271–6724.

SUPPLEMENTARY INFORMATION:

Correction

In temporary final rule FR Doc 00–12151, the effective date is no longer correct because the arrival date for the vessel has been changed to June 10, 2000 instead of June 12, 2000 and a correction is needed.

Correction of publication.

Accordingly, the publication on May 15, 2000, of the temporary final rule [COTP Western Alaska 00–002], which is the subject of FR Doc. 00–12151, is corrected as follows:

1. On page 30885, second column, in the **DATES** section, remove the words ''June 12, 2000'' and add in their place the words '' June 10, 2000''.

2. On page 30886, first column, in amendatory instruction number 2, remove the words ''June 12, 2000'' and add in their place the words '' June 10, 2000''.

3. On page 30886, second column, paragraph (b), remove the words ''June 12, 2000'' and add in their place the words '' June 10, 2000''.

Dated: June 6, 2000.

W.J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 00–14843 Filed 6–8–00; 3:25 pm]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 086–0207a; FRL–6710–5]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maricopa County Environmental Services Department portion of the Arizona State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from ferrous sand casting operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on August 11, 2000 without further notice, unless EPA receives adverse comments by July 12, 2000. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andrew Steckel, Chief, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule and our technical support document (TSD) at our Region IX office from 8:00 am to 4:30 pm, Monday through Friday. To see copies of the submitted rule, you may also go to the following locations:

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, AZ 85004

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used, we mean EPA.

Table of Contents

I. The State's Submittal
A. What rule did the State submit?
B. Are there other versions of this rule?
C. What is the purpose of the submitted rule?
II. EPA's Evaluation and Action
A. How is EPA evaluating the rule?
B. Does the rule meet the evaluation criteria?
C. Public comment and final action.
III. Background Information
Why was this rule submitted?
IV. Administrative Requirements

I. The State's Submittal

A. What rule did the State submit?

The rule we are approving for incorporation into the Arizona SIP is MCESD Rule 347, Ferrous Sand Casting. This rule was adopted on March 4, 1998 by the MCESD and submitted to us on August 4, 1999 by the Arizona Department of Environmental Quality. On August 25, 1999, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There is no previous version of MCESD Rule 347 in the SIP. There are no previous submittals on which we have not acted.

C. What is the purpose of the submitted rule?

MCESD Rule 347 limits the amount of volatile organic compounds (VOCs) emitted by organic binder materials and other organic materials used in molds made of sand or other finely divided refractory material in ferrous metal sand casting operations. The emission of VOC is limited to 150 pounds per day or 25 tons per year, unless VOC emissions are controlled by a device with at least 81% capture or by maintaining an organic binder to sand ratio of less than 1.35 to 100 by weight. The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections

110(l) and 193). The MCESD regulates a serious ozone nonattainment area (see 40 CFR part 81), so MCESD Rule 347 must fulfill the requirements of RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''*Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987* ***Federal Register*** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. *Profile of the Metal Casting Industry,* EPA 310–R097–004, September 1997 (cover only.)

B. Does the Rule Meet the Evaluation Criteria?

We believe the rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action.

As authorized in section 110(k)(3) of the Act, EPA is approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by July 12, 2000, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on August 11, 2000. This will incorporate this rule into the federally enforceable SIP.

III. Background Information

Why was this rule submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 1 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 1.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 11, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Organics, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: May 12, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(94)(i)(C) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(94) * * *

(i) * * *

(C) Rule 347, adopted on March 4, 1998.

* * * * *

[FR Doc. 00–14171 Filed 6–9–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301006; FRL–6590–4]

RIN 2070–AB78

Cyprodinil; Extension of Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for residues of the fungicide cyprodinil in or on strawberries at 5 part per million (ppm) for an additional 1-year period. This tolerance will expire and is revoked on May 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on strawberries. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective June 12, 2000. Objections and requests for hearings, identified by docket control number OPP-301006, must be received by EPA on or before August 11, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301006 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number:703–308–9362; and e-mail address: schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301006. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson

Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of April 14, 1999 (64 FR 18346) (FRL–6073–3), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established a time-limited tolerance for the residues of cyprodinil in or on strawberries at 5 ppm, with an expiration date of May 31, 2000. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of the product Switch 62.5 WG, containing the active ingredients fludioxonil and cyprodinil, on strawberries for this year's growing season due to the urgent and non-routine situation which exists for South Carolina strawberry growers due to the cancellation of vinclozolin use on strawberries and the restriction on iprodione use to pre-bloom only; this reduces the number of fungicide applications available for season-long control below that needed, should disease pressure be heavy. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of cyprodinil on strawberries for control of gray mold in South Carolina.

EPA assessed the potential risks presented by residues of cyprodinil in or on strawberries. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of April 14, 1999 (64 FR 18346). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on May 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on strawberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301006 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 11, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its

inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–30010006, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule extends a time limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 25, 2000

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.532 [Amended]

2. In § 180.532, in the table to paragraph (b), the entry for strawberries is amended by revising the date ''5/31/00'' to read ''5/31/01''.

[FR Doc. 00–14774 Filed 6–9–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FRL–6710–3]

State of West Virginia: Final Program Determination of Adequacy of State Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: This document approves the portions of the West Virginia Municipal Solid Waste Management Permit Program which did not receive Environmental Protection Agency (EPA) approval in the **Federal Register** document published on March 29, 2000 (65 FR 16523–16528). EPA published a document in the **Federal Register** on March 29, 2000 (65 FR 16523–16528), giving final approval to the portions of West Virginia's Solid Waste Management Rule which had been tentatively approved in the March 8, 1996 document (61 FR 9451–9454). This

action approves those portions of West Virginia's solid waste permit program which were not previously approved by EPA.

DATES: This final determination of program adequacy for the State of West Virginia shall become effective August 11, 2000 unless adverse comments are received on or before July 12, 2000.

ADDRESSES: Comments should be sent to the following address where the full West Virginia application supporting program adequacy is on file and may be reviewed: EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, or alternatively at West Virginia Division of Environmental Protection (WVDEP), 1356 Hansford Street, Charleston, West Virginia 25301–1401.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, Attn: Mr. Michael C. Giuranna, mailcode 3WC21, telephone (215) 814–3298. The contact for the State of West Virginia Division of Environmental Protection is Mr. Larry Atha, 1356 Hansford Street, Charleston, West Virginia 25301–1401, telephone (304) 558–6350.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised criteria for Municipal Solid Waste Landfills (MSWLFs) (40 CFR part 258). Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments, requires states to develop permit or other similar programs that incorporate the federal criteria under 40 CFR part 258. Section 4005(c)(1)(C) of RCRA requires that EPA determine the adequacy of state MSWLF permit programs to ensure that facilities comply with the revised federal criteria. To fulfill this requirement, the Agency promulgated the State Implementation Rule (SIR) on October 23, 1998 (63 FR 57025) which provides procedures by which EPA will approve or partially approve state landfill permit programs.

EPA interprets the requirements for states or tribes to develop ''adequate'' programs for permits, or other forms of prior approval, as imposing several minimum requirements. First, each state must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the state must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The state also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the state must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator who fails to comply with an approved MSWLF program.

EPA Regions determine whether state programs are ''adequate'' based on the criteria outlined above.

B. State of West Virginia

In September 1998, West Virginia submitted its revised Solid Waste Management Rule (the Rule), which incorporated all of the provisions of 40 CFR part 258. After a thorough review, EPA determined that the Rule met the requirements of 40 CFR part 258 and on July 1, 1999, West Virginia submitted the Rule with proper documentation as required by the SIR to EPA and requested approval under 40 CFR part 258. Upon review of this submittal, EPA found that West Virginia is in compliance with all provisions of the SIR and that West Virginia has demonstrated that the State's MSWLF permit program adequately meets the location restrictions, operating criteria, design criteria, groundwater monitoring and corrective action requirements, closure and post-closure care requirements, and financial assurance criteria in the revised federal criteria. In addition, the State of West Virginia also demonstrated that its MSWLF permit program contains specific provisions for public participation, compliance monitoring, and enforcement.

EPA issued final partial approval for all of subparts B, C and D and portions of subparts A, E and F of 40 CFR part 258, in the **Federal Register** of March 29, 2000 (65 FR 16523–16528). These portions of West Virginia's Municipal Solid Waste Landfill Permit Program had received tentative approval in a **Federal Register** document published on March 8, 1996 (61 FR 9451–9454). EPA is today publishing this document approving the remaining elements of West Virginia's MSWLF permit program that are analogous to the subpart G, Financial Assurance Criteria, of 40 CFR part 258 and the remaining portions of subparts A, E and F listed below.

1. Subpart A—General— The definitions listed in 40 CFR 258.2;

2. Subpart E—Groundwater Monitoring and Corrective Action—The requirements of 40 CFR 258.51, Groundwater Monitoring Systems; 40 CFR 258.54, Detection Monitoring Program; and 40 CFR 258.55, Assessment Monitoring Program;

3. Subpart F—Closure and Post Closure Care—The criteria in 40 CFR 258.60, Closure Criteria, pertaining to the time allowed to apply the final cover.

By approving these portions of the West Virginia Municipal Solid Waste Permit Program, EPA will be in effect granting full program approval of West Virginia's MSWLF permit program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the federal MSWLF criteria in 40 CFR part 258 independent of any state enforcement program. As explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions of a state program approved by EPA should be considered to be in compliance with the federal criteria (see 56 FR 50978, 50995, October 9, 1991).

C. Decision

EPA concludes that West Virginia's application for a full program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, West Virginia is granted approval of the provisions of its municipal solid waste landfill permit program noted above. This action will take effect 60 days from the date of publication, if no significant adverse comments are received within 30 days. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), to put this action into effect 60 days after publication in the **Federal Register**. All of the requirements and obligations in the State's program are already in effect as a matter of State law. EPA is approving the State regulations noted above through this immediate final action and is publishing this rule without a prior proposal to approve the changes because EPA believes it is not controversial and expects no comments that oppose this action. EPA is providing an opportunity for public comment now. In the proposed rules section of today's **Federal Register** EPA is publishing a separate document that proposes to approve the State changes. If EPA receives comments which oppose this approval or portion(s) thereof, that document will serve as a proposal to approve such changes. If EPA receives comments that oppose this approval decision or portion(s) thereof, we will withdraw this approval, or those portion(s) for which EPA received comments opposing its decision, by publishing a document in the **Federal Register**. We will address all public comments in a subsequent final action based on the proposed rule.

The EPA's action today does not impose any new requirements that the regulated community must begin to comply with nor do these requirements become enforceable by EPA as federal law.

Compliance With Executive Order 12866—Regulatory Planning and Review

The Office of Management and Budget has exempted today's action from the requirements of Executive Order 12866.

Compliance With Executive Order 12898—Environmental Justice

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities. EPA does not believe that today's action will have a disproportionately high and adverse environmental or economic impact on any minority or low-income group, or on any other type of affected community.

Compliance With Executive Order 13045—Children's Health Protection

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks,'' applies to any rule that: (1) The Office of Management and Budget determines is ''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, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

Compliance With Executive Order 13084—Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. West Virginia is not authorized to implement the MSWLF permit program in Indian country.

Compliance With 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 Section 6 of 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 proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This approval does not have federalism implications. It will not have a substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because this rule affects only one State. This action simply approves portions of West Virginia's MSWLF permit program that the State has voluntarily chosen to operate. Thus, the requirements of section 6 of the Executive Order do not apply.

Certification Under the 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 of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant 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 action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (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 this approval on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are owners or operators of municipal sold waste landfills are already subject to the regulatory requirements under the State laws which EPA is now approving. This

action merely approves for the purpose of RCRA 4005(c) those existing State requirements.

Compliance With the Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each house of the Congress and to the Comptroller General of the United States. EPA will submit a report containing today's document 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 today's action in the **Federal Register**. Today's action is not a ''major rule'' as defined by section 5 U.S.C. 804(2).

Compliance With the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. 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 to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one 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 regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the West Virginia program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may own or operate municipal solid waste landfills, they are already subject to the regulatory requirements under the existing State laws that are being approved by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Compliance With the National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

Authority: This notice is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949(a).

Dated:

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–14164 Filed 6–9–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000119015–0015–01; I.D. 010500A]

RIN 0648–AM32

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Pollock Fisheries Off Alaska

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

ACTION: Emergency interim rule; extension of expiration date; request for comments.

SUMMARY: NMFS extends the expiration date of an emergency interim rule that implemented reasonable and prudent alternatives to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions, or adversely modify their critical habitat. The emergency interim rule that is effective from January 20, 2000, through July 19, 2000, is extended through December 31, 2000. This emergency action is necessary to continue to implement reasonable and prudent alternatives until permanent rulemaking is implemented.

DATES: The expiration date of the emergency interim rule published January 25, 2000 (65 FR 3892), is extended to December 31, 2000. Comments must be received by July 12, 2000.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Biological Opinion (BiOp) on the pollock fisheries of the Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) and the Atka mackerel fishery of the Aleutian Islands subarea, the Revised Final Reasonable and Prudent Alternatives (RFRPAs), and the Environmental Assessment/Regulatory Impact Review prepared for the emergency interim rule may be obtained from the same address. The BiOp and the RFRPAs are also available on the Alaska Region home page at http://www.fakr.noaa.gov. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Shane Capron, 907–586–7228 or shane.capron@noaa.gov

SUPPLEMENTARY INFORMATION: NMFS issued a BiOp dated December 3, 1998, and revised December 16, 1998, on the pollock fisheries of the BSAI and GOA, and the Atka mackerel fishery of the Aleutian Islands Subarea. The BiOp concluded that the BSAI and GOA pollock trawl fisheries, as previously prosecuted, were likely to jeopardize the continued existence of the western population of Steller sea lions, and adversely modify its critical habitat.

The BiOp concluded that, to avoid the likelihood of jeopardizing the continued existence of the western population of Steller sea lions, or adversely modifying its critical habitat, reasonable and prudent alternatives to the existing pollock trawl fisheries in the BSAI and GOA must accomplish three basic principles: (1) Temporal dispersion of fishing effort, (2) spatial dispersion of fishing effort, and (3) pollock trawl exclusion zones around Steller sea lion rookeries and haulouts.

NMFS published an emergency interim rule implementing the RFRPAs in the **Federal Register** on January 25, 2000 (65 FR 3892), amended on February 10, 2000 (65 FR 6561), and is effective through July 19, 2000.

At its April 2000 meeting, the North Pacific Fishery Management Council (Council) voted to recommend extension of the emergency rule. The preamble to the original emergency interim rule provides a detailed description of the purpose and need for the action. This action extends the expiration date of the emergency interim rule establishing Steller sea lion conservation measures (65 FR 3892, January 25, 2000) from July 19, 2000, to December 31, 2000.

NMFS intends to initiate proposed and final rulemaking later in 2000 to permanently implement Steller sea lion conservation measures as required by the BiOp and the RFRPAs, and as recommended by the Council at its June 1999 meeting. This extension of an emergency interim rule is necessary to prosecute the remainder of the 2000 pollock fishery after July 19, 2000.

Details concerning the basis for this action are contained in the initial emergency interim rule and are not repeated here.

The comments received on the initial emergency interim rule and this emergency rule extension will be responded to later this year in NMFS' final rulemaking to permanently implement Steller sea lion conservation measures. Also, there will be an additional opportunity for comments when the proposed rule is published prior to final rulemaking.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

Dated: June 6, 2000.

Bruce C. Morehead,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–14776 Filed 6–9–00; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 113
Monday, June 12, 2000

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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 792

The Production of Nonpublic Records and Testimony of NCUA Employees in Legal Proceedings and the Privacy Act

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA proposes to make minor and technical revisions to its regulation implementing the Privacy Act of 1974 (PA). The proposal updates the rule to conform to current law governing the method an individual may use to establish his or her identity to obtain access to protected records and the requirements for the release of medical records. The proposed rule changes time limits so that they conform more closely to those under the Freedom of Information Act (FOIA) and clarifies that the agency maintains four, rather than three, systems of records subject to exemptions under the PA. The proposal also updates the rule to reflect organizational changes within NCUA and corrects cross-references in Subpart C.

DATES: Comments must be received on or before August 11, 2000.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Dianne M. Salva, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION: The PA, 5 U.S.C. 552a, governs the collection, maintenance, use and disclosure of personal information in a federal agency's systems of records. NCUA's PA regulation sets forth procedures for individuals to follow to obtain access to records about themselves in systems of records. It also permits the amendment of any inaccurate records and places restrictions on the disclosure of information in the records.

As part of a government-wide initiative, NCUA recently reviewed its practices related to privacy and personal information in federal records. In its review of the agency systems of records, it identified several changes in recordkeeping practices and agency organization. As a result of that review, NCUA revised its systems notices to make them clearer and simpler and to eliminate redundancies. 65 FR 3486, January 21, 2000. Now, as a result of its review of the PA regulation, NCUA proposes to update the regulation to reflect current law, terminology and organizational functions and clarify which of its systems of records are subject to PA exemptions.

The revisions are minor or technical in nature. The changes seek to align PA processing more closely with Office and Management and Budget (OMB) guidelines and FOIA, 5 U.S.C. 552, practices. Specifically, the current regulation calls for an agency response within 10 working days of receipt. The PA itself does not set a time limit for agency responses. OMB guidelines recommend that agencies acknowledge requests within 10 days and, when records will be produced, do so within 30 days. 40 FR 28957, July 9, 1975. For ease of administration, NCUA proposes to adopt processing time limits similar to those imposed by the FOIA: 20 working days to respond to initial PA requests, with a 10-day extension if necessary. The proposal also changes the time period for an individual to file an appeal of an adverse decision, currently 180 days, to the time period commonly used in the FOIA context, which is 30 days. The current regulation sets the copying fee at $0.25 per page. In connection with the FOIA, NCUA establishes a fee schedule adjusted periodically to reflect actual costs. The current rate for copies on the NCUA FOIA fee schedule is $0.05 per page. The proposal makes the copying fee for PA records the same as the fee on the FOIA fee schedule.

The proposal eliminates the requirement in the current regulation that an individual produce a notarized statement affirming his identity when he is seeking access to a record about himself and he cannot produce documentation to establish his identity, or when he submits a request by mail. Current case law requires that an individual need only submit an unsworn declaration, subscribed to as true under penalty of perjury. *Summers* v. *DOJ,* 999 F.2d 570 (D.C. Cir. 1993).

The current regulation requires that an NCUA official determine whether to release to an individual his non-exempt medical information in a system of records. The proposal eliminates that provision and conforms the rule to current law that holds that an agency may impose special procedures to minimize the potential harm to an individual from disclosure of sensitive medical records, but ultimately the agency must ensure that the individual receives all nonexempt medical records. *Benavides* v. *Bureau of Prisons,* 995 F.2d 269 (D.C. Cir. 1993).

The proposal also amends the regulation to reflect the correct number of systems of records subject to a PA exemption. The PA requires agencies to promulgate a rule to exempt a system of records from its access and notice provisions. The following four of NCUA's notices of systems of records state that the systems are exempt from certain provisions of the PA: NCUA–1, Employee Suitability and Security Investigations Containing Adverse Information, NCUA, and; NCUA–8, Investigative Reports Involving Any Crime, Suspected Crime or Suspicious Activity Against a Credit Union, NCUA, and; NCUA–11, Office of Inspector General (OIG) Investigative Records, and; NCUA–13, Litigation Case Files, NCUA. However, the current regulation only describes three systems subject to exemption from provisions of the PA, excluding the Litigation Case Files system. 12 CFR 792.34.

The Litigation Case Files system, designated NCUA–13, will be exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I) and (f) of the PA. 5 U.S.C. 552a (c)(3), (d),(e)(1), (e)(4)(G), (H), (I) and (f). Because the system covers investigatory materials compiled for law enforcement purposes, it is eligible for these exemptions under subsection (k)(2) of the PA. 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit to which the individual would otherwise

be entitled by federal law, or for which the individual otherwise would be eligible, as a result of the maintenance of such records, the records or information will be made available to the individual, provided the identity of a confidential source is not disclosed. The records in the Litigation Case Files system are used in connection with the execution of NCUA's legal and enforcement responsibilities. These files may contain unverified, unsolicited statements, sometimes received from confidential sources. In addition, investigative reports and other internal agency memoranda concerning violations of laws or regulations may be included in the files. The NCUA Board believes that the disclosure of the existence of such information in the files or the nature of information obtained in law enforcement investigations may seriously hamper and undermine effective enforcement actions. Disclosure might prematurely alert individuals that they are under investigation or provide access to evidentiary information. Similarly, this system must be exempt from the PA provision requiring agencies to make an accounting of disclosures from the system upon request from the individual. An accounting would risk revealing to the individual that NCUA has forwarded records to the U.S. Department of Justice for consideration of criminal proceedings. If such an accounting were required, an individual might flee the jurisdiction or otherwise interfere with criminal prosecution. During litigation, authorized NCUA employees may disclose case file information within the bounds of discovery rules.

Finally, the proposal also corrects certain cross-references in Subpart C that are necessary due to earlier revisions of part 792. 63 FR 14338, March 25, 1998.

Regulatory Procedures

Paperwork Reduction Act

This regulation, if adopted, will impose no additional information collection, reporting or recordkeeping requirements.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), NCUA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. NCUA expects that this proposal will not: (1) Have significant secondary or incidental effects on a substantial number of small entities; or (2) create any additional burden on small entities. These conclusions are based on the fact that the proposed regulations are minor changes intended to simplify and clarify agency recordkeeping and disclosure procedures. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This proposed rule, if adopted, is procedural in nature and 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. NCUA has determined that the proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed amendment is understandable and minimally intrusive if implemented as proposed.

List of Subjects in 12 CFR Part 792

Administrative practice and procedure, Archives and records, Credit unions, Information, Records.

By the National Credit Union Administration Board on June 6, 2000.

Becky Baker,

Secretary of the Board.

For the reasons set out in the preamble, the NCUA proposes to amend 12 CFR Part 792 as follows:

PART 792—REQUESTS FOR INFORMATION UNDER THE FREEDOM OF INFORMATION ACT AND PRIVACY ACT, AND BY SUBPOENA; SECURITY PROCEDURES FOR CLASSIFIED INFORMATION

1. The authority citation for part 792 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b; 12 U.S.C. 1752a(d), 1766, 1789, 1795f; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; E.O. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333.

§ 792.41 [Amended]

2. In § 792.41, remove '' § 792.4(b)(2)'' and add, in its place, ''§ 792.32.''

§ 792.47 [Amended]

3. In § 792.47(b), remove ''§ 792.5'' and add, in its place, ''§ 792.19.''

§ 792.49 [Amended]

4. In § 792.49, in the definition of *Nonpublic records*, remove ''§ 792.3'' and add, in its place, ''§ 792.11''.

5. Amend § 792.55 by revising paragraph (a)(3) to read as follows:

§ 792.55 Times, places and requirements for identification of individuals making requests and identification of records requested.

(a) * * *

(3) An individual seeking access to records about himself by mail or in person, who cannot provide the required documentation or identification, may provide an unsworn declaration subscribed to as true under penalty of perjury.

* * * * *

6. Amend § 792.56 by revising paragraphs (b)(1), (b)(2) and (b)(3) to read as follows:

§ 792.56 Notice of existence of records, access decisions and disclosure of requested information; time limits.

* * * * *

(b) * * *

(1) A request concerning a single system of records which does not require consultation with or requisition of records from another agency will be responded to within 20 working days after receipt of the request.

(2) A request requiring requisition of records from or consultation with another agency will be responded to within 30 working days of receipt of the request.

(3) If a request under paragraphs (b)(1) or (2) of this section presents unusual difficulties in determining whether the records involved are exempt from disclosure, the Privacy Act Officer, in the Office of General Counsel, may

extend the time period established by the regulations by 10 working days.

* * * * *

7. Amend § 792.57 by revising paragraph (b) to read as follows:

§ 792.57 Special Procedures: Information furnished by other agencies; medical records.

* * * * *

(b) When an individual requests medical records concerning himself, the NCUA official responsible for action on the request may advise the individual that the records to be released will be provided first to a physician designated in writing by the individual. The physician will provide the records to the individual.

8. Amend § 792.58 by revising the fourth sentence of paragraph (a) to read as follows:

§ 792.58 Requests for correction or amendment to a record; administrative review of requests.

* * * * *

(a) * * * An individual who does not have access to NCUA's ''Notice of Systems of Records,'' and to whom the appropriate address is otherwise unavailable, may submit a request to the Privacy Act Officer, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314–3428, in which case the request will then be referred to the appropriate NCUA official.* * *

* * * * *

9. Amend § 792.59 by revising paragraph (e) to read as follows:

§ 792.59 Appeal of initial determination.

* * * * *

(e) If access is denied because of an exemption, the individual will be notified of the right to appeal that determination to the General Counsel within 30 days after receipt. Appeals will be determined within 20 working days.

10. Amend § 792.65 by revising paragraph (a)(1) to read as follows:

§ 792.65 Fees.

(a) * * *

(1) For copies of documents provided, copy fees as stated in NCUA's current FOIA fee schedule; and

* * * * *

11. Amend § 792.66 by revising the first sentence of paragraph (a), and the first two sentences of paragraph (b)(1), and the first sentence of paragraph (b)(2), and adding a new paragraph (b)(4) as follows:

§ 792.66 Exemptions.

(a) NCUA maintains four systems of records that are exempted from some provisions of the Privacy Act. * * *

(b)(1) System NCUA–1, entitled ''Employee Suitability Security Investigations Containing Adverse Information,'' consists of adverse information about NCUA employees that had been obtained as a result of routine U.S. Office of Personnel Management (OPM) security Investigations. To the extent that NCUA maintains records in this system pursuant to OPM guidelines that may require retrieval of information by use of individual identifiers, those records are encompassed by and included in the OPM Central system of records number Central-9 entitled, ''Personnel Investigations Records,'' and thus are subject to the exemptions promulgated by OPM. * * *

(2) System NCUA–8, entitled, ''Investigative Reports Involving Any Crime or Suspicious Activity Against a Credit Union, NCUA,'' consists of investigatory or enforcement records about individuals suspected of involvement in violations of laws or regulations, whether criminal or administrative. * * *

* * * * *

(4) System NCUA–13, entitled, ''Litigation Case Files,'' consists of investigatory materials compiled for law enforcement purposes. Records in the Litigation Case Files system are used in connection with the execution of NCUA's legal and enforcement responsibilities. Because the system covers investigatory materials compiled for law enforcement purposes, it is eligible for exemption under subsection (k)(2) of the Privacy Act. 5 U.S.C. 552a(k)(2). The Litigation Case Files system is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I) and (f) of the Privacy Act. 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), (I) and (f). However, if an individual is denied any right, privilege, or benefit to which he would otherwise be entitled by federal law, or for which he otherwise would be eligible, as a result of the maintenance of such records, the records or information will be made available to him, provided the identity of a confidential source is not disclosed.

* * * * *

12. Amend § 792.69 by revising the first sentence of paragraph (a) to read as follows:

§ 792.69 Training and employee standards of conduct with regard to privacy.

(a) The Director of the Office of Training and Development, with advice from the General Counsel, is responsible for training NCUA employees in the obligations imposed by the Privacy Act and this subpart.* * *

* * * * *

[FR Doc. 00–14784 Filed 6–9–00; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–329–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

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), applicable to certain McDonnell Douglas Model MD–90–30 series airplanes, that would have required replacement of certain ground block screws with new screws; and retermination of the circuit ground wires of the electrical power control unit (EPCU) to separate grounding points. That proposal was prompted by reports of complete loss of the primary electrical power on an airplane during flight. This new action revises the proposed rule by expanding the applicability of the proposed AD to include additional airplanes. The actions specified by this new proposed AD are intended to prevent a loose electrical ground block of the circuit ground wires of the EPCU, which could result in complete loss of the primary electrical power of an airplane during flight.

DATES: Comments must be received by July 7, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–329–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent

via the Internet must contain ''Docket No. 99–NM–329–AD'' in the subject line and need not be submitted in triplicate.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–329–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–329–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–90–30 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on December 7, 1999 (64 FR 68302). That NPRM would have required replacement of certain ground block screws with new screws; and retermination of the circuit ground wires of the electrical power control unit (EPCU) to separate grounding points. That NPRM was prompted by reports of complete loss of the primary electrical power on an airplane during flight. That condition, if not corrected, could result in a loose electrical ground block of the circuit ground wires of the EPCU, which could result in complete loss of the primary electrical power of an airplane during flight.

Comments

Due consideration has been given to the comment received in response to the NPRM:

One commenter requests that the FAA revise paragraph (b) of the NPRM to reference McDonnell Douglas Service Bulletin MD90–24–062, dated February 3, 2000, as the appropriate source of service information for accomplishing the proposed retermination rather than a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The commenter states that referencing the service bulletin will eliminate the requirement for the ACO to approve an alternative method of compliance (AMOC), and that the proposed retermination could be accomplished easily in accordance with the service bulletin.

The FAA concurs with the commenter. Since issuance of the NPRM, the FAA has reviewed and approved McDonnell Douglas Service Bulletin MD90–24–062, dated February 3, 2000. The service bulletin describes procedures for relocating the ground wires of the EPCU system and installing a new ground stud bracket. Accomplishment of this modification will minimize the possibility of electrical power loss of an airplane during flight. Therefore, the FAA has revised paragraph (b) of the supplemental NPRM to reference the subject service bulletin as the appropriate source of service information for accomplishing the proposed retermination. In addition, the FAA has revised the work hour estimate of the final rule for accomplishing the retermination to conicide with the estimates in the subject service bulletin.

Explanation of Changes to the Applicability of the NPRM

The applicability statement of the NPRM referenced McDonnell Douglas Alert Service Bulletin MD90–24A060, Revision 01, dated September 2, 1999, as the appropriate source of service information for determining the affected airplanes. However, the FAA has revised the applicability statement of the supplemental NPRM to also reference McDonnell Douglas Service Bulletin MD90–24–062, dated February 3, 2000. McDonnell Douglas Service Bulletin MD90–24–062 (described above) includes additional airplanes that are subject to the identified unsafe condition of this AD. As a result of this change, the FAA also has revised the applicability of paragraphs (a) and (b) accordingly.

Conclusion

Since these changes expands 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.

Cost Impact

There are approximately 104 Model MD–90–30 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 21 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be procured from the operator's stock. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $1,260, or $60 per airplane.

It would take approximately 1 work hour per airplane to accomplish the

proposed retermination of the circuit ground wires of the EPCU, at an average labor rate of $60 per work hour. The manufacturer has committed previously to its customers that it will bear the cost of replacement parts. As a result, the cost of those parts is not attributable to this proposed AD. Based on these figures, the cost impact of the retermination proposed by this AD on U.S. operators is estimated to be $1,260, or $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–329–AD.

Applicability: Model MD–90–30 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A060, Revision 01, dated September 2, 1999, and McDonnell Douglas Service Bulletin MD90–24–062, dated Feburary 3, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 a loose electrical ground block of the circuit ground wires of the electrical power control unit (EPCU), accomplish the following:

Replacement

(a) For airplanes listed in McDonnell Douglas Alert Service Bulletin MD90–24A060, Revision 01, dated September 2, 1999: Within 30 days after the effective of this AD, replace the electrical ground block screws with new screws in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A060, Revision 01, dated September 2, 1999.

Note 2: Accomplishment of the replacement of electrical ground block screws prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A060, dated July 28, 1999, is acceptable for compliance with the requirements of paragraph (a) of this AD.

Modification of the Electrical Power Control Unit

(b) For airplanes listed in McDonnell Douglas Service Bulletin MD90–24–062, dated February 3, 2000: Within 12 months after the effective date of this AD, reterminate the circuit ground wires of the EPCU to separate grounding points to ensure that a single point failure does not occur, in accordance with McDonnell Douglas Service Bulletin MD90–24–062, dated February 3, 2000.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Issued in Renton, Washington, on June 6, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–14795 Filed 6–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–104–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A300–600, and A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Model A300 and all Model A300–600 and A310 series airplanes, that currently requires performing a pitch trim system test to detect any continuity defect in the autotrim function, and follow-on corrective actions, if necessary. This action would require repetitive inspections of the autotrim function to detect such defects, and corrective actions, if necessary. This action also would expand the applicability to include additional airplanes. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent a sudden change in pitch due to an out-of-trim condition combined with an autopilot disconnect, which could result in reduced controllability of the airplane.

DATES: Comments must be received by July 12, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–104–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–104–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–104–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 18, 2000, the FAA issued AD 2000–02–04, amendment 39–11522 (65 FR 3799, January 25, 2000), applicable to certain Airbus Model A300 and all Model A300–600 and A310 series airplanes. That AD requires performing a pitch trim system test to detect any continuity defect in the autotrim function, and follow-on corrective actions, if necessary. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The requirements of that AD are intended to prevent a sudden change in pitch due to an out-of-trim condition combined with an autopilot disconnect, which could result in reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

Since issuance of AD 2000–02–04, the Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has advised the FAA that repetitive inspections are necessary to maintain the fleet in an airworthy condition, and that additional airplanes may be subject to the identified unsafe condition. In light of the DGAC's recommendation, the FAA has determined that further rulemaking action is necessary; this proposed AD follows from that determination.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A300–22A6042, Revision 01 (for Model A300–600 series airplanes); A300–22A0115, Revision 02 (for Model A300 series airplanes); and A310–22A2053, Revision 01 (for Model A310 series airplanes); all dated March 7, 2000. These service bulletins describe procedures for repetitive inspections of the autotrim function by testing the integrity of the flight control computer (FCC) and flight augmentation computer (FAC) in logic activation of the autotrim. For any default found during the test, the service bulletins describe procedures for trouble-shooting and follow-on corrective actions, including replacing the FCC and/or FAC, retesting, checking the wires between certain FCC and FAC pins, and repairing damaged wires.

The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 2000–115–304(B) R1, dated May 3, 2000, in order to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 2000–02–04 to require repetitive inspections to detect continuity defects in the autotrim function and to expand the applicability to include additional airplanes. The actions would be required to be accomplished in accordance with the applicable service bulletin described previously. The proposed AD also would require that operators report results of inspection findings to Airbus.

Interim Action

This is considered to be interim action for Model A300–600 and A310 series airplanes. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking for these airplanes.

Cost Impact

There are approximately 120 airplanes of U.S. registry that would be affected by this proposed AD. The inspection that is proposed by this AD would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed actions on U.S. operators is estimated to be $7,200, or $60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the current or proposed requirements of

this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11522 (65 FR 3799, January 25, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 2000–NM–104–AD. Supersedes AD 2000–02–04, Amendment 39–11522.

Applicability: Model A300 B2–203 and B4–203 series airplanes in a forward facing cockpit version, as listed in Airbus Service Bulletin A300–22A0115, Revision 02, dated March 7, 2000; and all Model A300–600 and A310 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent a sudden change in pitch due to an out-of-trim condition combined with an autopilot disconnect, which could result in reduced controllability of the airplane, accomplish the following:

Repetitive Inspections

(a) At the applicable time specified by paragraph (a)(1) or (a)(2) of this AD: Perform an inspection of the autotrim function by testing the flight control computer (FCC)/flight augmentation computer (FAC) integrity in logic activation of the autotrim, in accordance with Airbus Service Bulletin A300–22A6042, Revision 01 (for Model A300–600 series airplanes); A300–22A0115, Revision 02 (for Model A300 series airplanes); or A310–22A2053, Revision 01 (for Model A310 series airplanes); all dated March 7, 2000; as applicable. If any discrepancy is found, prior to further flight, perform all applicable corrective actions (including trouble-shooting, replacing the FCC and/or FAC, retesting, checking the wires between certain FCC and FAC pins, and repairing damaged wires) in accordance with the applicable service bulletin. Repeat the inspection thereafter at intervals not to exceed 500 flight hours.

(1) For airplanes on which the pitch trim system test has been performed in accordance with the requirements of AD 2000–02–04, amendment 39–11522: Inspect within 500 flight hours after accomplishment of the test required by that AD, or within 20 days after the effective date of this AD, whichever occurs later.

(2) For all other airplanes: Inspect within 20 days after the effective date of this AD.

Reporting Requirement

(b) For all inspections required by paragraph (a) of this AD: At the applicable time specified by paragraph (b)(1) or (b)(2) of this AD, submit a report of the inspection results (both positive and negative findings) to AI/SE-D32 Technical Data and Documentation Services, Airbus Industrie Customer Services Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex France; fax (+33) 5 61 93 28 06.

(1) For inspections accomplished after the effective date of this AD: Submit the report within 10 days after performing the inspection.

(2) For inspections accomplished prior to the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–115–304(B) R1, dated May 3, 2000.

Issued in Renton, Washington, on June 6, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–14794 Filed 6–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–107–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 737–300, –400, and –500 series airplanes. This proposal would require replacement of the existing autothrottle computer with a new, improved autothrottle computer. This proposal is prompted by reports of asymmetric thrust conditions during flight caused by irregular autothrottle operation in which the thrust levers slowly move apart causing the airplane

to bank excessively and go into a roll. The actions specified by the proposed AD are intended to prevent such conditions, which could result in loss of control of the airplane.

DATES: Comments must be received by July 27, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–107–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Thanh Truong, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2552; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–107–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–107–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports on certain Boeing Model 737–300, –400, and –500 series airplanes indicating an asymmetric thrust condition caused by irregular autothrottle operation, in which the thrust levers slowly move apart causing the airplane to bank and roll. This thrust condition exceeds the autopilot roll authority and results in a bank angle of more than 30 degrees. In one incident, the airplane rolled more than 46 degrees without crew recognition. Without pilot intervention, an airplane that has asymmetric thrust can bank excessively and go into a roll. Such conditions, if not corrected, could result in loss of control of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–22A1130, dated September 24, 1998, which describes procedures for replacement of the existing autothrottle computer with a new, improved autothrottle computer. The improved autothrottle computer disengages the autothrottle if an asymmetric thrust condition is detected, and prevents the airplane from rolling to an excessive bank angle.

Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Alert Service Bulletin

Operators should note that this proposed AD would require replacement of the autothrottle computer to be accomplished within one year after the effective date of this AD. The alert service bulletin recommends that this replacement should be accomplished ''as soon as manpower and materials are available.'' However, in developing an appropriate compliance time for the proposed replacement, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but also the number of proposed requirements and the availability of required parts. The FAA has determined that one year represents an appropriate interval of time allowable wherein all of these actions can be accomplished during scheduled airplane maintenance and an ample number of required parts will be available for modification of the U.S. fleet within the proposed compliance period. The FAA also finds that such a compliance time will not adversely affect the safety of the affected airplanes.

Cost Impact

There are approximately 1,974 airplanes of the affected design in the worldwide fleet. The FAA estimates that 799 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost between $1,400 and $4,200 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $1,460 and $4,260 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2000–NM–107–AD.

Applicability: All Model 737–300, –400, and –500 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent a severe asymmetric thrust condition during flight which could result in loss of control of the airplane, accomplish the following:

Replacement

(a) Within 1 year after the effective date of this AD: Replace the existing autothrottle computer with a new, improved autothrottle computer in accordance with Boeing Alert Service Bulletin 737–22A1130, dated September 24, 1998.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane, an autothrottle computer having part number 10–62017–1, –2, –3, –4, –5, –11, –21, –23, –25, or –27.

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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

Special Flight Permit

(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 accomplished.

Issued in Renton, Washington, on June 6, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–14793 Filed 6–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASW–6]

Proposed Modification of Federal Airways in the Vicinity of Dallas/Fort Worth; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend fourteen Federal airways in the vicinity of Dallas/Fort Worth, TX. The FAA is proposing this action to simplify the airway structure, thereby, enhancing the management of aircraft operations in the area.

DATES: Comments must be received on or before July 28, 2000.

ADDRESSES: Send comments on this proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 00–ASW–6, Federal Aviation Administration, 2601 Meacham Blvd; Fort Worth, TX 76193–0500. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Blvd; Fort Worth, TX 76193–0500.

FOR FURTHER INFORMATION CONTACT: Bil Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASW–6.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the Government Printing Office's electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the FAA's web page at http://www.faa.gov or the

Superintendent of Documents's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On October 10, 1996, the Dallas/Fort Worth Metroplex Plan (DFW/MP) was implemented. The DFW/MP was a major airspace redesign project which, in part, decommissioned four Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) and relocated and commissioned four new VORTAC facilities. The four new navigational VORTAC facilities were designed to enhance the management of aircraft operations in the vicinity of DFW. In support of the DFW/MP, the FAA amended twelve VOR Federal airways (61 FR 41736). However, since the implementation of this amended Federal airway structure the FAA has discovered that further amendment of the existing airway structure would improve aircraft movement and thus management of the navigable airspace in the DFW area. Therefore, revisions to the current airway system in the DFW area are necessary.

The Proposal

The FAA is proposing to amend part 71 of Title 14 Code of Federal Regulations to revise fourteen Federal airways in the vicinity of Dallas/Fort Worth, TX. The proposed rule would amend the following Federal airways: V–15, V–16, V–17, V–566 by modifying the route descriptions; V–63, V–69, V–131, V–305, V–507, V–573 by amending the start points; and V–66, V–163, V–358, and V–407 by modifying the end points. The FAA is proposing this action to simplify the airway structure, thereby, enhancing the management of aircraft operations in the area.

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

Federal airways are published in paragraph 6010(a) of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Federal airways listed in this document would be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–15 [Revised]

From Hobby, TX, via Navasota, TX; College Station, TX; Waco, TX; Cedar Creek, TX; Bonham, TX; McAlester, OK; Okmulgee, OK; to Neosho, MO. From Sioux City, IA; INT Sioux City 340° and Sioux Falls, SD, 169° radials; Sioux Falls; Huron, SD; Aberdeen, SD; Bismarck, ND; to Minot, ND.

V–16 [Revised]

From Los Angeles, CA; Paradise, CA; Palm Springs, CA; Blythe, CA; Buckeye, AZ; Phoenix, AZ; INT Phoenix 155° and Stanfield, AZ, 105° radials; Tucson, AZ; Cochise, AZ; Columbus, NM; El Paso, TX; Salt Flat, TX; Wink, TX; INT Wink 066° and Big Spring, TX, 260° radials; Big Spring; Abilene, TX; Bowie, TX; Bonham, TX; Paris, TX; Texarkana, AR; Pine Bluff, AR; Marvell, AR; Holly Springs, MS; Jacks Creek, TN; Shelbyville, TN; Hinch Mountain, TN; Volunteer, TN; Holston Mountain, TN; Pulaski, VA; Roanoke, VA; Lynchburg, VA; Flat Rock, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Cedar Lake, NJ; Coyle, NJ; INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy; Deer Park, NY; Calverton, NY; Norwich, CT; Boston, MA. The airspace within Mexico and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within Restricted Areas R–5002A, R–5002C, and R–5002D is excluded during their times of use. The airspace within Restricted Areas R–4005 and R–4006 is excluded.

V–17 [Revised]

From Brownsville, TX, via Harlingen, TX; McAllen, TX; 29 miles 12 AGL, 34 miles 25 MSL, 37 miles 12 AGL; Laredo, TX; Cotulla, TX; INT Cotulla 046° and San Antonio, TX, 198° radials; San Antonio; Centex, TX; Waco, TX; Glen Rose, TX; Millsap, TX; Bowie, TX; Ardmore, OK; Will Rogers, OK; Gage, OK; Garden City, KS; to Goodland, KS.

V–63 [Revised]

From Bowie, TX; Texoma, OK; McAlester, OK; Razorback, AR; Springfield, MO; Hallsville, MO; Quincy, IL; Burlington, IA; Moline, IL; Davenport, IA; Rockford, IL; Janesville, WI; Badger, WI; Oshkosh, WI; Stevens Point, WI; Wausau, WI; Rhinelander, WI; to Houghton, MI. Excluding that airspace at and above 10,000 feet MSL from 5 NM north to 46 NM north of Quincy during the time that the Howard West MOA is activated by NOTAM.

V–66 [Revised]

From Mission Bay, CA; Imperial, CA; 13 miles, 24 miles, 25 MSL; Bard, AZ; 12 miles, 35 MSL; INT Bard 089° and Gila Bend, AZ, 261° radials; 46 miles, 35 MSL; Gila Bend; Tucson, AZ, 7 miles wide (3 miles south and 4 miles north of centerline); Douglas, AZ; INT Douglas 064° and Columbus, NM, 277° radials; Columbus; El Paso, TX; 6 miles wide; INT El Paso 109° and Hudspeth 287° radials; 6 miles wide; Hudspeth; Pecos, TX; Midland, TX; INT Midland 083° and Abilene, TX, 252° radials; Abilene; to Millsap, TX.

V–69 [Revised]

From El Dorado, AR; Pine Bluff, AR; INT Pine Bluff 038° and Walnut Ridge, AR, 187° radials; Walnut Ridge; Farmington, MO; Troy, IL; Capital, IL; Pontiac, IL; to Joliet, IL.

V–131 [Revised]

From Okmulgee, OK; Tulsa, OK; Chanute, KS; to Topeka, KS.

V–163 [Revised]

From Matamoros, Mexico; via Brownsville, TX; 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline); Corpus Christi, TX; Three Rivers, TX; INT Three Rivers 345° and San Antonio, TX, 168° radials; San Antonio; Lampasas, TX; to Glen Rose, TX.

V–305 [Revised]

From El Dorado, AR; Little Rock, AR; Walnut Ridge, AR; Malden, MO; Cunningham, KY; Pocket City, IN; INT Pocket City 046° and Hoosier, IN, 205° radials; Hoosier; INT Hoosier 025° and Brickyard, IN, 185° radials; Brickyard; INT Brickyard 038° and Kokomo, IN, 182° radials; Kokomo.

V–358 [Revised]

From San Antonio, TX, via Stonewall, TX; Lampasas, TX; INT Lampasas 041° and Waco, TX, 249° radials; Waco.

V–407 [Revised]

From Harlingen, TX; via INT Harlingen 006° and Corpus Christi, TX, 193° radials; Corpus Christi; via INT Corpus Christi 039° and Palacios, TX, 241° radials; Palacios; via INT Palacios 017° and Humble, TX, 242° radials; Humble; Daisetta, TX; Lufkin, TX; Elm Grove, LA; to El Dorado, AR.

V–507 [Revised]

From Ardmore, OK; Will Rogers, OK, via INT Will Rogers 284° and Gage, OK, 152° radials; Gage; Liberal, KS; to Garden City, KS.

V–566 [Revised]

From Gregg County, TX; Belcher, LA; Elm Grove, LA; Alexandria, LA; INT Alexandria 109° and Reserve, LA, 323° radials; Reserve; excluding the portion within R–3801B and R–3801C.

V–573 [Revised]

From Will Rogers, OK; INT Will Rogers 195°T(188°M) and Ardmore, OK, 327°(321°M) radials; Ardmore; Bonham, TX; Sulpher Springs, TX; Texarkana, AR; INT Texarkana 037° and Hot Springs, AR, 225° radials; Hot Springs; to Little Rock, AR.

* * * * *

Issued in Washington, DC, on June 1, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–14655 Filed 6–9–00; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 086–0207b; FRL–6710–6]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from ferrous sand casting operations. We are proposing to approve a local rule to regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by July 12, 2000.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule at the following locations:

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, AZ 85004

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1135.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rule: MCESD Rule 347. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: May 12, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00–14172 Filed 6–9–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FRL–6710–4]

State of West Virginia: Final Approval of State Municipal Solid Waste Management Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to grant complete program approval for West Virginia's Municipal Solid Waste Permit Program. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the remaining elements of the State's program as an immediate final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. The Agency has explained the reasons for this program approval in the preamble to the immediate final rule. If EPA does not receive adverse written comments, the immediate final rule will become effective and the Agency will not take further action on this proposal. If EPA receives adverse written comments, EPA will withdraw the immediate final rule, and it will not take effect. EPA will then address public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action must do so at this time.

DATES: Written comments must be received on or before July 12, 2000.

ADDRESSES: Comments should be sent to the following address where the full West Virginia program approval application is on file and may be reviewed: EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, or alternatively at West Virginia Division of Environmental Protection (WVDEP), 1356 Hansford Street, Charleston, WV 25301–1401.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, Attn: Mr. Michael C. Giuranna, mailcode 3WC21, telephone (215) 814–3298. The contact for the State of West Virginia Division of Environmental Protection is Mr. Larry Atha, 1356 Hansford Street, Charleston, West Virginia 25301–1401, telephone (304) 558–6350.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the

''Rules and Regulations'' section of this **Federal Register**.

Authority: This notice is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949(a).

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–14165 Filed 6–9–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1216, MM Docket No. 00–98, RM–9811]

Digital Television Broadcast Service; Thomasville, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WCTV Licensee Corporation, licensee of station WCTV–TV, NTSC Channel 6, Thomasville, Georgia, requesting the substitution of DTV Channel 46 for station WCTV–TV's assigned DTV Channel 52. DTV Channel 46 can be allotted to Thomasville, Georgia, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 30–40–13 N and 83–56–26 W with a power of 1000 (kW) and a height above average terrain (HAAT) of 619 meters.

DATES: Comments must be filed on or before July 27, 2000, and reply comments on or before August 11, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert A. Beizer, Secretary, WCTV Licensee Corporation, 1201 New York Avenue, NW., Suite 1000, Washington, DC 20005–3917, (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–98, adopted June 2, 2000, and released June 5, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–14614 Filed 6–9–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1215, MM Docket No. 00–97, RM–9865]

Digital Television Broadcast Service; Richmond, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Central Virginia Educational Telecommunications Corporation, licensee of station WCVE–TV, NTSC Channel *23 requesting the substitution of DTV Channel *42 for station WCVE–TV's assigned DTV Channel *24. DTV Channel *42 can be allotted to Richmond, Virginia, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 37–30–46 N and 77–36–06 W. As requested, we propose to allot DTV Channel *42 to Richmond with a power of 100 (kW) and a height above average terrain (HAAT) of 327 meters.

DATES: Comments must be filed on or before July 27, 2000, and reply comments on or before August 11, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Bodorff, E. Joseph Knoll III, Wiley, Rein & Fielding, 1776 K Street, NW., Washington, DC 20006 (Counsel for Central Virginia Educational Telecommunications Corporation).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–97, adopted June 2, 2000, and released June 5, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–14613 Filed 6–9–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1217, MM Docket No. 00–99, RM–9858]

Digital Television Broadcast Service; Anchorage, AK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by

Fireweed Communications Corporation, licensee of station KYES–TV, NTSC Channel 5, Anchorage, Alaska, requesting the substitution of DTV Channel 6 for its assigned DTV Channel 22. DTV Channel 6 can be allotted to Anchorage, Alaska, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 61–20–10 N and 149–30–47 W. As requested, we propose to allot DTV Channel 6 to Anchorage with a power of 45 (kW) and a height above average terrain (HAAT) of 250 meters.

DATES: Comments must be filed on or before July 27, 2000, and reply comments on or before August 11, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jeremy Lansman, President, Fireweed Communications Corporation, 3700 Woodland Drive, #800, Anchorage, Alaska, (petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–99, adopted June 2, 2000, and released June 5, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–14612 Filed 6–9–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1218, MM Docket No. 00–100, RM–9860]

Digital Television Broadcast Service; San Antonio, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Alamo Pubic Telecommunications Council, licensee of noncommercial station KLRN–TV, NTSC Channel *9 San Antonio, Texas, requesting the substitution of DTV Channel *8 for station KLRN–TV's assigned DTV Channel *20. DTV Channel *8 can be allotted to San Antonio, Texas, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 29–19–38 N and 98–21–17 W. As requested, we propose to allot DTV Channel *8 to San Antonio with a power of 8.3 (kW) and a height above average terrain (HAAT) of 263 meters. However, since the community of San Antonio is located within 275 kilometers of the U.S.-Mexican border, concurrence by the Mexican government must be obtained for this allotment.

DATES: Comments must be filed on or before July 27, 2000, and reply comments on or before August 11, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Margaret L. Tobey, Morrison & Foerster LLP, 2000 Pennsylvania Avenue, NW, Suite 5500, Washington, DC 20006 (Counsel Alamo Public Telecommunications Council).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–100, adopted June 2, 2000, and released June 5, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–14611 Filed 6–9–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350, 390, 394, 395 and 398

[Docket No. FMCSA–97–2350]

RIN 2126–AA23

Additional Public Hearing for Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Proposed rule; notice of hearing.

SUMMARY: The FMCSA is announcing two more days of hearings for additional interested persons to speak with FMCSA officials about the agency's proposed hours-of-service regulations (65 FR 25540, May 2, 2000). This action is necessary to inform the public about the dates, times, and location of the hearing. The FMCSA continues to hope to hear from the public about how the proposed hours-of-service regulations would improve highway safety and affect drivers' professional, personal and family lives. All oral presentations will be transcribed and placed in the public docket.

DATES: Additional hearings will be held on July 6 and 7, 2000, 8:30 a.m. to 4:30 p.m. in Washington, DC.

FOR FURTHER INFORMATION CONTACT: *General Information.* To request time to be heard and for other general information about the session, contact Mr. Stanley Hamilton, Office of Regulatory Development, (202) 366–0665. *Specific Information.* For information concerning the rulemaking, contact Mr. David Miller, Office of Bus and Truck Standards, (202) 366–1790, or Mr. Charles Medalen, Office of the Chief Counsel, Federal Highway Administration, (202) 366–1354. Office hours are from 7:45 a.m. to 4:15 p.m, et, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days a year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's web page at *http://www.access.gpo.gov./nara.* Internet users may also find this document at the FMCSA's Motor Carrier Regulatory Information Service (MCREGIS) web site for notices at *http://www.fmcsa.dot.gov/rulesregs/fmcsr/rulemakings.htm.*

Background

The earlier hearings, each of two days' duration, took place between May 31 and June 30 in Washington, DC; Ontario, CA; Golden, CO; Kansas City, MO; Indianapolis, IN; Vernon, CT; and Jackson, GA.

The additional hearing will be held Thursday and Friday, July 6 and 7, 2000, from 8:30 a.m. to 4:30 p.m. in Room 4200 of the DOT headquarters building, 400 Seventh Street, SW., Washington, DC 20590. Speakers must limit their oral presentations to not more than 10 minutes duration. Presenters may submit additional written documentation to be placed in the public docket.

All persons who would like to participate must request to do so by telephoning Mr. Stanley Hamilton at (202) 366–0665 by 4 p.m., et., on Friday, July 7, 2000.

All persons participating will be subject to Federal and DOT workplace security measures. All persons will need identification with a picture on it and must display the identification to DOT security officers. All persons will be required to sign in at the guard desk and walk through metal detectors. All visitors will be required to wear a ''Visitor'' badge at all times while in the DOT building.

The DOT security office will limit and monitor the public's access and movement through the DOT building. All persons requesting to participate in the sessions, but failing to satisfy DOT security requirements, will be denied entry into the building and will forfeit the opportunity to participate. Such persons will be allowed to submit written comments to the docket, at the above address, by the close of business on July 31, 2000.

Authority: 49 U.S.C. 504, 14122, 31133, 31136, and 31502; sec. 113, Pub. L. 103–311, 108 Stat. 1673, 1676; and 49 CFR 1.73.

Issued on: June 1, 2000.

Julie Anna Cirillo,

Acting Assistant Administrator.

[FR Doc. 00–14691 Filed 6–9–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 679

[Docket No. 000524152–0152–01; I.D. 030100C]

RIN 0648–AM34

Fisheries of the Exclusive Economic Zone Off Alaska; Requirement to Use Vessel Monitoring System Transmitter for Atka Mackerel in Aleutian Islands Subarea

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS publishes a proposed rule to require vessels participating in the directed fishery for Atka mackerel in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands Area to carry and use a Vessel Monitoring System (VMS) transmitter. This action is necessary to enhance monitoring of fishery activities within critical habitat areas. It is intended to further the conservation goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Comments must be received by June 26, 2000.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Comments will not be accepted if submitted via e-mail or Internet. Hand or courier delivered comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907–586–7228. Send comments on collection-of information requirements to the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The number of Steller sea lions (*Eumetopias jubatus*) in the Bering Sea and Aleutian Islands Management Area has declined significantly during the past several decades and in 1997 NMFS listed the western stock of Steller sea lions as an endangered species. A requirement of the Endangered Species Act is that Federal actions affecting the critical habitat of a listed species must not jeopardize the continued existence of the populations of those species or adversely affect or modify their critical habitat. Atka mackerel is an important prey species for Steller sea lions and stocks adequate for the food needs of Steller sea lions must remain available in Steller sea lion critical habitat. Hence, the Atka mackerel fishery must be managed to provide for the food needs of Steller sea lions and avoid potential jeopardy to them.

On January 22, 1999, NMFS published a final rule that reduces the percentage of Atka mackerel taken from Steller sea lion critical habitat over a 4-year period in the Western and Central Districts of the AI (64 FR 3446). The final rule also prohibits all trawling for groundfish within areas designated as Steller sea lion critical habitat when NMFS determines that the harvest of Atka mackerel has reached the applicable limits specified in the

regulations for the year and district. A critical habitat trawl closure remains in effect until NMFS closes the Atka mackerel fishery in that area.

The Atka mackerel fishery is a high-volume, low-value fishery pursued by a small group of large factory trawlers, mostly greater than 200 feet (61 m) in length. In 1997, for example, 12 factory trawlers participated in the AI Atka mackerel fishery, with 8 of these vessels accounting for over 80 percent of the retained catch in the fishery. The fishery is highly localized and occurs at depths between 100 and 200 meters in the same few locations each year, most commonly in island passes. Important Atka mackerel fishing locations in the AI include Seguam Pass, Tanaga Pass, Petrel Bank, and the seamounts and reefs near Buldir Island. All of these locations are in or near Steller sea lion critical habitat.

When critical habitat areas are closed, continued Atka mackerel fishing takes place very close or adjacent to the closed critical habitat areas. The boundaries of these areas are complex, the areas are remote, and the weather is frequently poor. Ensuring that no fishing is taking place inside critical habitat using traditional methods of enforcement, such as aerial surveillance, is difficult. Effective enforcement of these closures will be greatly enhanced if vessels participating in the fishery use a VMS transmitter that automatically and frequently transmits vessel position to NMFS so that vessels fishing near critical habitat can be monitored closely.

NMFS' intent to implement a VMS in 1999 before the Atka mackerel ''B'' season, beginning September 1, 1999, was noted in the final rule that established the protective measures (64 FR 3446, January 22, 1999). The North Pacific Fishery Management Council determined that the additional information provided by a VMS program would assist in the management of the Atka mackerel fishery and requested that NMFS develop regulations to implement such a system.

Under this action, a vessel participating in a directed fishery for Atka mackerel in the AI would be required to have an operating NMFS-approved VMS transmitter on board. These transmitters automatically determine the vessel's location several times per hour using Global Positioning System satellites and send the position information to NMFS via a mobile communication service provider. The VMS transmitters are designed to be tamper-resistant and automatic. In most cases, the vessel owner would be unaware of exactly when the unit was transmitting and would be unable to alter the signal or the time of transmission. NMFS estimates that a NMFS-approved VMS transmitter would cost approximately $1,800 per unit and the charge to the vessel owner for the transmission of VMS position data would be $5 per day.

The VMS Approval Process

A VMS consists of a NMFS-approved VMS transmitter that automatically determines the vessel's position and transmits it to a NMFS-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS. On March 31, 1994, NMFS published standards for the use of VMS (59 FR 15180). NMFS will use the criteria described below, which are based on the 1994 standards, to approve VMS transmitters and communication service providers.

1. The VMS transmitter must be tamper-proof and it must be impossible for the vessel operator to input false position information;

2. The VMS transmitter must be able to determine, store and transmit vessel position;

3. The VMS transmitter must allow for regular as well as random automatically generated position reporting. The interval between position reports must be programmable;

4. Each position report must include: (a) the vessel location, accurate within 400 m; (b) a transmitter identifier that is unique to that transmitter; and (c) the date and time that the vessel position was taken;

5. The VMS transmitter must be equipped with an onboard alarm system that will alert the vessel crew if the unit malfunctions or is not able to transmit;

6. The VMS transmitter, in conjunction with the VMS communication service provider, must provide seamless and transparent communications from any location within the exclusive economic zone off Alaska;

7. The transmitter must be able to fix the vessel's position at least once every 20 minutes and be able to store those positions in local, non-volatile memory until they can be transmitted to, and received by, the communication service provider;

8. In addition to regular position reports, the VMS transmitter must be capable of transmitting a specially identified status report giving the vessel position whenever the transmitter is powered-up, powered-down, is unable to determine vessel position or has its antenna disconnected;

9. It must not be possible for the vessel operator to determine when the VMS transmitter is transmitting or taking a position for later transmission;

10. Transmissions from the VMS transmitter and the communication service provider must be secure, and it must not be possible for unauthorized parties to intercept vessel location information.

NMFS will publish notice in the **Federal Register** as VMS components are approved for use. At this time, NMFS believes that only the Argos system is suitable for use in all areas off Alaska. The Argos system uses the ArgoNet Mar GE transmitter in conjunction with the Argos system of polar-orbiting satellites. While there are other space-based communications service providers that provide coverage for waters off Alaska, such as Inmarsat-C, only the Argos system has demonstrated that it offers 100 percent coverage of all areas off Alaska. However, because of the rapid pace of technological change in the field of satellite-based vessel monitoring, NMFS anticipates that other vendors will produce VMS components that meet all NMFS standards in the near future.

NMFS will contact the owners of all vessels that participated in the AI Atka mackerel fishery in 1998 or 1999 and ensure that they are aware of which VMS transmitters have been approved by NMFS and have received installation instructions. Owners of vessels that wish to participate in AI Atka mackerel fisheries that did not do so in 1997 or 1998 would need to contact the Sustainable Fisheries Division (see ADDRESSES) and request a list of NMFS-approved VMS transmitters. In most instances, NMFS anticipates that the installation of the VMS transmitter would take less than 6 hours. Installation would be the responsibility of the vessel owners.

This regulatory amendment would require that the owner or operator of a vessel participating in the AI Atka mackerel fishery carry and use a NMFS-approved VMS transmitter at all times when engaging in directed fishing for Atka mackerel. Trawl vessels not carrying properly installed and operating VMS units would be prohibited from retaining Atka mackerel at more than the maximum retainable amount of 20 percent established in regulations at § 679.20(e) and (f) while fishing in the AI subarea.

This proposed rule would also revise regulations governing Atka mackerel harvest in the Community Development Quota (CDQ) fisheries. Current regulations prohibit any trawling by a CDQ group in the critical habitat areas

after the specified percent of the group's annual Atka mackerel CDQ has been reached. These regulations do not allow the CDQ groups to account separately for Atka mackerel catch inside and outside the critical habitat areas, but rather assume that all catch of Atka mackerel is made within the critical habitat areas until the maximum percent is reached and the critical habitat area closes. NMFS proposes to change these requirements so that each CDQ group would be prohibited from catching more than the specified percentage of its Atka mackerel CDQ inside the critical habitat areas. The CDQ groups and NMFS would use catch location data for each haul collected by observers onboard the vessels to determine whether the Atka mackerel was caught inside the critical habitat area. This action will provide greater flexibility to the CDQ groups for management of their Atka mackerel CDQs. Further, these proposed revisions would create a management structure for the CDQ Atka mackerel fishery consistent with the management structure that NMFS intends to propose later in 2000 for management of pollock CDQ fishing in the Bering Sea critical habitat areas.

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.

This proposed rule contains a new collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This collection-of-information requirement has been submitted to OMB for approval. The new information requirements include the requirement to install, maintain, and use a NMFS-approved VMS unit. The public reporting burden for this collection of information is estimated to average 6 hours to install the unit, 4 hours per year to maintain the unit, and 5 seconds per response to transmit data. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Send comments regarding this burden estimate or any other aspect of the collection of information to NMFS at the previously listed ADDRESS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Att: NOAA Desk Officer).

NMFS prepared an IRFA for this proposed rule pursuant to the requirements of 5 U.S.C. 603, without first determining whether the proposal would have a significant impact on a substantial number of small entities. The following is a summary of the IRFA:

This action would require that factory trawlers participating in the Aleutian Islands Atka mackerel fishery carry and use a VMS unit. It is intended to facilitate NMFS' ability to ensure that federally managed fisheries not adversely affect designated critical habitat, and it is being promulgated under the authority of the Magnuson-Stevens Act. This action will have a small but negative impact on the approximately 13 factory trawlers that fish for Atka mackerel in the Aleutian Islands. NMFS believes that none of the vessels that fish for Atka mackerel in the Aleutian Islands would qualify as small entities. The preferred alternative would impose a new reporting and recordkeeping requirement on these vessels of approximately 12.1 hours per year per vessel. It would not duplicate, overlap, or conflict with existing Federal rules. In addition to the preferred alternative, NMFS considered a ''no action'' alternative that would not require the use of VMS units for vessels engaged in directed fishing for Atka mackerel in the Aleutian Islands. This alternative was rejected because it would fail to relieve an unnecessary restriction on vessels participating in other fisheries, and because it would fail to meet NMFS' need to facilitate monitoring and enforcement of Steller sea lion protective measures.

A copy of the RIR/IRFA can be obtained from NMFS (see **ADDRESSES**).

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

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 6, 2000.

Bruce C. Morehead,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.* and 3631 *et seq.*

2. In § 679.7, paragraph (a)(2) is revised and a new paragraph (c)(3) is added to read as follows:

§ 679.7 Prohibitions.

(a) * * *

(2) Conduct any fishing contrary to notification of inseason action, closure, or adjustment issued under § § 679.20, 679.21, 679.22 or 679.25.

* * * * *

(c) * * *

(3) Use a vessel to participate in a directed fishery for Atka mackerel in the Aleutian Islands subarea unless that vessel carries a NMFS-approved Vessel Monitoring System (VMS) transmitter and complies with the requirements described at § 679.28(f).

* * * * *

3. In § 679.22, paragraph (a)(8)(iii)(D) is revised to read as follows:

§ 679.22 Closures.

(a) * * *

(8) * * *

(iii) * * *

(D) *CDQ fishing.* Harvesting groundfish CDQ with trawl gear is prohibited within areas designated as Steller sea lion critical habitat in the Western and/or Central Districts of the AI (see Table 1, Table 2, and Figure 4 to part 226 of this title) for the duration of the year when the Regional Administrator announces, by notification in the **Federal Register**, that the harvest of Atka mackerel within the critical habitat areas by vessels fishing for CDQ groups has reached the applicable percentage specified for the year and district at paragraph (a)(8)(iii)(B) of this section.

* * * * *

4. In § 679.28, the section heading and paragraph (a) are revised and a new paragraph (f) is added to read as follows:

§ 679.28 Equipment and operational requirements.

(a) *Applicability*. This section contains the requirements for scales, observer sampling stations, bins for volumetric estimates, and vessel monitoring system hardware. This section does not require any vessel or processor to provide this equipment. Such requirements appear elsewhere in this part.

* * * * *

(f) *Vessel Monitoring System (VMS) Requirements*. (1) *What is a VMS*? A VMS consists of a NMFS-approved VMS transmitter that automatically determines the vessel's position and transmits it to a NMFS-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS.

(2) *How are VMS transmitters and communications service providers approved by NMFS*? (i) NMFS publishes type approval specifications for VMS components in the **Federal Register**.

(ii) Transmitter manufacturers or communication service providers may submit products or services to NMFS for evaluation based on the published specifications.

(iii) NMFS will publish a list of NMFS-approved transmitters and communication service providers in the **Federal Register**. As necessary, NMFS will publish amendments to the list of approved components in the **Federal Register**.

(3) *What are the vessel owner's responsibilities*? If you are a vessel owner that must participate in a VMS, you or your crew must:

(i) Obtain a NMFS-approved VMS transmitter and have it installed onboard your vessel in accordance with the instructions provided by NMFS. You may get a copy of the VMS installation and operation instructions from the Regional Administrator upon request.

(ii) Activate the VMS transmitter and receive confirmation from NMFS that the VMS transmissions are being received before participating in a fishery requiring the VMS;

(iii) Continue the VMS transmissions until the fishery requiring VMS has closed or until notified by NMFS staff that you may stop transmissions;

(iv) Stop fishing immediately if informed by NMFS staff or an authorized officer that NMFS is not receiving position reports from the VMS transmitter;

(v) Make the VMS transmitter available for inspection by NMFS personnel, observers, or an authorized officer;

(vi) Ensure that the VMS transmitter is not tampered with, disabled, destroyed, or operated improperly;

(vii) Pay all charges levied by the communication service provider.

(2) [Reserved]

[FR Doc. 00–14775 Filed 6–9–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 113
Monday, June 12, 2000

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.

GENERAL SERVICES ADMINISTRATION

Notice of the Availability of the Draft Environmental Impact Statement and Notice of Public Hearing on the Draft Environmental Impact Statement for a Proposed Department of Transportation Headquarters

AGENCY: National Capital Region; General Services Administration, Department of Transportation.

ACTION: Proposed lease acquisition of a new or renovated headquarters for the Department of Transportation in the Central Employment Area of Washington, DC.

SUMMARY: The General Services Administration (GSA) announces the availability of the Draft Environmental Impact Statement (Draft EIS) for the proposed lease acquisition of a new or renovated headquarters for the Department of Transportation (DOT) in the Central Employment Area (CEA) of Washington, DC. GSA also announces that a public hearing on the Draft EIS will be held on July 12, 2000.

Background Information

DOT seeks to update its facilities, maximize efficiency, and reorganize and consolidate its operations. To this end, GSA is currently conducting a competitive procurement of 1.35 million rentable square feet of new or renovated space under an operating lease for a term of fifteen years. Consolidation in a new or renovated headquarters will produce significant operating efficiencies in support of DOT's mission.

The Government is conducting this procurement as a negotiated, best value source selection. This procurement process has been developed with full integration of the NEPA process, incorporating NEPA compliance into the agency's decision making framework. The results of this effort will be full public participation and submission of final proposals that address potential environmental impacts. The Government's evaluation of final proposals will include consideration of an offeror's ability and willingness to address impacts and implement proposed mitigation measures identified through the NEPA process, including public comments received on the Draft EIS.

Draft EIS Availability

Copies of the Draft EIS will be available for review at the locations identified below. Also available for review will be copies of the transcript of proceedings from the April 11th Public Scoping Meeting and public comments submitted. In addition, the Draft EIS and other information regarding this project are available on the internet at http://www.evolv.com/DOT.

The Draft EIS may be viewed at the following locations:

1. Department of Transportation, Dockets Room, PL–401, 400 7th Street, SW, Washington, DC 20590.
2. Martin Luther King Library, 9th & G Streets, NW, Washington, DC.
3. Public Affairs Office, Navy, Bldg, 200, 2nd Floor, Wing 1 North, Washington Navy Yard, Washington, DC.

Public Hearing

A Notice of Intent to prepare an EIS and conduct a public scoping meeting was issued on June 30, 1999. The public scoping meeting was held on July 29, 1999 to assist GSA in determining the significant issues related to this project. A second public scoping meeting was held on April 11, 2000 to provide the public a further opportunity to comment on the project and, specifically, the sites and proposals selected to participate in Phase II of the competition. Comments from both these meetings have been incorporated into the Draft EIS.

The subject of this notice is a public hearing that will be held to solicit comment from agencies and the public on the Draft EIS. This public hearing will be held at 7 pm on Wednesday, July 12, 2000, at the Ronald Reagan Building and International Trade Center Horizon Ballroom (Ground Level, 13½ Street Entrance) 13th Street and Pennsylvania Avenue, NW., Washington, DC 20004.

The hearing will be advertised in local and regional newspapers as the date of the hearing approaches. At the hearing, a short formal presentation will precede the request for public comments. GSA representatives will be available to receive comments from the public regarding issues of concern, including comments on the potential impacts of the proposed project, means of mitigating those impacts, and project alternatives.

GSA encourages Federal, regional, state and local agencies, and interested individuals and groups, to take this opportunity to identify environmental concerns that they believe should be addressed in the Final EIS. In the interest of available time, each speaker will be asked to limit oral comments to five (5) minutes. However, agencies and the general public are encouraged to provide written comments on the scoping issues in addition to, or in lieu of, presenting oral comments at the public hearing.

Written comments will be accepted through July 24, 2000. All written and oral comments will be addressed and incorporated into the Final EIS. GSA anticipates that the Final EIS will be released in the Fall of 2000.

Project Information

Topics of environmental analysis presented in the Draft EIS include short term impacts of construction and long-term impacts of site operations and maintenance on land use, historic resources, visual resources, physical and biological resources, public transportation, traffic and parking, public services and utilities, and socio-economic conditions. The environmental analysis also addresses cumulative impacts that would result from this end and other development projects that have been completed recently, are currently under development, and are proposed within each study area.

Time and Location of Meeting

The public meeting will be held: At 7 p.m. Wednesday, 12, 2000 at the Ronald Reagan Building and International Trade Center Horizon Ballroom (Ground Level, 13½ Street Entrance) 13th Street and Pennsylvania Avenue, NW Washington, DC 20004.

DATES: Written comments on the Draft EIS must be postmarked no later than July 24, 2000, to the following address: General Services Administration, Attn:

Mr. John Simeon, Portfolio Development Division (WPC), 7th and D Streets, SW., Suite 2002, Washington, DC 20407.

FOR FURTHER INFORMATION PLEASE CONTACT: Mr. John Simeon, General Services Administration, (202) 260–9586.

Dated: June 6, 2000.

Anthony Costa,

Assistant Regional Administrator, National Capital Region, General Services Administration.

[FR Doc. 00–14734 Filed 6–9–00; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service Operating Divisions; Delegation of Authority

Notice is hereby given that I have delegated to the Public Health Service (PHS) Operating Division (OPDIV) Heads the service fellowships related authorities vested in the Secretary of Health and Human Services under Sections 207 and 208 of the PHS Act, 42 U.S.C. 209 and 210, and under Title 42 CFR, Subpart B, Part 61—Service Fellowships.

This delegation supersedes the delegation of authority memorandum titled, ''Delegation of Authority—Service Fellowships,'' to the PHS Agency Heads from the Deputy Assistant Secretary for Health Management Operations, Office of the Assistant Secretary for Health, dated January 8, 1993.

This delegation becomes effective upon date of signature. Also, I hereby ratify and affirm the actions taken by you or your subordinates, which involved the exercise of authorities delegated herein prior to the effective date of this delegation.

Dated: June 2, 2000.

Donna E. Shalala,

Secretary.

[FR Doc. 00–14751 Filed 6–9–00; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–42–00]

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) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. Silicosis, No Mas!: Evaluation of Materials Used for Outreach to Hispanic Construction Workers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC)—Over 14,000 workers in the U.S. have died from silicosis and hundreds more add to the death toll each year. Silicosis is the third leading cause of death attributed to occupational diseases in the U.S. In the state of Texas, 300 cases of silicosis and workers exposed to silica were reported between 1990 and 1997. Among these cases, construction was one of the most frequently reported industries. Silicosis was diagnosed in workers as young as 22 years of age, and one third of the cases were found among Hispanic workers, most of whom were diagnosed with silicosis in their thirties.

Despite the alarming number of reports, few attempts have been made to educate construction workers in Texas, particularly workers of Hispanic/Latino decent. An evaluation of the outreach activities conducted during the 1996 National Campaign to Eliminate Silicosis and the Special Emphasis Program (SEP) for silicosis indicated that no effort was undertaken to meet the needs of Hispanic workers. In both events, educational outreach was directed at the mainstream industry, trade associations, employers, and labor unions. Yet, while some educational materials were directly translated into Spanish, no special efforts were directed at Hispanic workers in the course of the campaign nor in the SEP. In addition, the results of 11 focus groups recently conducted in Texas indicated that most Hispanic workers were unaware of silicosis and most knew little about the cause and health effects of silicosis. Barriers to silicosis prevention raised by the focus group participants included lack of knowledge about prevention and lack of proper protective equipment provided by their employers. While most workers in the focus groups could read either Spanish or English, there were individuals who could not read either language. Hence, other mediums of communication, such as audio or video tapes, were recommended to reach the workers.

The goal of the overall project is to increase awareness of and information about the nature, extent, and seriousness of silica exposure, and to increase the use of appropriate engineering controls and respiratory protection among construction workers in Texas. A culturally and linguistically relevant silicosis education and prevention program targeting construction workers will be developed, implemented, and evaluated. The goal of the evaluation is to determine if culturally tailored health messages are more effective than non-culturally tailored health messages in promoting changes in knowledge, attitudes, and behaviors.

Information and data obtained from this evaluation will help direct future outreach efforts in silicosis prevention among the Hispanic population. In addition, results from this study will be used to further current understanding of the effects of cultural values in the design of safety and health messages, thereby helping future development of culturally and linguistically appropriate occupational safety and health messages tailored for the Hispanic population.

The total annual burden hours are 200.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden per response (in hours)
Construction workers	600	1	20/60

Dated: June 6, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–14737 Filed 6–9–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93612–005]

Administration for Native Americans Programs—Supplemental Funding for InterTribal Bison Cooperative/ 90NA7059

AGENCY: Administration for Native Americans (ANA), ACF, DHHS.

ACTION: Notice of Supplemental Funding Award.

SUMMARY: The Administration for Native Americans announces that a non-competitive grant award is being made to the InterTribal Bison Cooperative in the amount of $140,190 for Grant #90NA7059. The project period is September 1, 1998—August 341, 2000. This supplement will augment Year 2 funding to allow for the hiring of necessary staff as well as other supports to facilitate the completion of all original objectives projected under the grant. The InterTribal Bison Cooperative is funded to provide services to forty-two member tribes, including: Marketing and sales; land base and production capacity; research and development of herd management and a collaboration with tribal colleges in developing bison curricula.

FOR FURTHER INFORMATION CONTACT: Lois Hodge, Grants Officer, Department of Health and Human Services, Administration for Children and Families, Office of Grants Administration, 370 L'Enfant Promenade SW., Mail Stop HHH 326F, Washington, DC 20447, telephone: 202–401–2344 or Georgeline Sparks, Program Specialist, Administration for Native Americans, DHHS./ACF/ANA, 370 L'Enfant Promenade SW., Washington, DC 20447, telephone: 202–690–6420.

Authority: This award will be made pursuant to Native Americans Programs Act of 1974 as amended, 42 U.S.C. 2991 B. (CFDA 93.612).

Dated: June 5, 2000.

Gary Mounts,

Acting Commissioner, Administration for Native Americans.

[FR Doc. 00–14750 Filed 6–9–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N-1303]

Agency Information Collection Activities: Proposed Collection; Comment Request; Agreement for Shipment of Devices for Sterilization

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements relating to shipment of nonsterile devices that are to be sterilized elsewhere or are shipped to other establishments for further process labeling or repacking.

DATES: Submit written comments on the collection of information by August 11, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

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: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Agreement for Shipment of Devices for Sterilization—21 CFR 801.150(e) (OMB Control No. 0910–0131)—Extension

Under sections 501(c) and 502(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(c) and 352(a)), nonsterile devices that are labeled as sterile but are in interstate transit to a facility to be sterilized are adulterated and misbranded. FDA regulations in § 801.150(e) (21 CFR 801.150(e)) establish a control mechanism by which firms may manufacture and label medical devices as sterile at one establishment and ship the devices in interstate commerce for sterilization at another establishment, a practice that facilitates the processing of devices and is economically necessary for some firms. Under § 801.150(e), manufacturers and sterilizers may sign an agreement containing the following: (1) Instructions for maintaining accountability of the number of units in each shipment; (2) acknowledgment that the devices are nonsterile, being shipped for further processing; and (3) specifications for sterilization processing.

This agreement allows the manufacturer to ship misbranded products to be sterilized without initiating regulatory action and provides FDA with a means to protect consumers from use of nonsterile products. During routine plant inspections, FDA normally reviews agreements that must be kept for 2 years after final shipment or delivery of devices.

The respondents to this collection of information are device manufacturers and contract sterilizers.

FDA estimates the reporting burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
801.150(e)	90	20	1,800	4	7,200
Total					7,200

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's estimate of the burden is based on actual data obtained from industry during the past 3 years where there are approximately 90 firms subject to this requirement.

No burden has been estimated for the recordkeeping requirement in § 801.150(a)(2) because these records are maintained as a usual and customary part of normal business activities. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities.

Dated: June 5, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–14701 Filed 6–9–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 00M–0811, 00M–1215, 00M–1216, 00M–0915, 99M–4619, 00M–0901, 99M–4763, 00M–0424, 00M–1073, 00M–0577, 00M–0579, 00M–0599, 00M–0445, 00M–0580, 00M–0578, 00M–0810, 00M–0809, 00M–1212]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMA's) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMA's through the Internet and the agency's Dockets Management Branch.

ADDRESSES: Summaries of safety and effectiveness are available on the Internet at http://www.fda.gov/cdrh/pmapage.html. Copies of summaries of safety and effectiveness are also available by submitting a written request to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 in the **SUPPLEMENTARY INFORMATION** section of this document when submitting a written request.

FOR FURTHER INFORMATION CONTACT: Kathy M. Poneleit, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule to revise §§ 814.44(d) and 814.45(d) (21 CFR 814.44(d) and 814.45(d)) to discontinue publication of individual PMA approvals and denials in the **Federal Register**. Instead, revised §§ 814.44(d) and 814.45(d) state that FDA will notify the public of PMA approvals and denials by posting them on FDA's Internet home page at http://www.fda.gov; by placing the summaries of safety and effectiveness on the Internet and in FDA's Dockets Management Branch; and by publishing in the **Federal Register** after each quarter a list of available safety and effectiveness summaries of approved PMA's and denials announced in that quarter.

FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The following is a list of approved PMA's for which summaries of safety and effectiveness were placed on the Internet in accordance with the procedure explained previously from January 1, 2000, through March 31, 2000. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMA'S MADE AVAILABLE JANUARY 1, 2000, THROUGH MARCH 31, 2000

PMA Number/Docket No.	Applicant	Trade Name	Approval Date
P970005/00M–0811	Kremer Laser Eye Center	Kremer Exciber Laser System (Serial #KEA940202)	July 30, 1998
P970055/00M–1215	Biotrin International, Ltd.	Biotrin Parvovirus IgM EIA (V619IMUS)	August 6, 1999
P970054/00M–1216	Biotrin International, Ltd.	Biotrin Parvovirus IgG EIA (V519IGUS)	August 6, 1999
P980049/00M–0915	ELA Medical, Inc.	Defender II Model 9201 Implantable Cardiovascular Defibrillator	September 15, 1999
H990003/99M–4619	American Medical Systems	Acticon™ Neosphincter	September 20, 1999

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMA'S MADE AVAILABLE JANUARY 1, 2000, THROUGH MARCH 31, 2000—Continued

PMA Number/Docket No.	Applicant	Trade Name	Approval Date
P850022(S9)/00M–0901	Biolectron Inc.	SpinalPak® Stimulator	September 24, 1999
H990005/99M–4763	Nitinol Medical Technologies	CardioSEAL® Septal Occlusion System	September 28, 1999
P930034(S12)/00M–0424	Summit Technology	SVS Apex Plus Excimer Laser Workstation w/the Emphasis Discs	October 21, 1999
P910066(S11)/00M–1073	Orthologic Corp.	Orthologic™ 1000 Bone Growth Stimulator	December 17, 1999
P990035/00M–0577	Sunlight Ultrasound Technologies, Ltd.	The Sunlight™ Omnisense Ultrasound Bone Sonometer	January 20, 2000
P990066/00M–0579	GE Medical Systems	Senographe 2000D	January 28, 2000
H990011/00M–0599	Nitinol Medical Technologies	CardioSEAL® Septal Occlusion System	February 1, 2000
P980040/00M–0445	Allergan Inc.	Sensar Soft Acrylic UV–Light Absorbing Posterior Chamber Intraocular Lens	February 3, 2000
P990016/00M–0580	McCue Corporation, Inc.	McCue CUBAClinical Ultraonic Bone Sonometry System w/CUBAplus+V4.1.0	February 15, 2000
P940034(S8)/00M–0578	Gen-Probe Incorporated	Gen-Probe® Amplified™ Mycobacterium Tuberculosis Direct (MTD) Test	February 15, 2000
P900009(S6)/00M–0810	Smith & Nephew Inc.	Exogen 2000 or Sonic Accelerated Fracture Healing System	February 22, 2000
P990023/00M–0809	Alcon Labs	Cellugel® Ophthalmic Viscosurgical Device	February 24, 2000
P950019(S9)/00M–1212	United States Surgical Corp.	Ray Threaded Fusion Cage (TFC) w/Instrumentation	March 2, 2000

Dated: May 23, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–14702 Filed 6–9–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Draft OIG Compliance Program for Individual and Small Group Physician Practices

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice and comment period.

SUMMARY: This **Federal Register** notice seeks the comments of interested parties on draft compliance guidance developed by the Office of Inspector General (OIG) for individual and small group physician practices. Through this notice, the OIG is setting forth its general views on the value and fundamental principles of individual and small group physician practices' compliance programs, and the specific elements that these practices should consider when developing and implementing an effective compliance program.

DATES: To ensure consideration, comments must be delivered to the address provided below by no later than 5 p.m. on July 27, 2000.

ADDRESSES: Please mail or deliver written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG–7P–CPG, Room 5246, Cohen Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

We do not accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG–7P–CPG. Comments received timely will be available for public inspection as they are received, generally beginning approximately 2 weeks after publication of a document, in Room 5541 of the Office of Inspector General at 330 Independence Avenue, S.W., Washington, D.C. 20201 on Monday through Friday of each week from 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Kimberly Brandt, Office of Counsel to the Inspector General, (202) 619–2078.

SUPPLEMENTARY INFORMATION:

Background

By issuing compliance program guidance, the OIG seeks to engage the private health care community in combating fraud and abuse. In the last few years, the OIG has developed and issued compliance program guidance directed at the following segments of the health care industry: Hospitals; home health agencies; clinical laboratories; third-party medical billing companies; suppliers of durable medical equipment, prosthetics, orthotics and supplies; hospices; Medicare+Choice organizations; and nursing facilities. The development of these types of compliance program guidance is based on the OIG's belief that health care providers and related entities can use internal controls more effectively to monitor adherence to applicable Federal health care statutes, regulations and program requirements.

Copies of these compliance program guidances can be found on the OIG website at http://www.hhs.gov/oig.

Developing Draft Compliance Program Guidance for Individual and Small Group Physician Practices

On September 8, 1999, the OIG published a solicitation notice seeking information and recommendations for developing formal guidance for individual and small group physician practices (64 FR 48846). In response to that solicitation notice, the OIG received 83 comments from various outside sources. In developing this notice for formal public comment, we have considered those comments, as well as previous OIG publications, such as other compliance program guidance and Special Fraud Alerts. In addition, we have also taken into account investigations and audits conducted by the OIG, and have consulted with the Health Care Financing Administration and the Department of Justice.

This draft compliance program guidance for individual and small group physician practices contains seven elements that the OIG has determined are fundamental to an effective compliance program:

- Implementing written policies;
- Designating a compliance officer/contact;

• Conducting comprehensive training and education;

• Developing accessible lines of communication;

• Conducting internal monitoring and auditing;

• Enforcing standards through well-publicized disciplinary guidelines; and

• Responding promptly to detected offenses and undertaking corrective action.

These elements are contained in previous guidance issued by the OIG. As with previously-issued guidance, this draft compliance program guidance represents the OIG's suggestions on how individual and small group physician practices can best voluntarily establish internal controls to prevent fraudulent or other improper activities. The contents of this guidance are not mandatory or binding, nor is this guidance an exclusive discussion of the advisable elements of a compliance program.

Public Input and Comment in Developing Final Guidance

To ensure that all parties have an opportunity to provide input, we are publishing this guidance in draft form, and welcome all comments from interested parties. The OIG will consider all comments that are received within the above-cited time frame, incorporate any specific recommendations, as appropriate, and prepare a final version of the guidance thereafter for publication in the **Federal Register**.

Draft Compliance Program Guidance for Individual and Small Group Physician Practices

I. Introduction

This compliance program guidance is intended to assist individual and small group physician practices (''physician practices'') [1] in developing and implementing internal controls and procedures that promote adherence to statutes and regulations applicable to the Federal health care programs (''Federal health care program requirements'') and private insurance program requirements. Compliance programs strengthen the efforts of Government and the private sector to prevent and reduce improper conduct. These programs can also further the mission of all physician practices [2] to provide quality care to their patients.

Many physicians have expressed an interest in better protecting their practices from the potential for fraudulent or erroneous conduct through the implementation of compliance programs. While the Office of Inspector General (OIG) believes that the great majority of physicians are honest and share our goal of protecting the integrity of Medicare and other Federal health care programs, all health care providers have a duty to ensure that the claims submitted to Federal health care programs are true and accurate. The development of effective compliance programs in physician practices will go a long way toward achieving this goal.

Through this document, the OIG provides its views on the fundamental elements of physician practice compliance programs, as well as the principles that each physician practice should consider when developing and implementing an effective compliance program. While this document presents basic procedural and structural guidance for designing a compliance program, it is not in and of itself a compliance program. Rather, it is a set of guidelines that physician practices should consider when developing and implementing a compliance program. As stated in previous guidance,[3] these guidelines are not mandatory. Nor do they represent an exclusive document of advisable elements of a compliance program. They are a resource to be considered in addition to other OIG outreach efforts, as well as other Federal agency efforts to promote compliance.[4]

A. Benefits of a Compliance Program

The OIG believes that physician practices can gain numerous benefits by implementing an effective compliance program. These benefits may include:

• The development of effective internal procedures to ensure compliance with regulations, payment policies and coding rules;

• Improved medical record documentation;

• Improved education for practice employees;

• A reduction in the denial of claims;

• More streamlined practice operations through better communication and more comprehensive policies;

• The avoidance of potential liability arising from noncompliance; and

• Reduced exposure to penalties.[5]

An effective compliance program is essential for physician practices of all sizes and does not have to be costly or resource-intensive. With the development of a formal program, a physician practice may find it easier to comply with its affirmative duty to ensure the accuracy of claims submitted for reimbursement.

B. Application of Compliance Program Guidance

The OIG recognizes that there is no ''one size fits all'' compliance program, especially for physician practices. The applicability of these recommendations will depend on the circumstances of the particular physician practice. Each practice should undertake reasonable steps to respond to each of the seven elements of this guidance, depending on the size and resources of that practice.

Compliance programs not only help to prevent fraudulent or erroneous claims, but they may also show that the physician practice is making a good faith effort to submit claims appropriately. Physician practices should view compliance programs as analogous to practicing preventive medicine.

An effective compliance program also sends an important message to a physician practice's employees that while the practice recognizes that mistakes will occur, employees have an affirmative, ethical duty to come

[1] For the purpose of this guidance, the term ''physician'' is defined as: (1) A doctor of medicine or osteopathy; (2) a doctor of dental surgery or of dental medicine; (3) a podiatrist; (4) an optometrist; or (5) a chiropractor, all of whom must be appropriately licensed by the State. 42 U.S.C. 1395x(r).

[2] Much of this guidance can also apply to other independent practitioners, such as psychologists, physical therapists, speech language pathologists, and occupational therapists.

[3] Currently, the Office of Inspector General has issued compliance program guidance for the following eight industry sectors: hospitals, clinical laboratories, home health agencies, durable medical equipment suppliers, third-party medical billing companies, hospices, Medicare+Choice organizations offering coordinated care plans, and nursing facilities. All of the guidance is available on the OIG website at http://www.hhs.gov/oig in the Electronic Reading Room, or by calling the OIG Public Affairs office at (202) 619–1343.

[4] The OIG periodically issues Advisory Opinions responding to specific inquiries concerning the application of the OIG's authorities, in particular, the anti-kickback statute, and Special Fraud Alerts setting forth activities that raise legal and enforcement issues. These documents, as well as reports from the OIG's Office of Audit Services (OAS) and Office of Evaluation and Inspections (OEI) can be obtained on the Internet at: http://www.hhs.gov/oig. We also recommend that physician practices regularly review the Health Care Financing Administration (HCFA) website on the Internet at http://www.hcfa.gov, for up-to-date regulations, manuals, and program memoranda related to the Medicare and Medicaid programs.

[5] The OIG, for example, will consider the existence of an effective compliance program that pre-dated any governmental investigation when addressing the appropriateness of administrative sanctions. However, the burden is on the physician practice to demonstrate the operational effectiveness of the compliance program. *See* 62 FR 67392. In addition, criminal sanctions may be mitigated by an effective compliance program that was in place at the time of the criminal offense. *See* United States Sentencing Commission Guidelines, *Guidelines Manual,* 8 A1.2, Application Note 3(d).

forward and report fraudulent or erroneous conduct, so that it may be corrected.

C. The Difference Between Fraudulent and ''Erroneous'' Claims to Federal Health Programs

There appear to be significant misunderstandings among physicians regarding the critical differences between fraudulent (intentionally or recklessly false) health care claims on the one hand and innocent ''erroneous'' claims on the other. Some physicians feel that Federal law enforcement agencies have maligned medical professionals and are focused on innocent billing errors. These physicians are under the impression that innocent billing errors can subject them to civil penalties, or even jail. These feelings and impressions are mistaken.

To these concerns, OIG would like to make the following points. First, we do not disparage physicians, other medical professionals or medical enterprises. In our view, the great majority of them are working ethically to render high quality medical care to our Medicare beneficiaries and to submit proper claims to Medicare.

Second, under the law, physicians are not subject to civil or criminal penalties for innocent errors, or even negligence. The Government's primary enforcement tool, the civil False Claims Act, covers only offenses that are committed with actual knowledge of the falsity of the claim, reckless disregard, or deliberate ignorance of the falsity of the claim.[6] The False Claims Act simply does not cover mistakes, errors, or negligence. The other major civil remedy available to the Federal Government, the Civil Monetary Penalties Law, has exactly the same standard of proof.[7] The OIG is very mindful of the difference between innocent errors (''erroneous claims'') on one hand, and reckless or intentional conduct (''fraudulent claims'') on the other. For criminal penalties, the standard is even higher—criminal intent to defraud must be proved beyond a reasonable doubt. The Attorney General of the United States has stated, ''[i]t is not the [Justice Department's] policy to punish honest billing mistakes * * * [or] mere negligence. * * * These are not cases where we are seeking to punish someone for honest billing mistakes.'' [8]

Third, even ethical physicians (and their staffs) make billing mistakes and errors through inadvertence or negligence. When billing errors, honest mistakes, or negligence result in erroneous claims, the physician practice will be asked to return the funds erroneously claimed, but without penalties. In other words, erroneous claims result only in the return of funds claimed in error.

Fourth, innocent billing errors are a significant drain on the programs and all parties (physicians, providers, carriers, fiscal intermediaries, Government agencies, and beneficiaries) need to work cooperatively to reduce the overall error rate. But again, it should be emphasized that civil or criminal penalty action will not be initiated with respect to billing errors due to inadvertence or negligence, or for billings based on a negligent medical judgment.

Finally, it is reasonable for physicians (and other providers) to ask: what duty do they owe the Federal health care programs? The answer is that all health care providers have a duty to reasonably ensure that the claims submitted to Medicare and other Federal health care programs are true and accurate. The OIG continues to engage the provider community in an extensive, good faith effort to work cooperatively on voluntary compliance to minimize errors and to prevent potential penalties for improper billings before they occur. We encourage all physicians and other providers to join in this effort.

II. Compliance Program Elements

A. The Seven Basic Compliance Elements

The OIG believes that every effective compliance program should begin with a commitment by the physician practice to address all of the applicable elements listed below, which are based on the seven elements set forth in the Federal Sentencing Guidelines: [9]

- Establishing compliance standards through the development of a code of conduct and written policies and procedures;
- Assigning compliance monitoring efforts to a designated compliance officer or contact;
- Conducting comprehensive training and education on practice ethics and policies and procedures;
- Conducting internal monitoring and auditing focusing on high-risk billing and coding issues through performance of periodic audits;
- Developing accessible lines of communication, such as discussions at staff meetings regarding fraudulent or erroneous conduct issues and community bulletin boards, to keep practice employees updated regarding compliance activities;
- Enforcing disciplinary standards by making clear or ensuring employees are aware that compliance is treated seriously and that violations will be dealt with consistently and uniformly; and
- Responding appropriately to detected violations through the investigation of allegations and the disclosure of incidents to appropriate Government entities.

The OIG recognizes that full implementation of all elements may not be feasible for all physician practices. However, as a first step, a good faith meaningful commitment to compliance will substantially contribute to the program's successful implementation. Smaller practices should consider addressing each of the elements in a manner that best suits the practice. By contrast, larger practices should address the elements in a more systematic manner. For example, larger practices can use both this guidance and the Third-Party Medical Billing Compliance Program Guidance to create a compliance program unique to the practice.[10]

The OIG recognizes that physician practices need to find the best way to achieve compliance for their given circumstances. Specifically, the OIG encourages physician practices to participate in other compliance programs, such as the compliance programs of the hospitals or other settings in which the physicians practice. A physician's participation in another provider's compliance program could be a way, at least partly, to satisfy recommended elements of the physician's or physician practice's own compliance program. The OIG encourages this type of collaborative effort, where the content is appropriate to the setting involved, because it provides a means to promote the desired objective without imposing an undue burden or requiring physicians to undertake duplicative action.

B. Written Policies and Procedures

Any effective compliance program should have compliance standards and procedures that will be followed by the practice and that describe the lines of responsibility for implementing the compliance program. Those standards and procedures should be reasonably capable of reducing the prospect of

[6] 31 U.S.C. 3729.

[7] 42 U.S.C. 1320a–7a.

[8] Reno Willing to Work With Hospitals to Ensure Proper Use of False Claims Act, 6 Health Care Pol'y Rep. 261 (1998).

[9] *See* United States Sentencing Commission Guidelines, *Guidelines Manual,* 8 A1.2, Application Note 3(k). The Federal Sentencing Guidelines are detailed policies and practices for the Federal criminal justice system that prescribe the appropriate sanctions for offenders convicted of Federal crimes.

[10] Available on the OIG website at http://www.hhs.gov/oig.

fraudulent activity while also helping to identify any incorrect billing practices.

1. Code of Conduct

Developing standards of conduct is the first step to an effective compliance program. A good way to begin creating a standard of conduct for a physician practice is by looking at the standards of conduct implemented by other physician practices and/or by requesting information from professional associations to get ideas as to the items to include in a standard of conduct. However, it is important that the physician practice not simply copy another practice's standards. The standards of conduct for the physician practice should be specific to that practice. This can be accomplished by tailoring the standards of conduct to address the particularized needs of the practice.

The practice's expectations with respect to billing and coding, patient care, documentation, and payer relationships should be made clear to practice employees in the form of a code of conduct. This can also be succinctly stated in a practice mission statement. For example, employees should be told that the practice bills only for services that are actually rendered, codes accurately, documents medical necessity and appropriateness, and adheres to all payer contracts.

The concept of commitment to compliance is different from the mere existence of written policies and procedures. This commitment should be clearly established during training and in the practice's policies. Everyone in the practice should understand the obligation to comply with the applicable standards. They should be informed and understand that the organization will take actions to uphold those standards. Upon development, the code of conduct and policies should be distributed and/or made continually available to all employees, contractors and agents, once implemented. These materials should be reviewed at least annually and revised as necessary.

2. Policies and Procedures

The code of conduct should be reinforced with basic policies reaffirming the key points in the code of conduct. The practice's policies should explain in clear and plain language the procedures by which compliance measures are to be incorporated into standard operating practices.

The OIG believes that written policies and procedures are essential to all physician practices, regardless of size and capability. If a lack of resources to develop such policies is genuinely an issue, the OIG recommends that a physician practice focus first on those risk areas most likely to arise in its particular practice.[11] Additionally, if the physician practice relies on a physician practice management company (PPMC) or management services organization (MSO), the practice can incorporate the compliance policies of those entities, if appropriate, into its own policies.

Physician practices can meet the goal of developing policies and procedures by: (1) Developing a written compliance manual; and (2) updating clinical forms periodically to make sure they elicit the data required for the different levels of coding. All written policies and procedures should be tailored to the physician practice where they will be applied.

Areas in which a policy may be helpful to the practice include:

- Employee hiring and retention;
- Creation and maintenance of encounter forms, including the registration form, history and physical form and charge master (superbill and patient statement);
- Coding and billing competency and responsibilities;
- Correct coding initiatives;
- Patient outreach and communication;
- General marketing; and
- Patient quality of care.

Creating a resource manual from publicly available information may be a cost-effective approach for developing policies and procedures. For example, the practice can develop a ''binder'' that contains the practice's written policies and procedures, relevant HCFA directives and carrier bulletins, and summaries of informative OIG documents (*e.g.,* Special Fraud Alerts, Advisory Opinions, inspection and audit reports). This binder should be regularly updated and should be accessible to all employees. It could also include a summary of the relevant reimbursement requirements of Federal and private payer plans (including those relating to reasonable and necessary services, coding and documentation).[12] In the case of more technical materials, it may be advisable to provide summaries in the handbook and make the source documents available upon request. If individualized copies of this handbook are not made available to all employees, then a reference copy should be available in a readily accessible location.

If updates to the policies and procedures are necessary, those updates should be given to employees. New employees should receive both the code of conduct and policies when hired and be trained on their contents immediately thereafter. As part of the compliance effort, the distribution of the code and policies should be documented.

3. Specific Risk Areas

The OIG recognizes that many physician practices may not have in place policies and procedures to prevent fraudulent or erroneous conduct in their practices. In order to develop policies and procedures, the physician practice should determine what types of fraud and abuse related topics need to be addressed based on its specific needs. One of the most important things in making that determination is a listing of risk areas where the practice may be vulnerable.

To assist physician practices in performing this initial assessment, the OIG has developed a list of potential risk areas affecting physician providers. These risk areas include: (a) Coding and billing; (b) reasonable and necessary services; (c) documentation and (d) improper inducements, kickbacks and self-referrals. This list of risk areas is not exhaustive, or all encompassing. Rather, it should be viewed as a starting point for an internal review of potential vulnerabilities within the physician practice.[13] The objective of such an assessment should be to ensure that key personnel in the physician practice is aware of these risk areas and that steps are taken to minimize, to the extent possible, the types of problems identified. While there are many ways to accomplish this objective, clear written policies and procedures that are communicated to all employees are important to ensure the effectiveness of a compliance program. Specifically, the following are discussions of risk areas for physicians: [14]

[11] Practices with laboratories or arrangements with third-party billing companies should check the risk areas included in the guidance for those industries. The guidance is available on the OIG website at http://www.hhs.gov/oig.

[12] There are many published summaries of reimbursement requirements of varying specificity and quality. Various specialty and trade associations may also have developed such summaries.

[13] The OIG recommends that, in addition to the list set forth below, physicians review the OIG's Work Plan to identify vulnerabilities and risk areas on which the OIG will focus in the future. In addition, it is recommended that physician practices review the OIG's semiannual reports, which identify program vulnerabilities and risk areas that the OIG has targeted during the preceding six months. All of these documents are available on the OIG's webpage at http://www.hhs.gov/oig.

[14] A listing of additional risk areas that a physician practice may want to include in its

Continued

a. Coding and Billing. The identification of risk areas associated with coding and billing should be a major part of any physician practice's compliance program.

The following risk areas associated with billing have been among the most frequent subjects of investigations and audits by the OIG:

- Billing for items or services not rendered or not provided as claimed;[15]
- Submitting claims for equipment, medical supplies and services that are not reasonable and necessary;[16]
- Double billing;[17]
- Billing for non-covered services as if covered;
- Knowing misuse of provider identification numbers, which results in improper billing;[18]
- Billing for unbundled services;[19]
- Failure to properly use coding modifiers;[20]
- Upcoding the level of service provided.[21]

The written policies and procedures concerning proper coding should reflect the current reimbursement principles set forth in applicable statutes, regulations [22] and Federal, State or private payer health care program requirements and should be developed in tandem with coding and billing standards used in the physician practice. Furthermore, written policies and procedures should ensure that coding and billing are based on medical record documentation. Particular attention should be paid to issues of appropriate diagnosis codes and individual Medicare Part B claims (including documentation guidelines for evaluation and management services).[23] The physician practice should also institute a policy that all rejected claims pertaining to diagnosis and procedure codes be reviewed by the coder. This should facilitate a reduction in similar errors.

b. Reasonable and Necessary Services. The compliance program should provide guidance that claims be submitted only for services that the physician practice finds to be reasonable and necessary in the particular case. The OIG recognizes that physicians should be able to order any tests, including screening tests, they believe are appropriate for the treatment of their patients. However, the physician practice should be aware that Medicare will only pay for services that meet the Medicare definition of reasonable and necessary.[24]

Medicare (and many insurance plans) may deny payment for a service that the physician believes is clinically appropriate, but which is not reasonable and necessary. Thus, when a physician provides services to a patient, he or she should only bill those services believed to be reasonable and necessary for the diagnosis and treatment of a patient. Upon request, the physician practice should be able to provide documentation, such as a patient's medical records and physician's orders, to support the appropriateness of a service that the physician has provided.

c. Documentation. Timely, accurate and complete documentation is critical to nearly every aspect of a physician practice. Therefore, one of the most important physician practice compliance issues is the appropriate documentation of diagnosis and treatment. Physician documentation is necessary to determine the appropriate medical treatment for the patient and is the basis for coding and billing determinations. Most importantly, failure to document properly has the potential to compromise good patient care. Thorough and accurate documentation helps to ensure accurate recording and timely transmission of information.

i. Medical Record Documentation. In addition to facilitating high quality patient care, a properly documented medical record verifies and documents precisely what services were actually provided. The medical record may be used to validate: (a) The site of the service; (b) the appropriateness of the services provided; and (c) the accuracy of the billing. Accurate medical record documentation should comply, at a minimum, with the following principles: [25]

- The medical record should be complete and legible;
- The documentation of each patient encounter should include the reason for the encounter; any relevant history; physical examination findings; prior diagnostic test results; assessment, clinical impression, or diagnosis; plan

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policies can be found at Appendix A of this document.

[15] For example, Dr. X, an ophthalmologist, bills for laser surgery he did not perform. As proof, he did not even have laser equipment or access to such equipment at the place of service designated on the claim form to perform the surgery.

[16] Billing for services which are not reasonable and necessary, supplies and equipment involves seeking reimbursement for a service that is not warranted by a patient's documented medical condition. See 42 U.S.C. 1395i(a)(1)(A) (''no payment may be made under part A or part B [of Medicare] for any expenses incurred for items or services which * * * are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of the malformed body member''). See also Appendix A for further discussion on this topic.

[17] Double billing occurs when the physician bills for the same item or service more than once or when another party bills the Federal health care program for an item or service also billed by the physician. Although duplicate billing can occur due to simple error, the knowing submission of duplicate claims—which is sometimes evidenced by systematic or repeated double billing—can create liability under criminal, civil, and/or administrative law.

[18] Of particular concern, physician practices should be aware of the provisions of reassignment of benefits. These provisions govern who may receive payment due to a provider or supplier of services or a beneficiary. See 42 CFR 424.70–424.80. See also *Medicare Carrier Manual* § 3060.10.

[19] Unbundling is the practice of a physician billing for multiple components of a service that must be included in a single fee. For example, if dressings and instruments are included in a fee for a minor procedure, the provider may not also bill separately for the dressings and instruments.

[20] A modifier, as defined by the CPT–4 manual, provides the means by which the physician practice can indicate a service or procedure that has been performed has been altered by some specific circumstance, but not changed in its definition or code. Assuming the modifier is used correctly and appropriately, this specificity provides the justification for payment for those services. For correct use of modifiers, the physician practice should reference the appropriate sections of the *Medicare Carrier Manual.* See *Medicare Carrier Manual* § 4630. For general information on the correct use of modifiers, the physician practice should also consult the National Correct Coding Initiative (NCCI) system. See Appendix F for information on how to access the NCCI system. The NCCI coding edits are updated on a quarterly basis and are used to process claims and determine payments to physicians.

[21] Upcoding is billing for a more expensive service than the one actually performed. For example, Dr. X defrauds Medicare by intentionally billing at a higher evaluation and management (E & M) code than what he actually renders to the patient. Upcoding has been a major focus of the OIG's law enforcement efforts. In fact, the Health Insurance Portability and Accountability Act of 1996 added another civil monetary penalty to the OIG's sanction authorities for upcoding violations. See 42 U.S.C. 1320a–7a(a)(1)(A).

[22] The official coding guidelines are promulgated by HCFA, the National Center for Health Statistics, the American Medical Association and the American Health Information Management Association. See International Classification of Diseases, 9th Revision, Clinical Modification (ICD–9 CM) (and its successors); 1998 Health Care Financing Administration Common Procedure Coding System (HCPCS) (and its successors); and Physicians' Current Procedural Terminology (CPT). In addition, there are specialized coding systems for specific segments of the health care industry. Among these are ADA (for dental procedures), DSM IV (psychiatric health benefits) and DMERCs (for durable medical equipment, prosthetics, orthotics and supplies).

[23] The failure of a physician practice to: (i) document items and services rendered; and (ii) properly submit them for reimbursement is a major area of potential fraudulent or erroneous conduct involving Federal health care programs. The OIG has undertaken numerous audits, investigations, inspections and national enforcement initiatives aimed at reducing potential and actual fraud, abuse and waste in these areas.

[24] See 42 U.S.C. 1395y(a)(1)(A).

[25] For additional information on proper documentation, physician practices should also reference the *Documentation Guidelines for Evaluation and Management (E and M) Services,* published by HCFA. These guidelines are available on the Internet at http://www.hcfa.gov/medicare/mcarpti.htm.

of care; and date and legible identity of the observer;

• If not documented, the rationale for ordering diagnostic and other ancillary services should be easily inferred by an independent reviewer or third party. Past and present diagnoses should be accessible to the treating and/or consulting physician; and

• Appropriate health risk factors should be identified. The patient's progress, his or her response to, and any changes in, treatment, and any revision in diagnosis should be documented.

The CPT and ICD–9–CM codes reported on the health insurance claims form should be supported by documentation in the medical record and the medical chart should contain all required information. Additionally, HCFA and the local carriers should be able to determine who provided the services. These issues can be the root of investigations of inappropriate or erroneous conduct, and have been identified by HCFA and OIG as a leading cause of inappropriate payments.

ii. HCFA 1500 Form. Another documentation area that physician practices should monitor closely is the proper completion of the HCFA 1500 form. The following practices will help ensure that the form has been properly completed:

• Link the diagnosis code with the steps taken to perform an examination and the record of personal history obtained;

• Link a single most appropriate diagnosis with the corresponding procedure code;

• Use modifiers appropriately; and

• Provide Medicare with all information about a patient's other insurance coverage.

d. Kickbacks, Inducements and Self-Referrals. A physician practice should have policies and procedures to ensure compliance with the anti-kickback statute,[26] and the physician self-referral law.[27] Remuneration for referrals is illegal because it can distort medical decision-making, cause overutilization of services or supplies, increase costs to Federal health care programs, and result in unfair competition by shutting out competitors who are unwilling to pay it. Remuneration for referrals can also affect the quality of patient care by encouraging physicians to order services or supplies based on profit rather than the patients' best medical interests.[28]

In particular, arrangements with hospitals, hospices, nursing facilities, home health agencies, durable medical equipment suppliers and vendors are areas of potential concern. In general the anti-kickback statute prohibits knowing and willfully giving or receiving anything of value to induce referrals of Federal health care program business. It is generally recommended that all business arrangements wherein physician practices refer business to an outside entity should be on a fair market value basis.[29] Whenever a physician practice intends to enter into a business arrangement that involves its making referrals, the arrangement should be reviewed by counsel familiar with the anti-kickback statute and physician self-referral statute.

In addition to developing policies to address arrangements with other health care providers and suppliers, physician practices should implement measures to avoid offering inappropriate inducements to patients.[30] Examples of such inducements include routinely waiving coinsurance or deductible amounts without a good faith determination that the patient is in financial need or failing to make reasonable efforts to collect the cost-sharing amount.[31]

Possible risk areas that should be addressed in the policies and procedures include:

• Financial arrangements with outside entities to whom the practice may refer Federal health care program business;[32]

• Joint ventures with entities supplying goods or services to the physician practice or its patients;[33]

• Consulting contracts or medical directorship;

• Office and equipment leases with entities to which the physician refers; and

• Soliciting, accepting or offering any gift or gratuity of more than nominal value to or from those who may benefit from a physician practice's referral of Federal health care program business.[34]

In order to keep current with this area of the law, a physician practice may obtain copies, available on the OIG website, of all relevant OIG Special Fraud Alerts and Advisory Opinions that address the application of the anti-kickback and physician self-referral laws to ensure that the policies reflect current positions and opinions.[35]

4. Retention of Records. A physician practice's policies and procedures should also contain a section on the retention of compliance, business and medical records. These records primarily include documents relating to patient care and the practice's business activities. The physician practice's designated compliance officer should keep an updated binder or record of compliance-related activities. This involves, at a minimum, keeping track of compliance meetings, educational activities, and internal audit results. Particular attention should be paid to documenting violations uncovered by the compliance program and the resulting remedial action.

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[26] The anti-kickback statute provides criminal penalties for individuals and entities that knowingly offer, pay, solicit, or receive bribes or kickbacks or other remuneration in order to induce business reimbursable by Federal health care programs. See 42 U.S.C. 1320a–7b(b). Civil penalties, exclusion from participation in the Federal health care programs, and civil False Claims Act liability may also result from a violation of the prohibition. See 42 U.S.C. 1320a–7a(a)(5), 42 U.S.C. 1320a–7(b)(7), and 31 U.S.C. 3729–3733.

[27] The physician self-referral law, 42 U.S.C. 1395nn, (also known as the ''Stark law''), prohibits a physician from making a referral to an entity with which the physician or any member of the physician's immediate family has a financial relationship if the referral is for the furnishing of designated health services, unless the financial relationship fits into an exception set forth in the statute or implementing regulations.

[28] See Appendix B for additional information on the anti-kickback statute.

[29] The OIG's definition of ''fair market value'' is not the typical commercial definition of this term. The OIG's definition of this term excludes any value attributable to referrals of Federal program business on the ability to influence the flow of such business. Adhering to the rule of keeping business arrangements at fair market value is not a guarantee of legality, but is a highly useful general rule.

[30] See 42 U.S.C. 1128A(a)(5).

[31] In the OIG Special Fraud Alert ''Routine Waiver of Part B Co-payments/ Deductibles'' (May 1991), the OIG describes several reasons why routine waivers of these cost-sharing amounts pose concerns. The Alert sets forth the circumstances under which it may be appropriate to waive these amounts. See also 42 U.S.C. 1320a–7a(a)(5).

[32] All physician contracts and agreements with parties in a position to influence Federal health care program business or to whom the doctor is in such a position to influence should be reviewed to avoid violation of the anti-kickback, self-referral, and other relevant Federal and State laws. The OIG has published safe harbors that define practices not subject to the anti-kickback statute, because such arrangements would be unlikely to result in fraud or abuse. Failure to comply with a safe harbor provision does not make an arrangement per se illegal. Rather, the safe harbors set forth specific conditions that, if fully met, would assure the entities involved of not being prosecuted or sanctioned for the arrangement qualifying for the safe harbor. One such safe harbor applies to personal services contracts. See 42 CFR 1001.952(d).

[33] See OIG Special Fraud Alert ''Joint Venture Arrangements'' (August 1989) available on the OIG website at http://www.hhs.gov/oig. See also OIG Advisory Opinion 97–5.

[34] Physician practices should establish clear policies governing gift-giving because such exchanges may be viewed as inducements to influence business decisions. Practice policies should emphasize that accepting gifts of any kind may influence the employee's independent judgment. To the extent such gifts are accepted, they should be reported to the designated person charged with recording such information for the practice.

[35] Practices should also check the HCFA website for the most recent regulations regarding these issues.

Physician practices that implement a compliance program should provide for the development and implementation of a records retention system. This system should establish policies and procedures regarding the creation, distribution, retention, and destruction of documents. In designing a record system, privacy concerns and Federal and State regulatory requirements should be taken into consideration. In addition to maintaining appropriate and thorough medical records on each patient, the OIG recommends that the system include the following types of documents:

- All records and documentation (*e.g.,* billing and claims documentation) required for participation in Federal, State, and private payer health care programs; and
- All records necessary to demonstrate the integrity of the physician practice's compliance process and to confirm the effectiveness of the program.[36]

While conducting its compliance activities, as well as its daily operations, a physician practice should document its efforts to comply with applicable Federal health care program requirements. For example, when a physician practice requests advice from a Government agency (including a Medicare fiscal intermediary or carrier) charged with administering a Federal health care program, the practice should document and retain a record of the request and any written or oral response. This step is extremely important if the practice intends to rely on that response to guide it in future decisions, actions, or claim reimbursement requests or appeals. A log of oral inquiries between the practice and third parties, such as carrier representatives, will help the practice document its attempts at compliance. In addition, in a subsequent investigation these records may become relevant to the issue of whether the practice's reliance was ''reasonable'' and whether it exercised due diligence in developing procedures and practices to implement the advice.

In short, all physician practices, regardless of size, should have procedures to create and retain appropriate documentation. The following record retention guidelines should be followed:

- The length of time that a physician's medical record documentation is to be retained should be specified in the physician practice's policies and procedures (Federal and State statutes should be consulted for specific time frames);
- Medical records should be secured against loss, destruction, unauthorized access, unauthorized reproduction, corruption, or damage; and
- Policies and procedures should stipulate the disposition of medical records in the event the practice is sold or closed.

C. Designation of a Compliance Officer/Contact

To administer the compliance program, the practice should designate an individual who is responsible for overseeing the compliance program. This person, often called a ''compliance officer,'' may have duties in addition to serving in this role. This person could be the office manager or the primary biller. The key, however, is that the person be sufficiently independent in his or her position so as to protect against any conflicts of interest that may arise from performing assigned duties and compliance duties. Additional attributes and qualifications that this person should possess include:

- Attention to detail;
- Experience in billing and coding; and
- Effective communication skills, both oral and written, with employees, physicians and carriers.

It is acceptable for a physician practice to designate more than one employee with compliance monitoring responsibility. In lieu of having a designated compliance officer, the physician practice could instead describe in its policies and procedures the compliance functions for which designated employees, known as ''compliance contacts,'' would be responsible. For example, one employee could be responsible for preparing written policies and procedures, while another could be responsible for conducting or arranging for periodic audits and ensuring that billing questions are answered. Therefore, the compliance-related responsibilities of the designated person or persons may be only a portion of his or her duties.

Another possibility is that one individual could serve as compliance officer for more than one entity. In situations where staffing limitations mandate that the practice cannot afford to designate a person(s) to oversee compliance activities, the practice could outsource all or part of the functions of a compliance officer to a third party, such as a consultant, PPMC, MSO, Independent Physician Association, billing company or professional association. However, if this role is outsourced, the compliance officer should have sufficient interaction with the physician practice to be able to effectively serve as the compliance officer. Outsourced compliance officers, who spend most of their time offsite, will naturally have certain limitations that a physician practice should consider before making such a critical decision.

The primary responsibilities assigned to a compliance officer/contact should include the following:

- Overseeing and monitoring the implementation of the compliance program;
- Establishing methods, such as periodic audits, to improve the practice's efficiency and quality of services, and to reduce the practice's vulnerability to fraud and abuse;
- Periodically revising the compliance program in light of changes in the needs of the practice or changes in the law and in the policies and procedures of Government and private payer health plans;
- Developing, coordinating and participating in a training program that focuses on the elements of the compliance program, and seeks to ensure that training materials are appropriate;
- Ensuring that the HHS–OIG's List of Excluded Individuals and Entities, and the General Services Administration's List of Parties Debarred from Federal Programs have been checked with respect to all employees, medical staff and independent contractors;[37]
- Ensuring that employees and physicians know, and comply with, pertinent Federal and State statutes, regulations and standards;

[36] Among the materials useful in documenting the compliance program are employee certifications relating to training and other compliance initiatives, copies of compliance training materials, and any corresponding reports of investigation, outcomes, and employee disciplinary actions. In addition, the physician practice should keep all relevant correspondence with carriers, private payer insurers, and HCFA.

[37] The HHS–OIG ''List of Excluded Individuals/Entities'' provides information to health care providers, patients, and others regarding individuals and entities that are excluded from participation in Federal health care programs. This report, in both an on-line searchable and downloadable database, can be located on the Internet at http://www.hhs.gov/oig. The OIG sanction information is readily available to users in two formats on over 15,000 individuals and entities currently excluded from program participation through action taken by the OIG. The on-line searchable database allows users to obtain information regarding excluded individuals and entities sorted by: (1) The legal bases for exclusions; (2) the types of individuals and entities excluded by the OIG; and (3) the States where excluded individuals reside or entities do business. In addition, the General Services Administration maintains a monthly listing of debarred contractors, ''List of Parties Debarred from Federal Programs,'' at http://www.arnet.gov/epls.

• Investigating any report or allegation concerning possible unethical or improper business practices, and monitoring subsequent corrective action and/or compliance.

Each physician practice needs to assess its own practice situation and determine what best suits that practice in terms of compliance oversight.

D. Conducting Effective Training and Education

Education is an important part of any compliance program. Education programs should be tailored to the physician practice's needs and include both compliance and specific training. Training expectations should be commensurate with the size and speciality of the practice.

There are three basic steps for setting up educational objectives:

• Determining who needs training (both in coding and billing and in compliance);

• Determining the type of training that best suits the practice's needs (*e.g.,* seminars, in-service training, self-study or other programs); and

• Determining when the education is needed and how much each person should receive.

Training can be accomplished through a variety of means, including in-person training sessions (*i.e.*, either on site or at outside seminars), distribution of newsletters, [38] or even a readily accessible office bulletin board. Regardless of the training modality used, a physician practice should ensure that the necessary education is communicated effectively. Simply providing individuals with documents for their own reading and comprehension is seldom sufficient.

1. Compliance Training

Under the direction of the designated compliance officer/contact, both initial and recurrent training in compliance is advisable, both with respect to the compliance program itself and applicable statutes and regulations. The operation and importance of the compliance program, the consequences of violating the policies set forth in the program, and the role of each employee in the operation of the compliance program should also be addressed.

Compliance training should have two goals: (1) All employees should receive training on how to perform their jobs in compliance with the standards of the practice and any applicable regulations; and (2) each employee should understand that compliance is a condition of continued employment. Compliance training should center on explaining why the practice is developing and establishing a code of conduct and written policies and procedures. The training should emphasize that following the policies will not get a practice employee in trouble, but violating the policies will. New employees should be trained on the compliance program within 60 days of their start date and such training should be documented. Thereafter, employees should receive refresher training on an annual basis or as appropriate.

2. Coding and Billing Training

Coding and billing training on the Federal health care program requirements may be necessary for certain members of the physician practice staff depending on their respective responsibilities. Individuals who are directly involved with billing, coding or other aspects of the Federal health care programs should receive extensive education specific to that individual's responsibilities. Items to cover in coding and billing training can include:

• Coding requirements;

• Claim development and submission processes;

• Marketing practices that reflect current legal and program standards;

• The ramifications of submitting a claim for physician services when rendered by a non-physician;

• Signing a form for a physician without the physician's authorization;

• The ramifications of altering medical records;

• Proper documentation of services rendered;

• How to report misconduct;

• Proper billing standards and procedures and submission of accurate bills for services or items rendered to Federal health care program beneficiaries;

• The personal obligation of each person involved in the billing process to ensure claims are properly and accurately submitted;

• The legal sanctions for submitting deliberately false or reckless billings;

• Informing physicians that they cannot receive payment or any type of incentive to induce referrals and that claims should not be submitted for physician services when those services are rendered by a non-physician (unless they follow the applicable Federal health care program requirements, *e.g.,* ''incident to'' rules).

3. Format of the Training Program

Training may be conducted either in-house or by an outside source.[39] Training at outside seminars, instead of internal programs and in-service sessions, can be an effective way to achieve the practice's training goals. In fact, many community colleges offer certificate or associate degree programs in billing and coding, and professional associations provide various kinds of continuing education and certification programs. Many carriers also offer billing training.

As part of the training, practices should make sure all employees are familiar with at least the key risk areas in this guidance and areas of particular OIG interest as identified in the OIG's Work Plan published each year.[40] The physician practice also needs to work with its third-party billing company, if one is used, to ensure that documentation is of a level that is adequate for the billing company to submit accurate claims on behalf of the physician practice. If it is not, these problem areas should also be covered in the training. In addition to the billing training, physician practices should be certain that updated ICD–9, HCPCS and CPT manuals (in addition to the carrier bulletins construing those sources) are available to all employees involved in the billing process. A source of continuous updates on current billing policies should also be readily available.[41]

Physician practices are not required to have separate education and training programs for both the compliance and coding and billing training. All in-service training and continuing education can integrate compliance issues, as well as other core values adopted by the practice, such as quality improvement and improved patient service, into their curriculum.

[38] HCFA also offers free online training for general fraud and abuse issues at http://www.medicaretraining.com. See Appendix F for additional information.

[39] Another way for physician practices to receive effective training is for the physicians and/or the employees of the practice to attend training programs offered by larger entities, such as a hospital, a local medical society or a carrier. This sort of collaborative effort is an excellent way for the practice to meet the desired training objective without having to expend the resources to develop and implement in-house training.

[40] The OIG's work plan is currently available on the Internet at http://www.hhs.gov/oig. The OIG Work Plan details the various projects the OIG intends to address in the fiscal year. The Work Plan contains the projects of the Office of Audit Services, Office of Evaluation and Inspections, Office of Investigations and the Office of Counsel to the Inspector General.

[41] Some publications, such as OIG's Special Fraud Alerts, audit and inspection reports, and Advisory Opinions are readily available from the OIG and can provide a basis for educational courses and programs for physician practice employees. These can be obtained through the Internet. See Appendix F.

4. Continuing Education on Compliance Issues

There is no set formula for determining how often training sessions should occur.[42] The OIG recommends that there be at least an annual training program for all individuals involved in the coding and billing aspects of the practice. New billing and coding employees should be trained within 60 days of assuming their duties and should work under an experienced employee until their training has been completed.

E. Developing Effective Lines of Communication

An open line of communication is essential to proper implementation of an effective compliance program. Guidance previously issued by the OIG has encouraged the use of several forms of communication between the compliance officer/committee and provider personnel, many of which focus on formal processes and are more costly to implement (*e.g.,* hotlines and e-mail). However, the OIG recognizes that the nature of some physician practices is not as conducive to implementing these types of measures. The nature of a small physician practice dictates that such communication and information exchanges need to be conducted through a less formalized process than that which has been envisioned by prior OIG guidance.

In the small physician practice setting, the communication element can be met by implementing a clear ''open door'' policy between the physicians and compliance personnel and practice employees. This policy can be implemented in conjunction with less formal communication techniques, such as conspicuous notices posted in common areas and/or the development and placement of a compliance bulletin board where everyone in the practice can go for up-to-date compliance information.[43]

A compliance program's system for effective communication should include the following:

- The requirement that employees report conduct that a reasonable person would, in good faith, believe to be fraudulent or erroneous;
- Creation of a user-friendly process, such as an anonymous drop box, for effectively reporting fraudulent or erroneous conduct;
- Provisions in the policies and procedures that state that a failure to report fraudulent or erroneous conduct is a violation of the compliance program;
- Development of a simple and readily accessible procedure to process reports of fraudulent or erroneous conduct;
- Utilization of a process that maintains the confidentiality of the persons involved in the alleged fraudulent or erroneous conduct and the person making the allegation; and
- Provisions in the policies and procedures that there will be no retribution for reporting conduct that a reasonable person acting in good faith would have believed to be fraudulent or erroneous.

The OIG recognizes that protecting anonymity may be infeasible for small physician practices. However, the OIG believes all practice employees, when seeking answers to questions or reporting potential instances of fraudulent or erroneous conduct, should know to whom to turn for assistance in these matters and should be able to do so without fear of retribution. While the physician practice should always strive to maintain the confidentiality of an employee's identity, it should also make clear that there may be a point at which the individual's identity may become known or may have to be revealed in certain instances.

F. Auditing and Monitoring

An ongoing evaluation process is important to a successful compliance program. This ongoing evaluation should include not only whether the practice's standards and procedures are in fact current and accurate, but also whether or not the compliance program is effective, *i.e.*, whether individuals are properly carrying out their responsibilities and claims are submitted appropriately.

1. Policies and Procedures

It is recommended that the individual(s) in charge of the compliance program also be charged with the responsibility of periodically reviewing the policies and procedures to see if they are current and complete. If the policies and procedures are found to be ineffective or outdated, they should be updated to reflect changes in CPT codes and Government regulations.

2. Claims Submission Audit

In addition to the policies and procedures themselves, bills and medical records should be reviewed for compliance with applicable coding, billing and documentation requirements. The people involved in these self-audits should include the person in charge of billing compliance and a medically trained person (*e.g.,* registered nurse or preferably a physician (physicians can rotate in this position)). Each practice needs to decide for itself whether to review claims retrospectively or concurrently with the claims submission. In the Third-Party Medical Billing Compliance Program Guidance,[44] the OIG recommended that a baseline, or ''snapshot,'' be used as part of the benchmarking analysis that would enable a practice to judge its progress in reducing or eliminating potential areas of vulnerability.

The practice's self-audits should be used to determine whether:

1. Bills are accurately coded and accurately reflect the services provided;
- Services or items provided are reasonable and necessary;
- Any incentives for unnecessary services exist; and
- Medical records contain sufficient documentation to support the charge.

A baseline audit should examine the claim development and submission process, from patient intake through claim submission and payment, and identify elements within this process that may contribute to non-compliance or that may need to be the focus for improving execution.[45] This audit should establish a consistent methodology for selecting and examining records, and this methodology should serve as a basis for future audits. It should be conducted based on claims submitted during the initial three months after implementation of the education and training program so as to give the physician practice a benchmark against which to measure future compliance effectiveness.

Following the baseline audit, periodic audits could be conducted at least once each year to ensure that the compliance program is being followed. A randomly selected number of medical records could be reviewed to ensure that the coding was performed accurately. Although there is no set formula to how many medical records should be reviewed, a basic guide is two to five

[42] Currently, the OIG is monitoring a significant number of corporate integrity agreements that require many of these training elements. The OIG usually requires a minimum of one hour annually for basic training in compliance areas. Additional training is required for specialty fields such as claims development and billing.

[43] In addition to whatever other method of communication is being utilized, practices should post in a prominent area the HHS–OIG Hotline telephone number (1–800–HHS–TIPS). *See* Appendix D for additional information.

[44] Available on the OIG website at http://www.hhs.gov/oig.

[45] See Appendix D.II. referencing the Provider Self-Disclosure Protocol for information on how to conduct a baseline audit.

medical records per payer, or five to ten medical records per physician. Of course, the larger the sample size, the greater the confidence in the results. If problems are identified, focused review should be conducted on a more frequent basis. When audit results reveal areas needing additional information or education of employees and physicians, these areas should be incorporated into the training and educational system.

Periodic audits could include the following:

- A valid sample of the practice's top ten denials, or the practice's top ten services provided;
- Confirmation that the physician practice has been using specific codes, as some codes are too general for ''reasonable and necessary'' purposes;
- A check for data entry errors;
- Confirmation that all orders are written and signed by a physician;
- A check for reasonable and necessary services performed;
- Confirmation that all tests ordered by the physician(s) were actually performed and documented and that only those tests were billed; and
- A review of assignment codes and modifiers to the claims.

One of the most important elements of a successful billing compliance program is appropriate action when the physician practice identifies a problem in its internal audit. This action should be taken as soon as possible, but it is recommended that the action be taken within 60 days from the date the problem is identified. The specific action a physician practice takes should depend on the circumstances of the situation it has identified. In some cases, the action can be as simple as generating a repayment to Medicare or the appropriate payer. Alternatively, the repayment could be effectuated through offsets to other billings, such as undercodings. In others, the physician practice may want to seek legal advice and/or consult with a coding/billing expert to determine the next best course of action. There is no boilerplate solution to how to handle problems that are identified.

It is important that the physician practice monitor its billing program to ensure claims are correctly submitted. If a physician practice identifies, through its internal audits, what it believes is a potential problem, there should be sufficient confidence in the compliance procedures developed by the physician practice to reasonably believe that the problem is in fact a potential issue. Steps should be taken to remedy the situation immediately.

All physician practices should create a system to address how they will respond to and report potential problems. In addition, preserving information relating to identification of the problem is as important as preserving information that tracks the physician practice's reaction to, and solution for, the issue.

G. Enforcing Standards Through Well-Publicized Disciplinary Guidelines

An effective physician practice compliance program includes procedures for enforcing and disciplining individuals who violate the practice's compliance standards. Enforcement and disciplinary provisions are necessary to put teeth into a compliance program.

A physician practice's enforcement and disciplinary mechanisms should ensure that violations of the practice's compliance policies will result in consistent and appropriate sanctions, including the possibility of termination, against the offending individual. At the same time, the practice's enforcement and disciplinary procedures should be flexible enough to account for mitigating or aggravating circumstances. The program should also stipulate that individuals who fail to detect or report violations of the compliance program may also be subject to discipline. Disciplinary actions could include: warnings (oral); reprimands (written); probation; demotion; temporary suspension; discharge of employment; restitution of damages; and referral for criminal prosecution. Inclusion of disciplinary guidelines in in-house training and procedure manuals is sufficient to meet the ''well publicized'' standard of this element.

Any communication resulting in the finding of non-compliant conduct should be documented in the compliance files by including the date of incident, name of the reporting party, name of the person responsible for taking action, and the follow-up action taken. Physician practices should also conduct checks to make sure all current and potential practice employees are not listed on the OIG or GSA lists of individuals excluded from participation in Federal health care or Government procurement programs.[46]

H. Responding to Detected Offenses and Developing Corrective Action Initiatives

Violations of a physician practice's compliance program, significant failures to comply with applicable Federal or State law, and other types of misconduct threaten a practice's status as a reliable, honest, and trustworthy provider of health care. Fraudulent or erroneous conduct that has been detected, but not corrected, can seriously endanger the reputation and legal status of the practice. Consequently, upon receipt of reports or reasonable indications of suspected noncompliance, it is important that the compliance officer or other practice employee investigate the allegations to determine whether a material violation of applicable law or the requirements of the compliance program has occurred, and, if so, take decisive steps to correct the problem.[47] As appropriate, such steps may include a corrective action plan,[48] the return of any overpayments, a report to the Government,[49] and/or a referral to law enforcement authorities.

There are several key warning signs of when a compliance program is not working well, *e.g.,* high rates of rejected and/or suspended claims and the placement of a practice on pre-payment review by the carrier. These warning signs should be followed up on immediately and the compliance procedures of the practice changed to prevent the problem from recurring.

As previously stated, the physician practice should take appropriate corrective action, including prompt identification of any overpayment to the affected payer. A knowing and willful failure to disclose overpayments within a reasonable period of time could be interpreted as an attempt to conceal the overpayment from the Government, thereby establishing an independent basis for a criminal violation with respect to the physician practice, as well as any individual who may have been

[46] See Footnote 37 for information on how to access these lists.

[47] Instances of noncompliance must be determined on a case-by-case basis. The existence or amount of a monetary loss to a health care program is not solely determinative of whether the conduct should be investigated and reported to governmental authorities. In fact, there may be instances where there is no readily identifiable monetary loss, but corrective actions are still necessary to protect the integrity of the applicable program and its beneficiaries, *e.g.,* where services required by a plan of care are not provided.

[48] The physician practice may seek advice from its legal counsel to determine the extent of the practice's liability and to plan the appropriate course of action.

[49] The OIG has established a Provider Self-Disclosure Protocol that encourages providers to voluntarily report suspected fraud. The concept of voluntary self-disclosure is premised on a recognition that the Government alone cannot protect the integrity of the Medicare and other Federal health care programs. Health care providers must be willing to police themselves, correct underlying problems, and work with the Government to resolve these matters. The Provider Self-Disclosure Protocol can be located on the OIG's website at: www.hhs.gov/oig. See Appendix D for further information on the Provider Self-Disclosure Protocol.

involved.[50] For this reason, physician practice compliance programs should emphasize that overpayments should be promptly disclosed and returned to the entity that made the erroneous payment.

After an offense has been detected, a physician or group practice should take all reasonable steps to respond to the offense and to prevent similar offenses. The compliance program should provide for a full internal investigation of all reports of detected violations. The goodwill that physicians generate by developing an effective compliance program will quickly dissipate if the physician ignores reports of possible fraudulent activity.

The compliance program procedures should include provisions to ensure that a violation is not compounded once discovered. The individuals involved in the violation should either be retrained, or, if appropriate, terminated. The physician practice may also prevent the compounding of the violation by conducting a review of all confirmed violations, and, if appropriate, self-reporting the violations to the applicable authority. This should be done within 90 days of the discovery of a violation.

The physician practice should recognize that if a violation occurred and was not immediately detected, its compliance program may require modification. Physicians who detect violations should analyze the situation to determine whether a flaw in their compliance program failed to anticipate the detected problem, or whether the compliance program's procedures failed to prevent the violation. In any event, it is prudent, even absent the detection of any violations, for physician practices to periodically review and modify their compliance programs.[51]

III. Conclusion

Just as immunizations are given to patients to prevent them from becoming ill, physician practices should view the implementation of an effective compliance program as comparable to a form of preventive medicine to protect against fraudulent or erroneous conduct. This compliance program guidance is intended to assist physician practices in developing and implementing internal controls and procedures that promote adherence to Federal health care program and private insurance program requirements. By implementing an effective compliance program, physician practices can help prevent and reduce fraudulent or erroneous conduct in their practices, as well as furthering their mission to provide quality care to their patients.

Dated: June 6, 2000.

Michael F. Mangano,

Principal Deputy Inspector General.

Appendix A: Additional Risk Areas

I. Reasonable and Necessary Services

A. Local Medical Review Policy

An area of concern relating to determinations of reasonable and necessary services is the variation in local medical review policies (LMRPs) among carriers. Physicians are supposed to bill the Federal health care programs only for items and services that are reasonable and necessary. However, in order to determine whether an item or service is reasonable and necessary under Medicare guidelines, the physician must apply the appropriate LMRP.[1]

Physician practices are to bill the Federal health programs only for items and services that are covered. In order to determine if an item or service is covered for Medicare, physician practices must be knowledgeable of the LMRPs applicable to their practices jurisdiction. When the LMRP indicates that an item or service may not be covered by Medicare, the physician practice is responsible to convey this information to the patient so that the patient can make an informed decision concerning the health care services he/she may want to receive. Physician practices convey this information through Advanced Beneficiary Notices (ABNs).

B. Advanced Beneficiary Notices

Physicians are required to provide ABNs before they provide services that they know or believe Medicare does not consider reasonable and necessary. A properly executed ABN acknowledges that coverage is uncertain or yet to be determined, and stipulates that the patient promises to pay the bill if Medicare does not. Patients who are not notified before they receive such services are not responsible for payment. The ABN must be sufficient to put the patient on notice of the reasons why the physician believes that the payment may be denied. The objective is to give the patient sufficient information to allow an informed choice as to whether to pay for the service.

Accordingly, each ABN should:

1. Be in writing;

2. Identify the specific service that may be denied (procedure name and CPT/HCPC code is recommended);

3. State the specific reason why the physician believes that service may be denied; and

4. Be signed by the patient acknowledging that the required information was provided and that the patient assumes responsibility to pay for the service.

The *Medicare Carrier's Manual*[2] provides that an ABN will not be acceptable if: (1) The patient is asked to sign a blank ABN form; and (2) the ABN is used routinely without regard to a particularized need. The routine use of ABNs is generally prohibited because the ABN must state the specific reason the physician anticipates that the specific service will not be covered.

A common risk area associated with ABNs is in regard to diagnostic tests or services. There are four steps that a physician practice can take to help ensure it is in compliance with the regulations concerning ABNs for diagnostic tests or services:

1. Determine which tests are not covered under national coverage rules;

2. Determine which tests are not covered under local coverage rules such as LMRPs (contact the practice's carrier to see if a listing has been assembled); and

3. Determine which tests are only covered for certain diagnoses.

The OIG is aware that the use of ABNs is an area where physician practices experience numerous difficulties. Practices can help to reduce problems in this area by educating their physicians on the correct use of ABNs, obtaining guidance from the carrier regarding their interpretation of whether an ABN is necessary where the service is not covered, developing a standard form for all diagnostic tests (most carriers have a developed model), and developing a process for handling patients who refuse to sign ABNs.

C. Physician Liability for Certifications in the Provision of Medical Equipment and Supplies and Home Health Services

In January 1999, the OIG issued a Special Fraud Alert on this topic, which is available on the OIG website at www.hhs.gov/oig/frdalrt/index.htm. The following is a summary of the Special Fraud Alert.

The OIG issued the Special Fraud Alert to reiterate to physicians the legal and programmatic significance of physician certifications made in connection with the ordering of certain items and services for Medicare patients. In light of information obtained through OIG provider audits, the OIG deemed it necessary to remind physicians that they may be subject to criminal, civil, and administrative penalties for signing a certification when they know that the information is false or for signing a certification with reckless disregard as to the truth of the information. (See Appendix B and Appendix C for more detailed information on the applicable statutes).

Medicare has conditioned payment for many items and services on a certification signed by a physician attesting that the physician has reviewed the patient's condition and has determined that an item or service is reasonable and necessary. Because Medicare primarily relies on the professional judgment of the treating physician to determine the reasonable and necessary nature of a given service or supply, it is

[50] See 42 U.S.C. 1320a–7b(a)(3) and 18 U.S.C. 669.

[51] Previous OIG Compliance Program Guidance have set forth criteria for assessing the effectiveness of a compliance program. See Footnote 3 for a listing of previous Compliance Program Guidance and information on how to access them.

[1] HCFA has recently developed a website which, when completed by the end of the year 2000, will contain the LMRPs for each of the contractors across the country. The website can be accessed at http://www.lmrp.net.

[2] The relevant manual provisions are located at *MCM*, Part III, §§ 7300, 7320. This section of the manual also includes the carrier's recommended form of an ABN.

important that physicians provide complete and accurate information on any certifications they sign. Physician certification is obtained through a variety of forms, including prescriptions, orders, and Certificates of Medical Necessity (CMNs). Two areas where physician certification as to whether an item or service is reasonable and necessary is essential and which can result in fraudulent or erroneous conduct are: (1) home health services; and (2) durable medical equipment.

By signing a CMN, the physician represents that:

1. He or she is the patient's treating physician and that the information regarding the physician's address and unique physician identification number (UPN) is correct;

2. The entire CMN, including the sections filled out by the supplier, was completed *prior* to the physician's signature; and

3. The information in section B relating to whether the item or service is reasonable and necessary is true, accurate, and complete to the best of the physician's knowledge.

Activities such as signing blank CMNs, signing CMNs without seeing the patient to verify the item or service is reasonable and necessary, and signing a CMN for a service that the physician knows is not reasonable and necessary are activities that can lead to criminal, civil and administrative penalties.

Ultimately, physicians should be sure to carefully review any form of certification (order, prescription or CMN) before signing it to verify that the information contained in the certification is both complete and accurate.

D. Billing for Non-Covered Services as If Covered

In some instances, we are aware that physician practices submit claims for services in order to receive a denial from the carrier, thereby enabling the patient to submit the denied claim for payment to a secondary payer.

A common question relating to this risk is: If the medical services provided are not covered under Medicare, but the secondary or supplemental insurer requires a Medicare rejection in order to cover the services, then would the original submission of the claim to Medicare be considered fraudulent? Under the applicable regulations, the OIG would not consider such submissions to be fraudulent. For example, the denial may be necessary to establish patient liability protections as stated in section 1879 of the Social Security Act (the Act) (codified at 42 U.S.C. 1395pp). As stated, Medicare denials may also be required so that the patient can seek payment from a secondary insurer. In instances where a claim is being submitted to Medicare for this purpose, the physician should indicate on the claim submission that the claim is being submitted for the purpose of receiving a denial, in order to bill a secondary insurance carrier. This step should assist carriers and prevent inadvertent payments to which the physician is not entitled. In some instances, however, the carrier pays the claim even though the service is non-covered, and even though the physician did not intend for payment to be made. When this occurs, the physician has a responsibility to refund the amount paid and indicate that the service is not covered.

II. Physician Relationships With Hospitals

A. The Physician Role in the Patient Anti-Dumping Statute

The Patient Anti-Dumping Statute, 42 U.S.C. 1395dd, is an area that has been receiving increasing scrutiny. The statute is intended to ensure that all patients who come to the emergency department of a hospital receive care, regardless of their insurance or ability to pay. Both hospitals and physicians need to work together to ensure compliance with the provisions of this law.

The statute imposes three fundamental requirements upon hospitals that participate in the Medicare program with regard to patients requesting emergency care. First, the hospital must conduct an appropriate medical screening examination to determine if an emergency medical condition exists.[3] Second, if the hospital determines that an emergency medical condition exists, it must either provide the treatment necessary to stabilize the emergency medical condition or comply with the statute's requirements to effect a proper transfer of a patient whose condition has not been stabilized.[4] A hospital is considered to have met this second requirement if an individual refuses the hospital's offer of additional examination or treatment, or refuses to consent to a transfer, after having been informed of the risks and benefits.[5]

If an individual's emergency medical condition has not been stabilized, the statute's third requirement is activated. A hospital may not transfer an individual with an unstable emergency medical condition unless: (1) The individual or his or her representative makes a written request for transfer to another medical facility after being informed of the risk of transfer and the transferring hospital's obligation under the statute to provide additional examination or treatment; (2) a physician has signed a certification summarizing the medical risks and benefits of a transfer and certifying that, based upon the information available at the time of transfer, the medical benefits reasonably expected from the transfer outweigh the increased risks; or (3) if a physician is not physically present when the transfer decision is made, a qualified medical person signs the certification after the physician, in consultation with the qualified medical person, has made the determination that the benefits of transfer outweigh the increased risks. The physician must later countersign the certification.[6]

Physician and/or hospital misconduct may result in violations of the statute.[7] One area of particular concern is physician on-call responsibilities. Physician practices whose members serve as on-call emergency room physicians with hospitals should make sure they are familiar with the hospital's policies regarding on-call physicians. This can be done by reviewing the medical staff bylaws or policies and procedures of the hospital that must define the responsibility of on-call physicians to respond to, examine, and treat patients with emergency medical conditions. Physicians should also be aware that, in most cases, on-call physicians must come to the hospital to examine the patient when a request is made for their services. If, however, their offices are located in a hospital-owned facility on contiguous land or on the hospital campus, the patient may be seen in the physician's office.

B. Teaching Physicians

Special regulations apply to teaching physicians' billings. Regulations provide that services provided by teaching physicians in teaching settings are payable under the physician fee schedule only if the services are personally furnished by a physician who is not a resident or the services are furnished by a resident in the presence of a teaching physician.[8]

The teaching physician must be present during the key portion of any service or procedure for which payment is sought.[9] Physicians should ensure the following with respect to services provided in the teaching physician setting:[10]

1. Only services actually provided are billed;

2. Every physician who provides or supervises the provision of services to a patient is responsible for the correct documentation of the services that were rendered;

3. Every physician is responsible for assuring that in cases where the physician provides evaluation and management (E and M) services, a patient's medical record includes appropriate documentation of the applicable key components of the E and M services provided or supervised by the physician (*e.g.*, patient history, physician examination, and medical decision making), as well as documentation to adequately reflect the procedure or portion of the services provided by the physician; and

4. Every physician must document his or her presence during the key portion of any service or procedure for which payment is sought.

C. Gainsharing Arrangements and Civil Monetary Penalties for Hospital Payments to Physicians To Reduce or Limit Services to Beneficiaries

In July 1999, the OIG issued a Special Fraud Alert on this topic, which is available on the OIG website at www.hhs.gov/oig/frdalrt/index.htm. The following is a summary of the Special Fraud Alert.

[3] See 42 U.S.C. 1395dd(a).

[4] See 42 U.S.C. 1395dd(b)(1).

[5] See 42 U.S.C. 1395dd(b)(2)–(3).

[6] See 42 U.S.C. 1395dd(c)(1)(A).

[7] Hospitals and physicians, including on-call physicians, who violate the statute may face stiff penalties. Those penalties include civil fines of up to $50,000 (or not more than $25,000 in the case of a hospital with less than 100 beds) per violation and exclusion of a physician from participation in the Federal health care programs.

[8] 42 CFR 415.150-.190.

[9] *Id.*

[10] This section is not intended to be and is not a complete reference for teaching physicians. It is strongly recommended that those physicians who practice in a teaching setting consult their respective hospitals for more guidance.

The term ''gainsharing'' typically refers to an arrangement in which a hospital gives a physician a percentage share of any reduction in the hospital's costs for patient care attributable in part to the physician's efforts. The civil monetary penalty (CMP) that applies to gainsharing arrangements is set forth in 42 U.S.C. 1320a–7a(b)(1). This section prohibits any hospital or critical access hospital from knowingly making a payment directly or indirectly to a physician as an inducement to reduce or limit services to Medicare or Medicaid beneficiaries under a physician's care.

It is the OIG's position that the CMP law clearly prohibits any gainsharing arrangements that involve payments by or on behalf of a hospital to physicians with clinical care responsibilities, directly or indirectly, to induce a reduction or limitation of services to Medicare or Medicaid patients. However, hospitals and physicians are not prohibited from working together to reduce unnecessary hospital costs through other arrangements. For example, hospitals and physicians may enter into personal services contracts where hospitals pay physicians based on a fixed fee at fair market value for services rendered to reduce costs rather than a fee based on a share of cost savings.

III. Physician Billing Practices

A. Third-Party Billing Services

Physicians should remember that they remain responsible to the Medicare program for bills sent in the physician's name or containing the physician's signature, even if the physician had no actual knowledge of a billing impropriety. The attestation on the HCFA 1500 form, *i.e.*, the physician's signature line, states that the physician's services were billed properly. In other words, it is no defense for the physician if the physician's billing service improperly bills Medicare.

One of the most common risk areas involving billing services deals with physician practices contracting with billing services on a percentage basis. Although percentage based billing arrangements are not illegal per se, the Office of Inspector General has a longstanding concern that such arrangements may increase the risk of intentional upcoding and similar abusive billing practices.[11]

A physician may contract with a billing service on a percentage basis. However, the billing service cannot directly receive Medicare payments made to the physician. Under 42 U.S.C. 1395u(b)(6), Medicare payments can only be made to either the beneficiary or a party (such as a physician) that furnished the services and accepted assignment of the beneficiary's claim. A billing service that contracts on a percentage basis does not qualify as a party that furnished services to a beneficiary, thus a billing service cannot directly receive Medicare payments. According to the *Medicare Carriers Manual* § 3060(A), a payment is considered to be made directly to the billing service if the service can convert the payment to its own use and control without the payment first passing through the control of the physician. For example, the billing service cannot bill the claims under its own name or tax identification number. The billing service must bill claims under the physician's name and tax identification number. Nor can a billing service have the Medicare payments sent directly to its office or its bank account. The Medicare payments should instead be sent to the physician's office or bank account.

Physician practices should review the third-party medical billing guidance for additional information on third-party billing companies and the compliance risk areas associated with billing companies.

B. Billing Practices by Non-Participating Physicians

Even though nonparticipating physicians do not accept payment directly from the Medicare program, there are a number of laws that apply to the billing of Medicare beneficiaries by non-participating physicians.

Limiting Charges

42 U.S.C. 1395w–4(g) prohibits a nonparticipating physician from knowingly and willfully billing or collecting on a repeated basis an actual charge for a service that is in excess of the Medicare limiting charge. For example, a nonparticipating physician may not bill a Medicare beneficiary $50 for an office visit when the Medicare limiting charge for the visit is $25. Additionally, there are numerous provisions that prohibit nonparticipating physicians from knowingly and willfully charging patients in excess of the statutory charge limitations for certain specified procedures, such as cataract surgery, mammography screening, and coronary artery bypass surgery. Physicians who fail to comply with these sections may be fined up to $10,000 per violation or be excluded from participation in Federal health care programs for up to five years.

Refund of Excess Charges

42 U.S.C. 1395w–4(g) mandates that if a nonparticipating physician collects an actual charge for a service that is in excess of the limiting charge, the physician must refund the amount collected above the limiting charge to the individual within 30 days notice of the violation. For example, if a physician collected $50 from a Medicare beneficiary for an office visit, but the limiting charge for the visit was $25, the physician must refund $25 to the beneficiary, which is the difference between the amount collected ($50) and the limiting charge ($25). Physicians who fail to comply may be fined up to $10,000 per violation or be excluded from participation in Federal health care programs for up to 5 years.

42 U.S.C. 1395u(l)(A)(iii) mandates that a nonparticipating physician must refund payments received from a Medicare beneficiary if it is later determined by a Peer Review Organization or a Medicare carrier that the services were not reasonable and necessary. Physicians who fail to refund the payments may be fined up to $10,000 per violation or be excluded from participation in Federal health care programs for up to 5 years.

C. Professional Courtesy

The term ''professional courtesy'' is used to describe a number of analytically different practices. The traditional definition is the practice by a physician of waiving all, or a part, of the fee for services provided to the physician's office staff, other physicians, and/or their families. In recent times, ''professional courtesy'' has come to also mean the waiver of coinsurance obligations or other out-of-pocket expenses for physicians or their families (*i.e.,* ''insurance only'' billing), and similar payment arrangements by hospitals or other institutions for services provided to their medical staffs or employees. While only the first of these practices is truly ''professional courtesy,'' in the interests of clarity and completeness, we will address all three.

In general, whether a professional courtesy arrangement runs afoul of the fraud and abuse laws is determined by two factors: (i) how the recipients of the professional courtesy are selected; and (ii) how the professional courtesy is extended. If recipients are selected in a manner that directly or indirectly takes into account their ability to affect past or future referrals, the anti-kickback statute—which prohibits giving anything of value to generate Federal health care program business—may be implicated. If the professional courtesy is extended through a waiver of copayment obligations (*i.e.,* ''insurance only'' billing), other statutes may be implicated, including the prohibition of inducements to beneficiaries, section 1128A(a)(5) of the Act (codified at 42 U.S.C. 1320a–7a(a)(5)). Claims submitted as a result of either practice may also implicate the civil False Claims Act.

The following are general observations about professional courtesy arrangements that physician practices should consider:

- A physician's regular and consistent practice of extending professional courtesy by waiving the entire fee for services rendered to a group of persons (including employees, physicians, and/or their family members) may not implicate any of the OIG's fraud and abuse authorities so long as membership in the group receiving the courtesy is determined in a manner that does not take into account directly or indirectly any group member's ability to refer to, or otherwise generate Federal health care program business for, the physician.
- A non-referring physician's regular and consistent practice of extending professional courtesy by waiving otherwise applicable copayments for services rendered to physicians, referring and non-referring alike, their employees and family members, would not implicate the anti-kickback statute so long as membership in the group is determined in a manner that does not take into account directly or indirectly any group member's ability to refer to, or otherwise generate Federal health care program business for, the physician.
- Any waiver of copayment practice, including that described in the preceding bullet, does implicate section 1128A(a)(5) of

[11] This concern is noted in Advisory Opinion No. 98–4 and also the Office of Inspector General Compliance Program Guidance for Third-Party Medical Billing Companies. Both are available on the OIG website at http://www.hhs.gov/oig.

the Act if the patient for whom the copayment is waived is a Federal health care program beneficiary who is not financially needy.

The legality of particular professional courtesy arrangements will turn on the specific facts presented, and, with respect to the anti-kickback statute, on the specific intent of the parties. Physicians who are concerned that their particular practices may run afoul of the Federal fraud and abuse laws may request an OIG advisory opinion pursuant to regulations at 42 CFR Part 1008 (See Appendix D for further detail), except for matters pertaining to the physician self-referral law, which are addressed by HCFA.

IV. Other Risk Areas

A. Rental of Space in Physician Offices by Persons or Entities to Which Physicians Refer

In February 2000, the OIG issued a Special Fraud Alert on this topic, which is available on the OIG website at www.hhs.gov/oig/frdalrt/index.htm. The following is a summary of the Special Fraud Alert.

Among various relationships between physicians and labs, hospitals, home health agencies, etc., the OIG has identified potentially illegal practices involving the rental of space in a physician's office by suppliers that provide items or services to patients who are referred or sent to the supplier by the physician-landlord. An example of a suspect arrangement is the rental of physician office space by a durable medical equipment (DME) supplier in a position to benefit from referrals of the physician's patients. The OIG is concerned that in such arrangements the rental payments may be disguised kickbacks to the physician-landlord to induce referrals.

Space Rental Safe Harbor to the Anti-Kickback Statute

To avoid potentially violating the anti-kickback Statute, the OIG recommends that rental agreements should comply with *all* of the following criteria for the space rental safe harbor:

- The agreement is set out in writing and signed by the parties.
- The agreement covers all of the space rented by the parties for the term of the agreement and specifies the space covered by the agreement.
- If the agreement is intended to provide the lessee with access to the space for periodic intervals of time rather than on a full-time basis for the term of the rental agreement, the rental agreement specifies exactly the schedule of such intervals, the precise length of each interval, and the exact rent for each interval.
- The term of the rental agreement is for not less than one year.
- The aggregate rental charge is set in advance, is consistent with fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under Medicare or a State health care program.
- The aggregate space rented does not exceed that which is reasonably necessary to accomplish the commercially reasonable business purpose of the rental.

B. Unlawful Advertising

42 U.S.C. 1320b–10 makes it unlawful for any person to advertise using the names, abbreviations, symbols, or emblems of the Social Security Administration, Health Care Financing Administration, Department of Health and Human Services, Medicare, Medicaid or any combination or variation of such words, abbreviations, symbols or emblems in a manner that such person knows or should know would convey the false impression that the advertised item is endorsed by the named entities. For instance, a physician may not place an ad in the newspaper that reads ''Dr. X is a cardiologist approved by both the Medicare and Medicaid programs.'' A violation of this section may result in a penalty of up to $5,000 ($25,000 in the case of a broadcast or telecast) for each violation.

Appendix B: Criminal Statutes

This Appendix contains a description of criminal statutes related to fraud and abuse in the context of health care. The Appendix is not intended to be a compilation of all Federal statutes related to health care fraud and abuse. It is merely a summary of some of the more frequently cited Federal statutes.

I. Health Care Fraud (18 U.S.C. 1347)

Description of Unlawful Conduct

It is a crime to knowingly and willfully execute (or attempt to execute) a scheme to defraud any health care benefit program, or to obtain money or property from a health care benefit program through false representations. Note that this law applies not only to Federal health care programs, but to most other types of health care benefit programs as well.

Penalty for Unlawful Conduct

The penalty may include the imposition of fines, imprisonment of up to 10 years, or both. If the violation results in serious bodily injury, the prison term may be increased to a maximum of 20 years. If the violation results in death, the prison term may be expanded to include any number of years, or life imprisonment.

Examples

1. Dr. X, a chiropractor, intentionally billed Medicare for physical therapy and chiropractic treatments that he knew were never rendered.

2. Dr. X, a psychiatrist, billed Medicare, Medicaid, CHAMPUS, and private insurers for psychiatric services that were provided by his nurses rather than himself.

II. Theft or Embezzlement in Connection With Health Care (18 U.S.C. 669)

Description of Unlawful Conduct

It is a crime to knowingly and willfully embezzle, steal or intentionally misapply any of the assets of a health care benefit program. Note that this law applies not only to Federal health care programs, but to most other types of health care benefit programs as well.

Penalty for Unlawful Conduct

The penalty may include the imposition of a fine, imprisonment of up to 10 years, or both. If the value of the asset is $100 or less, the penalty is a fine, imprisonment of up to a year, or both.

Example

An office manager for Dr. X knowingly embezzles money from the bank account for Dr. X's practice. The bank account includes reimbursement received from the Medicare program; thus, intentional embezzlement of funds from this account is a violation of the law.

III. False Statements Relating to Health Care Matters (18 U.S.C. 1035)

Description of Unlawful Conduct

It is a crime to knowingly and willfully falsify or conceal a material fact, or make any materially false statement or use any materially false writing or document in connection with the delivery of or payment for health care benefits, items or services. Note that this law applies not only to Federal health care programs, but to most other types of health care benefit programs as well.

Penalty for Unlawful Conduct

The penalty may include the imposition of a fine, imprisonment of up to 5 years, or both.

Example

Dr. X certified on a claim form that he performed laser surgery on a Medicare beneficiary when he knew that the surgery was not actually performed on the patient.

IV. Obstruction of Criminal Investigations of Health Care Offenses (18 U.S.C. 1518)

Description of Unlawful Conduct

It is a crime to willfully prevent, obstruct, mislead, delay or attempt to prevent, obstruct, mislead, or delay the communication of records relating to a Federal health care offense to a criminal investigator. Note that this law applies not only to Federal health care programs, but to most other types of health care benefit programs as well.

Penalty for Unlawful Conduct

The penalty may include the imposition of a fine, imprisonment of up to 5 years, or both.

Examples

1. Dr. X instructs his employees to tell OIG investigators that Dr. X personally performs all treatments when, in fact, medical technicians do the majority of the treatment and Dr. X is rarely present in the office.

2. Dr. X was under investigation by the FBI for reported fraudulent billings. Dr. X altered patient records in an attempt to cover up the improprieties.

V. Mail and Wire Fraud (18 U.S.C. 1341, 1343)

Description of Unlawful Conduct

It is a crime to use the mail, private courier, or wire service to conduct a scheme to defraud another of money or property. The term ''wire services'' includes the use of a telephone, fax machine or computer. Each use of a mail or wire service to further fraudulent activities is considered a separate

crime. For instance, each fraudulent claim that is submitted electronically to a carrier would be considered a separate violation of the law.

Penalty for Unlawful Conduct

The penalty may include the imposition of a fine, imprisonment of up to 5 years, or both.

Examples

1. Dr. X electronically submits claims to the Medicare fiscal intermediary via his computer for office visits that he did not actually provide to Medicare beneficiaries.

2. Dr. X, a neurologist, knowingly submitted claims for tests that were not reasonable and necessary and intentionally upcoded office visits and Electromyograms to Medicare.

VI. Criminal Penalties for Acts Involving Federal Health Care Programs (42 U.S.C. 1320a–7b)

Description of Unlawful Conduct

False Statements and Representations

It is a crime to knowingly and willfully:

- Make, or cause to be made, false statements or representations in applying or benefits or payments under all Federal health care programs;
- Make, or cause to be made, any false statement or representation for use in determining rights to such benefit or payment;
- Conceal any event affecting an individual's initial or continued right to receive a benefit or payment with the intent to fraudulently receive the benefit or payment either in an amount or quantity greater than that which is due or authorized;
- Convert a benefit or payment to a use other than for the use and benefit of the person for whom it was intended;
- Present, or cause to be presented, a claim for a physician's service when the service was not furnished by a licensed physician;
- For a fee, counsel an individual to dispose of assets in order to become eligible for medical assistance under a State health program, if disposing of the assets results in the imposition of an ineligibility period for the individual.

Anti-Kickback Statute

It is a crime to knowingly and willfully solicit, receive, offer, or pay remuneration of any kind (*e.g.,* money, goods, services):

- For the referral of an individual to another for the purpose of supplying items or services that are covered by a Federal health care program; or
- For purchasing, leasing, ordering, or arranging for any good, facility, service, or item that is covered by a Federal health care program.

There are a number of limited exceptions to the law, also known as ''safe harbors,'' which provide immunity from criminal prosecution and which are described in greater detail in the statute and related regulations (found at 42 CFR 1001.952 and at www.hhs.gov/oig/ak/index.htm#OIG Safe Harbor Regulations). Current safe harbors include:

- Investment interests;
- Space rental;
- Equipment rental;
- Personal services and management contracts;
- Sale of practice;
- Referral services;
- Warranties;
- Discounts;
- Employment relationships;
- Waiver of Part A co-insurance and deductible amounts;
- Group purchasing organizations;
- Increased coverage or reduced cost sharing under a risk-basis or prepaid plan; and
- Charge reduction agreements with health plans.

Penalty for Unlawful Conduct

The penalty may include the imposition of a fine of up to $25,000, imprisonment of up to 5 years, or both. In addition, the provider can be excluded from participation in Federal health care programs. The regulations defining the aggravating and mitigating circumstances that must be reviewed by the OIG in making an exclusion determination are set forth in 42 CFR Part 1001.

Examples

1. Dr. X accepted payments to sign Certificates of Medical Necessity for durable medical equipment for patients she never examined.

2. Home Health Agency disguises referral fees as salaries by paying referring physician Dr. X for services Dr. X never rendered to Medicare beneficiaries or by paying Dr. X a sum in excess of fair market value for the services he rendered to Medicare beneficiaries.

Appendix C: Civil and Administrative Statutes

This Appendix contains a description of civil and administrative statutes related to fraud and abuse in the context of health care. The Appendix is not intended to be a compilation of all Federal statutes related to health care fraud and abuse. It is merely a summary of some of the more frequently cited Federal statutes.

I. The False Claims Act (31 U.S.C. 3729–3733)

Description of Unlawful Conduct

This is the law most often used to bring a case against a health care provider for the submission of false claims to a Federal health care program. The False Claims Act prohibits knowingly presenting (or causing to be presented) to the Federal Government a false or fraudulent claim for payment or approval. Additionally, it prohibits knowingly making or using (or causing to be made or used) a false record or statement to get a false or fraudulent claim paid or approved by the Federal Government or it agents, like a carrier, other claims processor, or state Medicaid program.

Definitions

False Claim—A false claim is a claim for payment for services or supplies that were not provided specifically as presented or for which the provider is otherwise not entitled to payment. Examples of false claims for services or supplies that were not provided specifically as presented include, but are not limited to:

- A claim for a service or supply that was never provided.
- A claim indicating the service was provided for some diagnosis code other than the true diagnosis code in order to obtain reimbursement for the service (which would not be covered if the true diagnosis code were submitted).
- A claim indicating a higher level of service than was actually provided.
- A claim for a service that the provider knows is not reasonable and necessary.
- A claim for services provided by an unlicensed individual.

Knowingly—To ''knowingly'' present a false or fraudulent claim means that the provider: (1) has actual knowledge that the information on the claim is false; (2) acts in deliberate ignorance of the truth or falsity of the information on the claim; or (3) acts in reckless disregard of the truth or falsity of the information on the claim. It is important to note the provider does not have to deliberately intend to defraud the Federal Government in order to be found liable under this Act. The provider need only ''knowingly'' present a false or fraudulent claim in the manner described above.

Deliberate Ignorance—To act in ''deliberate ignorance'' means that the provider has deliberately chosen to ignore the truth or falsity of the information on a claim submitted for payment, even though the provider knows, or has notice, that information may be false. An example of a provider who submits a false claim with deliberate ignorance would be a physician who ignores provider update bulletins and thus does not inform his/her staff of changes in the Medicare billing guidelines or update his/her billing system in accordance with changes to Medicare billing practices. When claims for non-reimbursable services are submitted as a result, the False Claims Act has been violated.

Reckless Disregard—To act in ''reckless disregard'' means that the provider pays no regard to whether the information on a claim submitted for payment is true or false. An example of a provider who submits a false claim with reckless disregard would be a physician who assigns the billing function to an untrained office person without inquiring whether the employee has the requisite knowledge and training to accurately file such claims.

Penalty for Unlawful Conduct

The penalty for violating the False Claims Act is a minimum of $5,000 up to a maximum of $10,000 for *each* false claim submitted. In addition to the penalty, a provider could be found liable for up to three times the amount unlawfully claimed.

Examples

- A physician and his oncology clinic knowingly submitted improper claims to Medicare and Medicaid for services rendered at the clinic by nonphysicians without a physician's supervision or attendance.

• Dr. X intentionally upcoded office visits and angioplasty consultations that were submitted for payment to Medicare.

• Dr. X, a podiatrist, knowingly submitted claims to the Medicare and Medicaid programs for non-routine surgical procedures when he actually performed routine, non-covered services such as the cutting and trimming of toenails and the removal of corns and calluses.

II. Civil Monetary Penalties Law (42 U.S.C. 1320a–7a)

Description of Unlawful Conduct

The Civil Monetary Penalties Law (CMPL) is a comprehensive statute that covers an array of fraudulent and abusive activities and is very similar to the False Claims Act. For instance, the CMPL prohibits a health care provider from presenting, or causing to be presented, claims for services that the provider ''knows or should know'' were:

• Not provided as indicated by the coding on the claim;

• Not reasonable or necessary;

• Furnished by a person who is not licensed as a physician (or who was not properly supervised by a licensed physician);

• Furnished by a licensed physician who obtained his or her license through misrepresentation of a material fact (such as cheating on a licensing exam);

• Furnished by a physician who was not certified in the medical specialty that he or she claimed to be certified in; or

• Furnished by a physician who was excluded from participation in the Federal health care program to which the claim was submitted.

Additionally, the CMPL contains various other prohibitions, including:

• Offering remuneration to a Medicare or Medicaid beneficiary that the person knows or should know is likely to influence the beneficiary to obtain items or services billed to Medicare or Medicaid from a particular provider; and

• Employing or contracting with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program.

The term ''should know'' means that a provider: (1) Acted in deliberate ignorance of the truth or falsity of the information; or (2) acted in reckless disregard of the truth or falsity of the information. The Federal Government does not have to show that a provider specifically intended to defraud a Federal health care program in order to prove a provider violated the statute.

Penalty for Unlawful Conduct

Violation of the CMPL may result in a penalty of up to $10,000 per item or service and up to three times the amount unlawfully claimed. In addition, the provider may be excluded from participation in Federal health care programs. The regulations defining the aggravating and mitigating circumstances that must be reviewed by the OIG in making an exclusion determination are set forth in 42 CFR Part 1003.

Examples

1. Dr. X paid Medicare and Medicaid beneficiaries $20 each time they visited him to receive services and have tests performed that were not preventive care services and tests.

2. Dr. X hired Physician Assistant P to provide services to Medicare and Medicaid beneficiaries without conducting a background check on P. Had Dr. X performed a background check by reviewing the HHS–OIG List of Excluded Individuals/Entities, Dr. X. would have discovered that he should not hire P because P is excluded for a period of 5 years from participation in Federal health care programs.

3. Dr. X and his oximetry company billed Medicare for pulse oximetry that they knew they did not perform and services that had been intentionally upcoded.

III. Limitations on Certain Physician Referrals (''Stark Laws'') (42 U.S.C. 1395nn)

Description of Unlawful Conduct

Physicians (and immediate family members) who have an ownership, investment or compensation relationship with an entity providing ''designated health services'' are prohibited from referring patients for these services where payment may be made by a Federal health care program unless a statutory or regulatory exception applies. An entity providing a designated health service is prohibited from billing for the provision of a service that was provided based on a prohibited referral. Designated health services include: clinical laboratory services; physical therapy services; occupational therapy services; radiology services, including magnetic resonance imaging, axial tomography scans, and ultrasound services; radiation therapy services and supplies; durable medical equipment and supplies; parenteral and enteral nutrients, equipment and supplies; prosthetics, orthotics, prosthetic devices and supplies; home health services; outpatient prescription drugs; and inpatient and outpatient hospital services.

New regulations clarifying the exceptions to the Stark Laws are expected to be issued by HCFA during the summer of 2000. Current exceptions articulated within the Stark Laws include the following, provided all conditions of each exception as set forth in the statute and regulations are satisfied.

Exceptions for Ownership or Compensation Arrangements

1. Physician's services;
2. In-office ancillary services; and
3. Prepaid plans.

Exceptions for Ownership or Investment in Publicly Traded Securities and Mutual Funds

1. Ownership of investment securities which may be purchased on terms generally available to the public;
2. Ownership of shares in a regulated investment company as defined by Federal law, if such company had, at the end of the company's most recent fiscal year, or on average, during the previous 3 fiscal years, total assets exceeding $75,000,000;
3. Hospital in Puerto Rico;
4. Rural provider; and
5. Hospital ownership (whole hospital exception).

Exceptions Relating to Other Compensation Arrangements

1. Rental of office space and rental of equipment;
2. Bona fide employment relationship;
3. Personal service arrangement;
4. Remuneration unrelated to the provision of designated health services;
5. Physician recruitment;
6. Isolated transactions;
7. Certain group practice arrangements with a hospital (pre-1989); and
8. Payments by a physician for items and services

Penalty for Unlawful Conduct

Violations of the statute subject the billing entity to denial of payment for the designated health services, refund of amounts collected from improperly submitted claims, and a civil monetary penalty of up to $15,000 for each improper claim submitted. Physicians who violate the statute may also be subject to additional fines per prohibited referral. In addition, providers that enter into an arrangement that they know or should know circumvents the referral restriction law may be subject to a CMP of up to $100,000 per arrangement.

Examples

1. Dr. A worked in a medical clinic located in a major city. She also owned a free standing laboratory located in a major city. Dr. A referred all orders for laboratory tests on her patients to the laboratory she owned.

2. Dr. X agreed to serve as the Medical Director of Home Health Agency, HHA for which he was paid a sum substantially above the fair market value for his services. In return, Dr. X routinely referred his Medicare and Medicaid patients to HHA for home health services.

3. Dr. Y received a monthly stipend of $500 from a local hospital to assist him in meeting practice expenses. Dr. Y performed no specific service for the stipend and had no obligation to repay the hospital. Dr. Y referred patients to the hospital for in-patient surgery.

IV. Exclusion of Certain Individuals and Entities From Participation in Medicare and Other Federal Health Care Programs (42 U.S.C. §1320a–7)

Mandatory Exclusion

Individuals or entities convicted of the following conduct must be excluded from participation in Medicare and Medicaid for a minimum of five years:

• A criminal offense related to the delivery of an item or service under Medicare or Medicaid;

• A conviction under Federal or State law of a criminal offense relating to the neglect or abuse of a patient;

• A conviction under Federal or State law of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct against a health care program financed by any Federal, State, or local government agency; or

• A conviction under Federal or State law of a felony relating to unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

If there is one prior conviction, the exclusion will be for 10 years. If there are two prior convictions, the exclusion will be permanent.

Permissive Exclusion

Individuals or entities may be excluded from participation in Federal health care programs for a minimum of 3 years if they meet any of the following criteria:

- A criminal offense related to the delivery of an item or service under Medicare or Medicaid;
- A misdemeanor related to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct against a health care program financed by any Federal, State, or local government agency;
- Interference with, or obstruction of, any investigation into certain criminal offenses;
- A misdemeanor related to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance;
- Exclusion or suspension under a Federal or State health care program;
- Submission of claims for excessive charges, unnecessary services or services that were of a quality which fails to meet professionally recognized standards of health care;
- Violating the CMP law or the statute entitled ''Criminal Penalties for Acts Involving Federal Health Care Programs'';
- Ownership or control of an entity by a sanctioned individual or immediate family member (spouse, natural or adoptive parent, child, sibling, stepparent, stepchild, stepbrother or stepsister, in-laws, grandparent and grandchild);
- Failure to disclose information required by law;
- Failure to supply claims payment information; and
- Defaulting on health education loan or scholarship obligations.

The above list is not all inclusive. Additional grounds for permissive exclusion are detailed in the statute.

Examples

1. Nurse R was excluded based on a conviction involving obtaining dangerous drugs by forgery. She also altered prescriptions that were given for her own health problems before she presented them to the pharmacist to be filled.

2. Practice T was excluded due to its affiliation with its excluded owner. The practice owner, excluded from participation in the Federal health care programs for soliciting and receiving illegal kickbacks, was still participating in the day-to-day operations of the practice after his exclusion was effective.

Appendix D: OIG–HHS Contact Information

I. OIG Hotline Number

One method for providers to report potential fraud, waste, and abuse problems is to contact the OIG Hotline number. All HHS and contractor employees have a responsibility to assist in combating fraud, waste and abuse in all departmental programs. As such, providers are encouraged to report matters involving fraud, waste and mismanagement in any departmental program to the OIG. The OIG maintains a hotline that offers a confidential means for reporting these matters.

Contacting the OIG Hotline

By Phone: 1–800–HHS–TIPS (1–800–447–8477)
By E–Mail: HTips@os.dhhs.gov
By Mail: Office of Inspector General
Department of Health and Human Services
Attn: HOTLINE,
330 Independence Ave., S.W.,
Washington, D.C. 20201

When contacting the Hotline, please provide the following information to the best of your ability:

- Type of Complaint:
  Medicare Part A
  Medicare Part B
  Indian Health Service
  TRICARE
  Other (please specify)
- HHS Department or program being affected by your allegation of fraud, waste, abuse/mismanagement:
  Health Care Financing Administration (HCFA)
  Indian Health Service
  Other (please specify)

Please provide the following information. (However, if you would like your referral to be submitted anonymously, please indicate such in your correspondence or phone call.)

Your Name
Your Street Address
Your City/County
Your State
Your Zip Code
Your email Address

- Subject/Person/Business/Department that allegation is against.
  Name of Subject
  Title of Subject
  Subject's Street Address
  Subject's City/County
  Subject's State
  Subject's Zip Code
- Please provide a brief summary of your allegation and the relevant facts.

II. Provider Self-Disclosure Protocol

The recommended method for a provider to contact the OIG regarding potential fraud or abuse issues that may exist in the provider's own organization is through the use of the Provider Self-Disclosure Protocol. This program encourages providers to voluntarily disclose irregularities in their dealings with Federal health care programs. While voluntary disclosure under the protocol does not guarantee a provider protection from civil, criminal or administrative actions, the fact that a provider voluntarily disclosed possible wrongdoing is a mitigating factor in OIG's recommendations to prosecuting agencies. Self-reporting offers providers the opportunity to minimize the potential cost and disruption of a full-scale audit and investigation, to negotiate a fair monetary settlement, and to avoid an OIG permissive exclusion preventing the provider from doing business with Federal health care programs. In addition, if the provider is obligated to enter into an Integrity Agreement (IA) as part of the resolution of a voluntary disclosure, there are three benefits the provider might receive as a result of self-reporting:

- If the provider has an effective compliance program and agrees to maintain its compliance program as part of the False Claims Act settlement, the OIG may not even require an IA;
- In cases where the provider's own audits detected the disclosed problem, the OIG may consider alternatives to the IA's auditing provisions. The provider may be able to perform some or all of its billing audits through internal auditing methods rather than be required to retain an independent review organization to perform the billing review; and
- Self-disclosing can help to demonstrate a provider's trustworthiness to the OIG and may result in the OIG determining that they can sufficiently safeguard the Federal health care programs through an IA without the exclusion remedy for a material breach, which is typically included in an IA.

Specific instructions on how to submit a voluntary disclosure under the Provider Self-Disclosure Protocol can be found on the OIG's internet site at www.hhs.gov/oig or in the **Federal Register** at 63 FR 58399.

The Provider Self-Disclosure Protocol can also be a useful tool for conducting baseline audits. The protocol details the OIG's views on the appropriate elements of an effective investigative and audit plan for providers. Physician practices can use the self-disclosure protocol as a model for conducting audits and self-assessments.

In relying on the protocol for audit design and sample selection, a physician practice should pay close attention to the sections on self-assessment and sample selection. These two sections provide valuable guidance regarding how these two functions should be performed.

The self-assessment section of the protocol contains information that can be applied to audit design. Self-assessment is an internal financial assessment to determine the monetary impact of the matter. The approach of a review can include reviewing either all claims affected or a statistically valid sample of the claims.

Sample selection must include several elements. These elements are drawn from the Government sampling program known as RAT–STATS.[1] All of these elements are set forth in more detail in the Provider Self-Disclosure Protocol, but the elements include: (1) Sampling unit, (2) sampling frame, (3) probe sample, (4) sample size, (5) random numbers, (6) sample design and (7) missing sample items. All of these sampling elements should be clearly documented by the physician practice and compiled in the format set forth in the Provider Self-Disclosure Protocol. Use of the format set forth in the Provider Self-Disclosure Protocol will help physician practices to ensure that the elements of their internal audits are in conformance with OIG standards.

[1] Available through the OIG website at http://www.hhs.gov/oas/ratstat.html.

III. Advisory Opinion Requests

Health care professionals or others may request an advisory opinion from OIG on the following issues:

- What constitutes prohibited ''remuneration'' or payment under the anti-kickback statute;
- Whether the arrangement or proposed arrangement fits into a safe harbor to the anti-kickback statute;
- What constitutes an inducement to reduce or limit services to Medicare/Medicaid beneficiaries; and
- Whether any activity or proposed activity constitutes grounds for the imposition of fraud and abuse sanctions.

The OIG issues Advisory Opinions on specific existing or proposed arrangements in which the requesting party is engaged or in good faith intends to engage; the OIG does not issue Advisory Opinions on hypothetical arrangements. Advisory Opinions will not be issued on questions of fair market value or whether an individual is a bona fide employee. Advisory Opinions will be binding only on the requesting party and the OIG. Failure to seek an Advisory Opinion is not admissible as evidence of intent to violate the law.

Procedures for requesting an Advisory Opinion are available on the OIG website at www.hhs.gov/oig or at 42 CFR 1008.1 through 1008.59.

Appendix E: Carrier Contract Information

Medicare

A complete list of contact information (address, phone number, email address) for Medicare Part A Fiscal Intermediaries, Medicare Part B Carriers, Regional Home Health Intermediaries, and Durable Medical Equipment Regional Carriers can be found on the HCFA website at www.hcfa.gov/medicare/incardir.htm.

Medicaid

Contact information (address, phone number, email address) for each state Medicaid carrier can be found on the HCFA website at www.hcfa.gov/medicaid/mcontact.htm. In addition to a list of Medicaid carriers, the website includes contact information for each State survey agency and the HCFA Regional Offices.

Contact information for each state Medicaid Fraud Control Unit can be found on the OIG website at www.hhs.gov/oig/oi/mfcu/index.htm.

Appendix F: Internet Resources

Office of Inspector General—U.S. Department of Health and Human Services (www.hhs.gov/oig)

This website includes a variety of information relating to Federal health care programs, including the following:

Advisory Opinions
Anti-Kickback Information
Compliance Program Guidance
Corporate Integrity Agreements
Fraud Alerts
Links to web pages for the:
  Office of Audit Services (OAS)
  Office of Evaluation and Inspections (OEI)
  Office of Investigations (OI)
OIG List of Excluded Individuals/Entities
OIG News
OIG Regulations
OIG Semi-Annual Report
OIG Workplan

Health Care Financing Administration (www.hcfa.gov)

This website includes information on a wide array of topics, including the following:

Medicare
  National Correct Coding Initiative
  Intermediary-Carrier Directory
  Payment
  Program Manuals
  Program Transmittals & Memorandum
  Provider Billing/HCFA Forms
  Statistics and Data
Medicaid
  HCFA Regional Offices
  Letters to State Medicaid Directors
  Medicaid Hotline Numbers
  Policy & Program Information
  State Medicaid Contacts
  State Medicaid Manual
  State Survey Agencies
  Statistics and Data

HCFA Medicare Training (www.medicaretraining.com)

This site provides computer-based training on the following topics:

HCFA 1500 Form
Fraud & Abuse
ICD–9–CM Diagnosis Coding
Adult Immunization
Medicare Secondary Payer (MSP)
Women's Health
Front Office Management
Introduction to the World of Medicare
Home Health Agency
HCFA 1450 (UB92)

Government Printing Office (www.access.gpo.gov)

This site provides access to Federal laws and regulations pertaining to Federal health care programs.

The U.S. House of Representatives Internet Library (uscode.house.gov/usc.htm)

This site provides access to the United States Code, which contains laws pertaining to Federal health care programs.

[FR Doc. 00–14703 Filed 6–9–00; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6). Title 5 U.S.C., amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Cancer Education Grant (R25 application).

Date: June 28, 2000.

Time: 4 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Kaleidoscope Room, 2101 Wisconsin Ave, NW, Washington, DC 20007.

Contact Person: David E. Maslow, PhD, Scientific Review Administrator, Grants Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard—Room 8054, Bethesda, MD 20892–7405, 301/496–2330.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 5, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–14745 Filed 6–9–00; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

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 interpretation of other reasonable accommodations, should

notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: June 22, 2000.

Time: 8:30 AM to 6:00 PM.

Agenda: Report of the Director, NCI; Ongoing and New Business, Special Initiative Updates, Budget Presentation, and RFA Concept Reviews.

Place: 900 Rockville, Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, PhD, Executive Secretary, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Rm. 8141, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to scheduling changes.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 2, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–14747 Filed 6–9–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given to the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, National Cooperative Drug Discovery Group.

Date: June 7–9, 2000.

Time: 7:00 PM to 5:00 PM

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Park, Gaithersburg, MD 20877.

Contact Person: C.M. Kerwin, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8086, Rockville, MD 20892–7405, 301/496–7421.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 2, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–14748 Filed 6–9–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: June 19, 2000.

Time: 1 pm to 4 pm.

Agenda: To review and evaluate contract proposals.

Place: 6700B Rockledge Drive, Room 2148, Bethesda, MD 20817. (Telephone Conference Call)

Contract Person: Hagit S. David, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610, 301–496–2550.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 2, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–14746 Filed 6–9–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Antagonists of the $\alpha^E\beta_7$ Integrin as Therapeutic Agents for Inflammatory Diseases

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. § 209 (c) (1) and 37 CFR § 404.7 (a) (1) (i), that the National Institutes of Health, Department of Health and Human Services is contemplating the grant of an exclusive license to practice the inventions embodied in PCT Patent Application S/N PCT/US99/27817 (filed November 23, 1999) based on U.S. Patent Application 60/109,957 (filed November 25, 1998), entitled ''Antagonists of the $\alpha^E\beta_7$ Integrin as Therapeutic Agents for Inflammatory Diseases'', to BioSeek, Inc., having a place of business in San Francisco, CA. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license territory will be worldwide and the field of use may be limited to $\alpha^E\beta_7$-related human therapeutics for the treatment of inflammatory diseases.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before August 11, 2000 will be considered.

ADDRESSES: Requests for copies of the patent, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Vasant Gandhi, J.D., Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard,

Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, X224; Facsimile (301) 402–0220; E-mail vg48q@nih.gov.

SUPPLEMENTARY INFORMATION: The pathogenesis of inflammatory reactions may depend upon the traffic of inflammatory mediating cells from sites of induction to sites of inflammation. This trafficking is known to be mediated, in part, by the interaction of the integrin, $\alpha^4\beta_7$, and the addressin, mucosa adressin cell adhesion molecule-1. This homing, which governs the entry of cells into tissues, is accompanied by additional adhesion molecule-ligand interactions that ensure the retention of cells in the target tissue.

The inventors believe the integrin, $\alpha^E\beta_7$, may play a role in retaining intraepithelial lymphocytes in the intraepithelial site via its interaction with E-cadherin. Experiments have shown in IL–$2^{-/-}$ mice, that administration of anti-$\alpha^E\beta_7$ can prevent colonic inflammation and reverse pre-existing inflammation. This data is important because it strongly suggests that both entry and retention of cells are necessary for the induction and maintenance of colitis in these IL–$2^{-/-}$ mice. The present technology relates to methods for treating inflammatory reactions for but not necessarily limited to: autoimmune diseases, graft-versus-host disease and transplantation rejections.

The prospective exclusive license: will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. § 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. § 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. § 552.

Dated: June 1, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 00–14749 Filed 6–9–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4560–C–08]

FY 2000 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development and Empowerment Programs and Section 8 Housing Voucher Assistance; Amendment to Funding Availability Announcement for Economic Development Initiative (EDI); Extension of Application Due Date for Regional Economic Development Projects

AGENCY: Office of the Secretary, HUD.

ACTION: Super Notice of Funding Availability (SuperNOFA) for HUD Grant Programs; Amendment to EDI Announcement—Extension of EDI Regional Application Due Date.

SUMMARY: On February 24, 2000, HUD published its Fiscal Year (FY) 2000 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development, and Empowerment Programs and Section 8 Housing Voucher Assistance. This document extends the application due date to apply for funding for regional economic development projects under the Economic Development Initiative (EDI). This application due date extension is only for the regional economic development project applications.

DATES: The application due date for EDI regional economic development projects applications is extended by this notice to July 14, 2000.

FOR FURTHER INFORMATION CONTACT: You may contact either Tony Johnston or Paul Webster of the Office of Economic Development Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7136, Washington, DC 20410; telephone (202) 708–1871 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339. You may also call the SuperNOFA Information Center, which you may reach by calling 1–800–HUD–8929 or the Center's TTY number at 1–800–HUD–2209. Other than the ''800'' number, these numbers are not toll-free.

SUPPLEMENTARY INFORMATION: On February 24, 2000 (65 FR 9322), HUD published its Fiscal Year (FY) 2000 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development, and Empowerment Programs and Section 8 Housing Voucher Assistance. The FY 2000 SuperNOFA announced the availability of approximately $2.424 billion in HUD program funds covering 39 grant categories within programs operated and administered by HUD offices and Section 8 housing voucher assistance. The FY 2000 SuperNOFA included HUD's funding availability announcement for the Economic Development Initiative (EDI). The EDI section of the SuperNOFA announced the availability of approximately $24.1 million in EDI funds to stimulate economic development by local governments and private sector parties.

This document extends the application due date to apply for funding for regional economic development projects under the Economic Development Initiative (EDI) to July 14, 2000. This application due date extension is only for regional economic development project applications. It has been brought to HUD's attention that the amount of time necessary to collect and compile the information necessary for a regional economic development project application is more time consuming than that required for general economic development project applications. Accordingly, HUD is providing additional time to prepare and submit regional economic development project applications. (Please note that the EDI application due was extended previously to June 13, 2000, for all applications by notice published in the **Federal Register** on May 9, 2000 (65 FR 26844).)

Please note that applicants that already submitted applications for regional economic development projects by the June 13, 2000, application due date, need not resubmit a new application and need not amend their applications. Applicants that already submitted applications for regional economic development projects, however, may submit new or amended applications if they choose to do so. Applicants that already submitted applications and plan to submit new or amended applications should clearly identify whether the information submitted is new and replaces a previously submitted application in its entirety or is an addendum or amendment to the previously submitted application.

The funding availability announcement for EDI is found at page 9787 of the February 24, 2000 SuperNOFA. The original announcement contains all the information with respect to EDI application contents and where to submit EDI applications. This notice only provides the extended due date for

regional economic development project applications.

Therefore, in the Super Notice of Funding Availability for Housing, Community Development, and Empowerment Programs and Section 8 Housing Voucher Assistance for Fiscal Year 2000, notice document 00–4123, beginning at 65 FR 9322, in the issue of Friday, February 24, 2000, the following clarification is made:

Economic Development Initiative (EDI) Section, Beginning at 65 FR 9789

• On page 9789, in the first column, continuing to the second column, under Section I, the paragraphs concerning ''Application Deadline'' under the Program Overview and ''Application Due Date'' under Section I of the Additional Information are corrected to read as follows:

Application Deadline. July 14, 2000, for the regional economic development project applications, and June 13, 2000, for general economic development project applications.

* * * * *

Application Due Date. Please submit your completed applications (one original and two copies) for general economic development project(s) on or before 12:00 midnight, Eastern time, on June 13, 2000, to the addresses shown below. Please submit your completed applications (one original and two copies) for regional economic development project(s) on or before 12:00 midnight, Eastern time, on July 14, 2000.

Applicants that already submitted applications by the June 13, 2000, application due date need not resubmit a new application and need not amend their applications. Applicants that already submitted applications, however, may submit new or amended applications if they choose to do so.

Applicants that submit new or amended applications should clearly identify whether the information submitted is new and replaces a previously submitted application in its entirety or is an addendum or amendment to the previously submitted application.

Dated: June 7, 2000.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 00–14852 Filed 6–8–00; 2:32 pm]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4581–C–02]

FY 2000 NOFA for the Assisted Living Conversion Program (ALCP) for Section 202 Projects; Technical Correction

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability (NOFA); technical correction.

SUMMARY: This document makes certain technical corrections to the FY 2000 NOFA for the Assisted Living Conversion Program (ALP) for Section 202 Projects, published on March 17, 2000.

DATES: The application due date for this NOFA, as published on March 17, 2000, is not changed by this notice. The application due date is July 17, 2000.

FOR FURTHER INFORMATION, CONTACT: You should contact the lead Multifamily Hub where you will be mailing your ALCP Application. (Please refer to Hub telephone numbers in Appendix B to the March 17, 2000, ALCP NOFA, published at 65 FR 14705.)

You also may contact Aretha Williams, Housing Project Manager, Office of Housing Assistance and Grant Administration, Room 6138, at (202) 708–2866 x2480, for questions regarding the physical conversion of the ALF. Ms. Williams can be reached, also by e:mail, at ''aretha_m._williams@hud.gov''. For questions about management of the ALF and coordination with agencies of the Department of Health and Human Services and other third parties, you may contact Carissa Janis, Housing Project Manager, Office of Housing Assistance and Grant Administration, Room 6168 at (202) 708–3730 x2487. Ms. Janis may be reached also by e:mail at ''carissa_l._janis@hud.gov''. Both Ms. Williams and Ms. Janis are located at the Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Please note that the above-listed telephone numbers are not toll free numbers.

If you have a hearing or speech impairment, you may access either telephone number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION

I. Background

On March 17, 2000 (65 FR 14694), HUD published the NOFA for ALCP for Section 202 Projects which announced the availability of $50,000,000 for the physical conversion of Section 202 projects or portions of Section 202 projects to Assisted Living Facilities. The purpose of this document is to correct certain technical errors that appeared in the published NOFA.

Technical Errors To Be Corrected

The page numbers referred to in this notice refer to **Federal Register** page numbers.

On page 14694, second column, under the fourth full paragraph, which addresses Application Kits, HUD failed to include the toll free TTY number and to indicate that application kits for the ALCP NOFA and the Service Coordinators NOFA are available on the Internet. The TTY number and a statement that both application kits are available on the Internet are included by this document.

On page 14696, second column, under the sixth full paragraph, which identifies contact persons for technical assistance, HUD is correcting the name of the office of the contact persons and replacing the name of one of the contact persons.

On page 14696, second column, the paragraph designated ''(14)'' is revised by adding a new sentence to the end of the first full paragraph of paragraph (14) to clarify that a Section 202/PRAC project is not eligible to request funding under the NOFA for Service Coordinators for Multifamily Housing, published also on March 17, 2000 (65 FR 14708), because the Section 202/PRAC project may pay for the service coordinator out of PRAC funds.

On page 14699, third column, the first full paragraph under ''Rating Factor 1,'' contains an incorrect cross reference to other sections of the NOFA and this reference is corrected by this document.

On page 14699, third column, the last paragraph in that column which continues on page 14700, contains an incorrect cross reference to other sections of the NOFA and this reference is corrected by this document.

On page 14700, first column, the first full paragraph under Rating Factor 3, contains an incorrect cross-reference to other sections of the NOFA, and the reference is corrected by this document.

On page 14700, second column, the second full paragraph under Rating Factor 4 contains an incorrect cross-reference to other sections of the NOFA and the reference is corrected by this document.

On page 14700, third column at the top, the paragraph designated ''(3)'' under Rating Factor 4 contains an incorrect point assignment where the

answer is ''yes'' and this is corrected by this document.

On page 14700, third column, the first paragraph under Rating Factor 5 contains an incorrect cross-reference to other sections of the NOFA, and the reference is corrected by this document.

On page 14700, third column, in the paragraph designated ''(1)'' under Rating Factor 5, the parenthetical phrase (including minority residents) is added to relate application submission requirements to the appropriate Rating Factor.

On page 14700, third column, in the paragraph designated ''(3)'' under Rating Factor 5, the phrase ''the community at large and with the minority and elderly communities in particular'' is added to relate application submission requirements to the appropriate Rating Factor.

On page 14702, first column, the paragraph designated ''paragraph (8)'' contains an incorrect cross-reference to another section of the NOFA and the reference is corrected.

On page 14702, second column, a new sentence is added at the end of paragraph (b) to require the applicant to also indicate how the applicant intends to pay for the service coordinator role.

On page 14704, third column, paragraph (b) of Appendix A is corrected to add ''Birmingham'' to the list of HUD Field Offices which will submit applications to HUD's Greensboro Hub.

Accordingly, in the FY 2000 NOFA for Assisted Living Conversion Program (ALCP) for Section 202 Projects, notice document 00–6572, beginning at 65 FR 14694, in the issue of Friday, March 17, 2000, the following corrections are made:

1. On page 14694, second column, the paragraph titled ''For Application Kits'' is corrected to read as follows:

For Application Kits. You may obtain an ALCP application kit and supplemental information by calling either the Multifamily Housing Clearinghouse at (voice) 1–800-MULTI–70 (1–800–685–8470). Persons with hearing or speech impairments may call the Clearinghouse's TTY number—1–800–483–2209. There is a separate application kit for service coordination information (which is necessary for those needing to enhance or add service coordination per Section III(A)(14) of this NOFA). Please make sure to provide your name, address (including zip code), and telephone number (including area code). The application kit is also available on the Internet through the HUD web site at http://www.hud.gov.

2. On page 14694, second column, the paragraphs titled ''For Further Information and Technical Assistance'' are corrected to read as follows:

For Further Information and Technical Assistance. You should contact the lead Multifamily Hub where you will be mailing the ALCP Application. (Please refer to Hub telephone numbers in Appendix B).

You also may contact Aretha Williams, Housing Project Manager, Office of Housing Assistance and Grant Administration, Room 6138, at (202) 708–2866 x2480, for questions regarding the physical conversion of the ALF. Ms. Williams can be reached, also by e:mail, at ''aretha_m._williams@hud.gov''. For questions about management of the ALF and coordination with agencies of the Department of Health and Human Services and other third parties, you may contact Carissa Janis, Housing Project Manager, Office of Housing Assistance and Grant Administration, Room 6168 at (202) 708–3730 x2487. Ms. Janis may be reached also by e:mail at ''carissa_l._janis@hud.gov''. Both Ms. Williams and Ms. Janis are located at the Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. (The telephone numbers listed in this paragraph are not toll free.)

3. On page 14696, second column, ''paragraph (14)'' is corrected to read as follows:

(14) The ALCP requires service coordination responsible for linking the ALF to services in the community which are available to low income persons. All section 202 projects funded under this NOFA must have sufficient service coordination in place, or request additional funds if appropriate, to ensure that services meeting licensing requirements are available to ALF residents on an ongoing basis. Service coordination must be described in the application (see Section VI(B)(8)(b) through (c) of this NOFA). If you need to enhance an existing service coordination program or add one where it does not exist, you must apply for funding through the Service Coordinator NOFA, published elsewhere in this edition of the **Federal Register**, and attach a copy of the Form HUD 424M so indicating the request to the ALCP application. Alternatively, you may show evidence that funding for the enhanced service coordination is provided by other sources and indicate such funding on the HUD Form 424M which is exhibit 10(c) of your ALF application. If you are funded under this NOFA and requested new or enhanced service coordination in this application, you will be funded first under the service coordinator NOFA.

Note: If you are a Section 202/PRAC project, you are NOT eligible to request funding under the service coordinator NOFA because you can pay for the service coordinator out of PRAC funds.

4. On page 14699, third column, the first full paragraph under ''Rating Factor 1'' is corrected to read as follows:

This factor addresses your capacity to carry out the conversion in a timely, cost-conscious and effective manner. It also reviews your experience with the supportive services which the ALF intends to provide to elderly residents, especially in such areas as meals, 24-hour staffing and on-site health care. Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(5)(a), (8)(h), and (2)(d) of this NOFA.

5. On page 14699, third column, the last paragraph in that column which continues on page 14700 is corrected to read as follows:

The factor also addresses your inability to fund the repairs or conversion activities from existing financial resources. In making this determination, HUD will consider project financial information. The Department will also review more favorably those applications which establish a connection between the proposed ALF and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization. Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(4)(a) through (d), (2)(c) and (9)(a) through (c) of the NOFA. In evaluating this factor, HUD will consider: * * *

6. On page 14700, first column, the first full paragraph under Rating Factor 3 is corrected to read as follows:

This factor addresses the quality and effectiveness of your proposal in addressing the proposed conversion, effectiveness of service coordination and management planning and the meals and supportive services which the ALF intends to provide. There must be a relationship between the proposed activities, the project's and the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(5)(b) through (e), and (h) and (7) and (B)(8))(a) through (e) and (g) and (h) of this NOFA.

7. On page 14700, second column, the second full paragraph under Rating Factor 4 is corrected to read as follows:

Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(5)(f),(g), and (B)(8)(f) of this NOFA.

8. On page 14700, third column at the top, the paragraph designated ''paragraph (3)'' under Rating Factor 4 is corrected to read as follows:

(3) (2 points) The extent of local organizational support which is firmly committed to providing funds for additional repair or retrofit necessary for the project NOT specifically directed to activities eligible under this NOFA (consider yes = 2 point, no = 0 points).

9. On page 14700, third column, the first paragraph under Rating Factor 5 is corrected to read as follows:

This factor addresses the extent to which you have evidenced general support for conversion by participating in your

community's Consolidated Planning Process, involving the residents in the planning and are working toward addressing the need in a holistic and comprehensive manner through linkages with other activities in the community. Submit information responding to this factor in accordance with Application Submission Requirements in Section VI(B)(2)(a) through (d) of this NOFA.

10. On page 14700, third column, the paragraph designated ''(1)'' under Rating Factor 5, is corrected to read as follows:

(1) (3 points) The involvement of project residents (including minority residents) or their representatives, in the development of the ALCP application, and your intent to involve residents, in the development and operation of the project and in relocation planning (Minus one (-1) point if not addressed);

11. On page 14700, third column, the paragraph designated ''(3)'' under Rating Factor 5 is corrected to read as follows:

(3) (1 point) The extent to which you developed linkages with the community at large and the elderly and minority communities in particular and with other activities, programs or projects related to the proposed project to coordinate your activities so solutions are holistic and comprehensive.

12. On page 14702, first column, the paragraph designated ''paragraph 8'' is corrected to read as follows:

(8) A supportive services plan (SSP), a copy of which must be submitted to the appropriate state and/or local agency as instructed in Section IV(B) of this NOFA. For those applicants needing to contact state Medicaid offices, a list of them may be accessed on the Internet at ''www.hcfa.gov/medicaid/scon1.htm''. The fifth character from the end is the numeral ''1'', not the letter ''l'' that includes: * * *

13. On page 14702, second column, the paragraph designated ''(b)'' is corrected to read as follows:

(b) A description of how you will provide the supportive services to those who are frail and have disabilities (i.e., on or off-site or combination of on or off-site), including an explanation of how the service coordination role will facilitate the adequate provision of such services to ALF residents, and how the services will meet the identified needs of the residents. Also indicate how you intend to fund the service coordinator role.

14. On page 14704, third column, paragraph (b) of Appendix A is corrected to read as follows:

(b) Applicants required to submit applications to the Greensboro Hub are normally serviced by the Greensboro, Columbia, Atlanta, Caribbean, Knoxville, Louisville, Nashville, Jacksonville, Miami, Jackson, Birmingham, Ft. Worth, Albuquerque, Dallas, Houston, Little Rock, New Orleans, San Antonio, and Shreveport Field Offices.

Dated: June 2, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–14520 Filed 6–9–00; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–000–1430–EQ; AZA 25117]

Arizona: Expiration of Segregative Effect, and Opening Order for Proposed Airport Lease AZA 25117, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: This action recognizes the expiration of the segregative effect as of August 20, 1998, on the following described public lands in La Paz County, Arizona. The land is hereby opened to the operation of the public land laws, including location and entry under mining laws, subject to valid existing rights.

Gila and Salt River Meridian, Arizona

T. 4 N., R. 18 W.,
Sec. 19, those lands south of Interstate 10 within lot 4, SE¼SW¼, SE½SE¼;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½.

The area described contains approximately 1, 380 acres, more or less.

EFFECTIVE DATE: June 12, 2000.

FOR FURTHER INFORMATION CONTACT: Lucas Lucero, Realty Specialist, Yuma Field Office, 2555 E. Gila Ridge Road, Yuma, Arizona 85365, or (520) 317–3237.

SUPPLEMENTARY INFORMATION: The segregative effect for Airport Lease Application AZA 25117, was made on August 19, 1993; August 24, 1994; August 29, 1995; and August 21, 1997. The segregation was made pursuant to the Act of May 24, 1928 (49 U.S.C. Appendices 211–213) as amended by the Act of August 16, 1941 (55 Stat. 621).

The segregative effect is hereby terminated for all public lands encumbered by Airport Lease Application AZA 25117.

At 9 a.m. on June 12, 2000, the land encumbered by Airport Lease Application AZA 25117, will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on (date of publication), shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: June 6, 2000.

Mervin Boyd,

Assistant Field Manager, Yuma.

[FR Doc. 00–14715 Filed 6–9–00; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–020–1210–00]

Notice of Availability of the Decision Record and Plan Amendment Addressing Management for Bureau of Reclamation Withdrawn Lands Restored to Bureau of Land Management Jurisdiction in the Cody Field Office Planning Area, and Notice of Off-road Vehicle (ORV) Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM), Cody Field Office, announces the availability of a decision record and plan amendment addressing the management of approximately 149,783.31 acres of Federal lands in Park and Big Horn counties of Wyoming. The lands were formerly withdrawn for use by the Bureau of Reclamation and have been restored to BLM jurisdiction in the Cody Field Office Planning Area. The BLM is also providing Notice of ORV Designations affecting these Federal lands.

The decision record includes a general management plan which amends the 1990 Cody Resource Management Plan (RMP). The general management plan is adopted as the management prescription for the formerly withdrawn Federal lands

which have been restored to BLM jurisdiction. (The decision record describes these as restored lands). The process used in developing the plan amendment involved the publication of an Environmental Assessment (EA) (WY–020–EA9–126) in September 1999 to document the review of existing planning decisions in the 1990 Cody RMP. The purpose of that review was to determine (1) Which of the decisions would apply to the restored lands; (2) whether any decisions would need to be deferred because further analysis was needed before RMP decisions could be applied or made for any of the restored lands; and (3) whether it would be necessary to pursue new withdrawals to protect specific resources on any of the restored lands. By virtue of the former Bureau of Reclamation withdrawals, the lands have remained closed to surface entry and (or) mining, prohibiting activities such as desert land entry, the transfer of public lands through sale or exchange, and the staking and development of mining claims for locatable minerals. In addition, a moratorium on leasing Federal minerals on the restored lands was enacted by the Wyoming BLM State Director, pending completion of the planning review and the establishment of multiple-use management decisions for the restored lands.

The planning review determined that there was sufficient National Environmental Policy Act analysis, as documented in the 1990 Environmental Impact Statement for the Cody RMP and the September 1999 EA, to adopt existing Cody RMP decisions for the restored lands. The review further established that, generally, the lands will be opened to surface entry and (or) mining through the publication of ''opening orders'' in the **Federal Register**, but that new closures will be pursued on about 651.83 acres to provide for expansion of the Park County Landfill and to protect public safety, scenic resources, and recreational opportunities. With the publication of the decision record and RMP amendment, the moratorium on leasing Federal minerals on the restored lands has been lifted.

The decision record also puts applicable restored lands in the Rivers and Historic Trails Special Recreation Management Areas (SRMAs). Public lands within these SRMAs will be managed intensively for recreational use. The remaining restored lands are included within the Cody Planning Area extensive recreation management area. ORV Designations have been adopted, as well, and are described under **SUPPLEMENTARY INFORMATION** in this notice.

FOR FURTHER INFORMATION CONTACT: Tom Hare, Assistant Field Manager, Bureau of Land Management, Cody Field Office, P.O. Box 518, Cody, Wyoming 82414–0518, or call (307) 587–2216.

SUPPLEMENTARY INFORMATION: EA WY–020–EA9–126 was available for a formal 30-day review and protest period during September and October 1999. For 60 days ending on November 8, 1999, the public also had an opportunity to comment on potential Areas of Critical Environmental Concern (ACEC). The State of Wyoming participated in a 60-day Governor's consistency review during the same period. Six comment letters addressing 33 concerns were received and were carefully considered in developing the decision record. There were no protests received, nor any comments, on potential ACEC. Comments received on the EA resulted in a number of changes, additions, and clarifications reflected in the decision record and plan amendment.

The plan amendment includes the following ORV Designations: Vehicle use on the restored lands is limited to designated roads and trails in the following areas: (1) Essential and recovery habitat for threatened or endangered species, (2) areas with fragile soils or with Class I or II visual resource management ratings, and (3) areas containing significant cultural or paleontological resources. In the remainder of the planning area, ORV use on BLM-administered public land is limited to existing roads and trails. ''Existing'' roads and trails are roads and trails in existence as of the date the decision record was signed (March 3, 2000) and any BLM-authorized roads and trails constructed after that date. Until activity planning specifically addresses the use of over-the-snow vehicles, they will be subject to the same requirements and limitations as all other vehicles.

Parties who are interested in, and who wish to be involved in, future activity planning and implementation of management actions that may involve, or affect, the resource values addressed in the Cody RMP (including the RMP amendment for the restored lands) are requested to identify themselves. Please contact the Cody Field Office and request to be placed on a future contact list for activity planning and implementation activities concerning the Cody RMP.

Dated: June 5, 2000.

Alan R. Pierson,

State Director.

[FR Doc. 00–14786 Filed 6–9–00; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Completion of an Environmental Assessment on Exploration, Development, and Production Operations and Activities in the Deepwater Gulf of Mexico Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Completion of an environmental assessment.

SUMMARY: The Minerals Management Service (MMS) has completed an environmental assessment (EA) on exploration, development, and production activities in the deepwater areas (generally beyond 1,000 feet water depth) of the Gulf of Mexico (GOM) Outer Continental Shelf (OCS). The MMS is mandated to manage the development of OCS oil and natural gas resources, while also ensuring safe operations and protection of the human and natural environment. To meet these objectives, MMS has used the National Environmental Policy Act (NEPA) process as a planning tool to assist in managing these activities and assure appropriate environmental reviews. The findings of the EA are summarized below.

Based on the information and analyses in the EA, MMS has determined that a programmatic Environmental Impact Statement (EIS) on regional deepwater activities on the Gulf of Mexico OCS is not required. Most deepwater operations and activities are substantially the same as those associated with conventional operations and activities on the continental shelf. These deepwater components and activities include anchoring, mooring, stationkeeping, most drilling and well completion activities (the exceptions are discussed below), well test and cleanup operations, flaring/burning, facility installation and production operations, host facilities, pipeline installation and operations, alternative transportation options, operational emissions, routine produced-water discharges, support service activities, decommissioning, and site clearance. Existing NEPA documents, established project-specific and programmatic NEPA review

processes, and established mitigation measures are fully sufficient to address these deepwater components and associated activities.

Specific deepwater operations and activities that are substantially different from those associated with conventional operations and activities on the continental shelf have been addressed by requiring specific mitigation measures, initiating a more in-depth EA, and initiating an EIS.

Seafloor discharges from pre-riser and riserless drilling operation, and the discharge of synthetic-based drilling fluids (SBF) and cuttings wetted with SBF may pose potentially significant localized impacts to chemosynthetic communities. An appropriate mitigation measure has been developed to avoid or reduce the potential for significant impacts from these factors. Deepwater wells must be at least 1,000 ft away from any potential high-density chemosynthetic communities. Notice to Lessees (NTL) 98–11 is being modified to include this 1,000 ft buffer zone around all deepwater well sites. As the NTL goes through the formal review and implementation process, this mitigation is currently being applied on a site-by-site basis. Accidental spills of chemical products and the subsea release of oil are low-probability events. Extensive mitigation measures for spill prevention and response are currently required.

Deepwater seismic surveying operations are essentially the same as seismic surveying operations on the continental shelf. Historically, the potential impacts of noise associated with seismic surveying have been considered insignificant, and the EA supports this view. As this position has recently become controversial, the potential impacts of geological and geophysical (G&G) activities, including seismic surveying operations, on the GOM OCS are currently being analyzed in detail in a separate EA. The decision on the need to prepare an EIS on seismic surveying operations is pending completion of the G&G EA.

The use of floating production, storage, and offloading (FPSO) systems represents new and unusual technology for the GOM OCS and may pose potentially significant impacts to the marine and coastal environments. The need for an EIS was recognized early during the preparation of this EA. A Notice of Intent to Prepare an EIS was published in the **Federal Register** on June 10, 1999.

Copies of the EA are available from the Public Information Office (MS 5034), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 by asking for publication MMS 2000–001. Copies of the Technical Report (OCS Report MMS 2000–015) prepared in support of the EA will also be available in mid-July 2000. Both the EA and the Technical Report will eventually be available on CD and will be placed on the MMS website http://www.mms.gov.

FOR FURTHER INFORMATION: Questions regarding the EA should be directed to Ms. Deborah Cranswick, Leasing and Environment, at (504) 736–2744. Questions regarding deepwater operations should be directed to Mr. Jim Regg, Field Operations, at (504) 736–2843. The mailing address is Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Dated: June 6, 2000.

J. Hammond Eve,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 00–14738 Filed 6–9–00; 8:45 am]

BILLING CODE 4310–MR–U

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[FES 00–20]

Woodbridge Irrigation District and City of Lodi's Lower Mokelumne River Restoration Program, San Joaquin County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the final environmental impact report/environmental impact statement (Final EIR/EIS).

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation), Woodbridge Irrigation District (WID), and the City of Lodi have prepared a joint final EIR/EIS for the Lower Mokelumne River Restoration Program (LMRRP). The LMRRP encompasses an area located in northern San Joaquin County along the lower Mokelumne River between Camanche Dam and the Mokelumne and Cosumnes Rivers. The Proposed Project comprises four elements: Improving fish passage at Woodbridge Dam, upgrading the fish screen at the WID diversion, placing screens on unscreened or underscreened riparian diversions on the Mokelumne River between Camanche Dam and the Cosumnes Rivers on a voluntary basis, and restoring riparian vegetation along the Mokelumne River. The final EIR/EIS describes and presents the environmental effects of the four elements of the program. The first two elements are addressed at a project level in this final EIR/EIS, including five fish passage alternatives and five optional fish passage actions. The remaining two elements are addressed at a programmatic level. The preferred alternative is to construct a new dam and new fish-passage facilities, and includes optional actions to improve predator control below the dam, move the WID diversion point to just upstream of the dam, and construct a downstream splash pool.

DATES: Reclamation will not make a decision on the proposed action until after Endangered Species Act (ESA) compliance has been completed. After ESA compliance has been completed, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

ADDRESSES: Copies of the final EIR/EIS may be requested from Mr. Anders Christensen, Woodbridge Irrigation District, 18777 N. Lower Sacramento Road, Woodbridge, California 95258, or Mr. Buford Holt, Bureau of Reclamation, 16349 Shasta Dam Boulevard, Shasta Lake, California 96019.

See **SUPPLEMENTARY INFORMATION** section for locations where copies of the final EIR/EIS are available for public inspection.

FOR FURTHER INFORMATION CONTACT: Mr. Buford Holt, Bureau of Reclamation, at (530) 275–1554; or Mr. Anders Christensen, Woodbridge Irrigation District, at (209) 369–6808.

SUPPLEMENTARY INFORMATION: The LMRRP was developed to implement important elements from resource management plans prepared by CALFED, USFWS, and DFG. The goal of the LMRRP is to substantially increase fall-run chinook salmon and steelhead populations, enhance critical and limiting aquatic habitats, and restore riparian ecosystem integrity and diversity. In addition to a No-Project Alternative, which involves the continued operation of the existing Woodbridge Dam and fish passage facilities, four action alternatives are examined, including: (1) Construct new fish passage facilities on the existing Woodbridge Dam; (2) construct a new Woodbridge Dam with operable weir gates and new fish passage facilities; (3) construct a new Woodbridge Dam with operable weir gates and new fish passage facilities, and diversion pumps;

and (4) replace the existing Woodbridge Dam and pump water from the river. The final EIR/EIS considers the environmental effects of the five alternatives in all topical areas required under NEPA and CEQA. Of particular importance for this project are the following topics: Fisheries, water quality, vegetation and wetland resources, wildlife, recreation, and visual resources.

Notice of the draft environmental impact report/environmental impact statement was published in the **Federal Register** on November 3, 1999 (64 FR 0212). A public hearing was held on November 16, 1999. The written comment period closed on January 4, 2000. The final EIR/EIS contains responses to all comments received and changes made to the text of the draft EIR/EIS as a result of those comments.

Locations for Inspecting/Reviewing the Final EIR/EIS

Copies of the final EIR/EIS are available for public inspection and review at the following locations:

- Woodbridge Irrigation District Office, 18777 N. Lower Sacramento Road, Woodbridge, California 95258; telephone: (209) 369–6808
- Bureau of Reclamation, Program Analysis Office, Room 7456, 1849 C Street NW., Washington, DC 20240; telephone: (202) 208–4662
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver CO 80225; telephone: (303) 445–2072
- Bureau of Reclamation, Regional Director, Attention: MP–140, 2800 Cottage Way, Sacramento CA 95825–1898; telephone: (916) 978–5100
- Natural Resources Library, U.S. Department of the Interior, Main Interior Building, 1849 C Street NW., Washington, DC 20240–0001
- Lodi Public Library, 201 W. Locust Street, Lodi, CA 95240–2099.

Dated: May 26, 2000.

Lester A. Snow,

Regional Director.

[FR Doc. 00–14744 Filed 6–9–00; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–395]

Notice of Decision To Extend the Deadline for Determining Whether To Review an Initial Determination on Inventorship

In the Matter of Certain Eprom, Eeprom, Flash Microcontroller Semiconductor Devices and Products Containing Same.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend by two weeks, *i.e.,* until July 17, 2000, the deadline for determining whether to review an initial determination (ID) issued on May 17, 2000, by the presiding administrative law judge (ALJ) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205–3104. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: The Commission instituted this patent-based investigation on March 18, 1997, based on a complaint filed by Atmel Corporation. 62 FR 13706. The complaint alleged that several respondents violated section 337 by importing into the United States, selling for importation, and/or selling in the United States after importation certain electronic products and/or components that infringe one or more of claim 1 of U.S. Letters Patent 4,511,811 (the '811 patent), claim 1 of U.S. Letters Patent 4,673,829 (the '829 patent), claim 1 of U.S. Letters Patent 4,974,565 (the '565 patent) and claims 1–9 of U.S. Letters Patent 4,451,903 (the '903 patent). The '565 patent was later withdrawn from the case.

On July 2, 1998, the Commission found that the '903 patent was unenforceable for failure to name a co-inventor. During the Commission investigation, a U.S. District Court found the '811 and '829 patents invalid and the Commission, therefore, applied collateral estoppel to find that the '811 and '829 patents were invalid. Atmel obtained a ''Certificate of Correction'' from the U.S. Patent and Trademark Office which changed the inventorship of the '903 patent. In view of the fact that the inventors had been corrected on the '903 patent, Atmel petitioned the Commission on September 8, 1998, to reconsider its finding of no violation based on the unenforceablility of the '903 patent. The Commission referred the petition to the presiding ALJ on January 25, 1999, for issuance of an ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.42(h) of the Commission Rules of Practice and Procedure, 19 CFR 210.42(h).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000. Public documents are also available for downloading from the Commission's website at http://www.usitc.gov.

By order of the Commission.

Dated: June 6, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–14762 Filed 6–9–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–571 (Review)]

Professional Electric Cutting Tools From Japan

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year review.

SUMMARY: The subject five-year review was initiated in November 1999 to determine whether revocation of the existing antidumping duty order on professional electric cutting tools would be likely to lead to continuation or recurrence of dumping and of material injury to a domestic industry. On June 2, 2000, the Department of Commerce published notice that it was revoking the order ''[b]ecause the domestic interested parties have withdrawn, in full, their participation in the ongoing sunset review'' (65 FR 35324). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject review is terminated.

EFFECTIVE DATE: June 2, 2000.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: This review is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

Issued: June 6, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–14761 Filed 6–9–00; 8:45 am]

BILLING CODE 7020–02–U

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–433]

Certain Safety Eyewear and Components Thereof; Notice of Commission Decision Not To Review an Initial Determination Amending the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has decided not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') granting an unopposed motion to amend the complaint and notice of investigation to delete references to ''claim 18'' of U.S. Letters Patent 5,457,505.

FOR FURTHER INFORMATION CONTACT: Gracemary Rizzo, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205–3117. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 1, 2000, based on a complaint filed by Bacou USA Safety, Inc. and Uvex Safety Manufacturing, Inc. (''complainants''), both of Smithfield, Rhode Island. The complaint named one respondent, Crews, Inc. of Memphis, Tennessee.

Complainants alleged that respondent had violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain safety eyewear and components thereof by reason of (a) infringement of claims 1–5, 8–14, and 16–18 of U.S. Letters Patent 5,457,505 (the '505 patent); (b) the claim of U.S. Letters Patent Des. 322,616; and (c) misappropriation of trade dress, the threat or effect of which is to destroy or substantially injure an industry in the United States.

On May 17, 2000, complainants filed an unopposed motion to amend the complaint and notice of investigation to delete ''claim 18'' of the '505 patent. In their motion, complainants stated that the '505 patent has only 17 claims and that references to ''claim 18'' were due to a typographical error.

On May 18, 2000, the presiding ALJ issued an ID (Order No. 4) granting complainants' motion. The ALJ found that there was good cause for the amendment, and that there was no prejudice to the parties or to the public interest. Accordingly, the complaint and the notice of investigation were amended to delete all references to ''claim 18'' of the '505 patent.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42). Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000.

Issued: June 5, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–14759 Filed 6–9–00; 8:45 am]

BILLING CODE 7020–02–U

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 332–350 and 332–351]

Monitoring of U.S. Imports of Tomatoes; Monitoring of U.S. Imports of Peppers

AGENCY: United States International Trade Commission.

ACTION: Publication of monitoring reports in 2000.

EFFECTIVE DATE: June 6, 2000.

FOR FURTHER INFORMATION CONTACT: For general information, Timothy McCarty (202–205–3324) or Lowell Grant (202–205–3312), Agriculture and Forest Products Division, Office of Industries, or for information on legal aspects, William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired persons can obtain information on these studies by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Background

Section 316 of the North American Free-Trade Agreement Implementation Act (NAFTA Implementation Act), 19 U.S.C. 3381, directs the Commission to monitor imports of fresh or chilled tomatoes (HTS heading 0702.00) and fresh or chilled peppers, other than chili peppers (HTS subheading 0709.60.00), until January 1, 2009. As a result of such monitoring, the domestic industry producing a like or directly competitive perishable agricultural product may request, in a global safeguard petition filed under section 202 of the Trade Act of 1974 or a bilateral safeguard petition filed under section 302 of the NAFTA Implementation Act, that provisional relief be provided pending completion of a full section 202 or 302 investigation. If provisional relief is requested, the Commission has 21 days in which to make its decision and to transmit any provisional relief recommendation to the President. In response to the monitoring directive, the Commission instituted investigation No. 332–350, Monitoring of U.S. Imports of Tomatoes (59 FR 1763) and investigation No. 332–351, Monitoring of U.S. Imports of Peppers (59 FR 1762).

Although section 316 of the NAFTA Implementation Act does not require that the Commission publish reports on the results of its monitoring activities, the initial notices of investigation for

these studies indicated that the Commission planned to publish reports on the monitoring annually. Subsequently, the Commission has published statistical reports in those years in which it was not conducting an investigation under other statutory authority with respect to such products.

Written Submissions

The Commission does not plan to hold a public hearing in connection with preparation of the 2000 statistical reports. However, interested persons are invited to submit written statements concerning the matters to be addressed in the reports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be provided on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested persons. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission in accordance with section 201.8 of the Commission's rules at the earliest practical date and should be received no later than the close of business on June 28, 2000. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Room 112–A, Washington, DC 20436. The Commission plans to publish both monitoring reports in September 2000.

Issued: June 6, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–14760 Filed 6–9–00; 8:45 am]

BILLING CODE 7020–02–U

NATIONAL SCIENCE FOUNDATION

Subcommittee on Global Change Research; Draft Report Availability

AGENCY: National Science Foundation.

ACTION: Notice of the availability of draft report for public comment.

SUMMARY: On behalf of the Subcommittee on Global Change Research (SGCR) of the Committee on Environment and Natural Resources of the National Science and Technology Council (NSTC), the National Science Foundation (NSF) announces the availability of the draft version of the National Assessment Synthesis Report for a 60-day public comment period (June 12 through August 11, 2000). The National Assessment's goal is to analyze and evaluate what is known about the potential consequences of climate variability and change for the Nation, in the context of other pressures on the public, the environment, and the Nation's resources. The National Assessment Synthesis Team (NAST) was formed in 1998 under the Federal Advisory Committee Act and was charged with, among other responsibilities, integrating key findings from the regional and sectoral analyses, augmented as appropriate with additional analyses and material from the scientific literature. The NAST prepared the report to address questions of importance to stakeholders and the Nation. The draft report is titled Climate Change Impacts on the United States: The Potential Consequences of Climate Variability and Change. The report consists of an Overview and a Foundation document that contains 19 chapters detailing and documenting the findings presented in the Overview. A list of chapters making up the draft NAST report is included with this notice. The comments received will be considered by the NAST in the preparation of the final version of its report. Although the report has already undergone extensive peer-review, this is still a draft version of the report and it should not be definitively quoted or cited as it is still undergoing review and is likely to be changed based on comments received. Due to its length and the extensive use of color graphics in parts of the report, the report is available for review primarily over the Worldwide Web. Information about how to access and download copies of the relevant chapters and the Overview report is available at the Web site of the Global Change Research Information Office (GCRIO) at *http://www.gcrio.org/National Assessment/.* The Web site also provides information on how to submit comments on the draft. For those who cannot access the report over the Web, one copy is available for public inspection weekdays during normal business hours at the library of the National Science Foundation in Arlington, VA. Appointments can be made by calling 703–306–0658.

DATES: Reviewer comments on the draft report of the NAST must be received at the postal or email address indicated below on or before August 11, 2000.

ADDRESSES: Review comments should be formatted based on the guidelines provided by GCRIO upon notification of how to access the report. Review comments should be submitted via email over the Internet as a Microsoft Word or WordPerfect attachment using a separate file for the Overview report and for each chapter of the Foundation report that is reviewed. Review comments should be emailed to napubcmt@usgcrp.gov. If email submission is not possible, review comments may be submitted via mail to: National Assessment Comments, Office of the U.S. Global Change Research Program, 400 Virginia Avenue, SW, Suite 750, Washington, DC 20024. When submitting comments by mail, please provide comments both as hardcopy *and* on a 3.5″ DS/HD disk (either Mac or IBM format) as a text file.

FOR FURTHER INFORMATION CONTACT: National Assessment Review Coordinator, Office of the U.S. Global Change Research Program, Suite 750, 400 Virginia Avenue, SW, Washington, DC 20024; or telephone 202–488–8630, fax at 202–488–8681, or send an email to *office@usgcrp.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The 1990 Global Change Research Act (PL 101–606) that established the US Global Change Research Program (USGCRP) required the program to conduct periodic assessments that would: Integrate and interpret the findings of USGCRP; analyze trends in global change over the next 25 to 100 years; analyze the effects of global change on the natural environment, agriculture, energy, land and water resources, transportation, human health and welfare, human social systems, and biological diversity; and discuss associated scientific uncertainties. Responsibility for undertaking the assessment was vested in the NSTC.

In 1998, the President's Science Advisor, acting in his capacity as executive secretary of the NSTC, requested that the SGCR conduct the first national assessment of the consequences of global climate change and variability. The SGCR established the NAST, which is a 14-member FACA-chartered committee established on behalf of the SGCR by the NSF. The NAST developed the plan for the Assessment and it was approved by the SGCR and the NSTC. The National Assessment process was designed to be broadly inclusive, drawing on inputs from academia, government, the public and private sectors, and interested citizens through a distributed set of

regional and sectoral activities. Among other responsibilities, the NAST has been responsible for preparing the National Assessment Synthesis Report and providing overall intellectual guidance on the Assessment.

II. Review Process

Drafts of the National Assessment Synthesis Report have undergone two rounds of technical peer review. In the first round that took place in November and December of 1999, over 500 experts were asked to review the Overview report plus one to four chapters of the Foundation report for technical and scientific accuracy. Review drafts were also sent to federal agency representatives, all members of the Synthesis Team, and the chairs of all regional and sectoral teams. Over 300 technical reviews of the Overview and individuals chapters were received. In the second round that took place in March and April, about two dozen additional experts were asked to review the report as a whole.

The technical review process has been overseen by a small panel of eminent persons from the private and public sectors that has been assembled under the auspices of the President's Council of Advisors on Science and Technology (PCAST). This special panel has assured a representative mix of reviewers and the responsiveness of the NAST to the technical comments received. In addition to the outside technical review, the report was provided to the federal agency members of the SGCR for comment as part of the overall review process.

The SGCR is now responsible for coordinating a public comment period on this draft version of the National Assessment Synthesis Report. This notice announces the availability of this report for public comment by experts, interested organizations and individuals, and the public. Comments that are provided will be evaluated, integrated, and used, as appropriate, in the revision of this draft of the report. An information sheet providing specific requests for formatting submissions of comments is available on the Web site. All comments must indicate who is submitting the comments. The emphasis should be on providing detailed recommendations on the Overview and/or on specific chapters of the Foundation report so that changes can be considered that address the comment. To be most useful, comments should be specific in suggesting alternative wording or other changes to the text of a particular paragraph or chapter and, where appropriate, offer supporting information and peer-reviewed references supporting the proposed changes. Comments on the overall tone, internal consistency, and scientific validity of the Overview and chapters and comments expressing the reasons for agreement or disagreement with specific major points are also invited.

The materials available for review include the draft versions of the Overview report and Foundation chapters. Documents available for review include the following:

Overview Report

Foundation Report (listing is of subject matter of chapter)

1. Climate Change
2. Vegetation and Biochemistry Scenarios
3. Socioeconomic Change
4. Northeast
5. Southeast
6. Midwest
7. Great Plains
8. West
9. Pacific Northwest
10. Alaska
11. Islands
12. Native Peoples and Homelands
13. Agriculture
14. Water Resources
15. Human Health
16. Coastal Areas and Marine Resources
17. Forests
18. Conclusions
19. Research Needs

III. Public Availability of Comments

Subsequent to the receipt and collation of the comments, the collection of comments received will be available for public inspection weekdays during normal business hours at the library of the National Science Foundation in Arlington, VA. Appointments can be made by calling 703–306–0658.

Dated: June 6, 2000.

Karen J. York,

Human Resource and Management Specialist.

[FR Doc. 00–14732 Filed 6–9–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Service Provider Licenses

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of Availability and Request for Comments.

SUMMARY: The NRC is announcing the availability of, and requesting comments on, draft NUREG–1556, Volume 18, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Service Provider Licenses,'' dated May 2000.

The NRC is using Business Process Redesign techniques to redesign its materials licensing process, as described in NUREG–1539, ''Methodology and Findings of the NRC's Materials Licensing Process Redesign.'' A critical element of the new process is consolidating and updating numerous guidance documents into a NUREG-series of reports. This draft NUREG report is the 18th guidance document developed to support an improved materials licensing process.

This guidance is intended for use by applicants, licensees, and the NRC staff, and will also be available to Agreement States. This document combines and updates the guidance found in the following draft regulatory guides: ''Guide for the Application for a License for the Use of Radioactive Materials for Calibrating Radiation Survey and Monitoring Instruments,'' ''Guide for the Application for the Use of Radioactive Materials in Leak-Testing Services,'' and ''Guide for the Applications for the Use of Radioactive Materials in Servicing Preregistered Gauges, Measuring Devices, and Sealed Sources Used in Such Devices.'' Additionally, NRC staff included information contained in the corresponding Standard Review Plans for these three draft regulatory guides. This draft report takes a more risk-informed, performance-based approach to licensing service providers, and reduces the information (amount and level of detail) needed to support an application for these activities. This document is strictly for public comment and is not for use in preparing or reviewing service provider licenses until it is published in final form. It is being distributed for comment to encourage public participation in its development.

DATES: The comment period ends August 11, 2000. Comments received after that time will be considered if practicable.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001. Hand-deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted

through the Internet by addressing electronic mail to dlm1@nrc.gov.

Those considering public comment may request a free single copy of draft NUREG–1556, Volume 18, by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Carrie Brown, Mail Stop TWFN 9–C–24, Washington, D.C. 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to cxb@nrc.gov. A copy of draft NUREG–1556, Volume 18, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. 20555–0001.

The Presidential Memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the Federal government's writing be in plain language. The NRC requests comments on this licensing guidance NUREG specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed above.

FOR FURTHER INFORMATION CONTACT: Mrs. Carrie Brown, TWFN 9–F–24, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 415–8092; electronic mail address: cxb@nrc.gov.

Electronic Access

Draft NUREG–1556, Vol. 18 is available electronically by visiting the NRC's Home Page (*http://www.nrc.gov/nrc/nucmat.html*).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 6th day of June, 2000.

Catherine Haney,

Acting Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 00–14758 Filed 6–9–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17f–1, SEC File No. 270–236, OMB Control No. 3235–0222

Form N–17f–1, SEC File No. 270–316, OMB Control No. 3235–0359

Rule 17f–2, SEC File No. 270–233, OMB Control No. 3235–0223

Form N–17f–2, SEC File No. 270–317, OMB Control No. 3235–0360

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Rule 17f–1 under the Investment Company Act of 1940 (the ''Act'') is entitled: ''Custody of Securities with Members of National Securities Exchanges.'' Rule 17f–1 provides that any registered management investment company (''fund'') that wishes to place its assets in the custody of a national securities exchange member may do so only under a written contract that must be ratified initially and approved annually by a majority of the fund's board of directors. The written contract also must contain certain specified provisions. In addition, the rule requires an independent public accountant to examine the fund's assets in the custody of the exchange member at least three times during the fund's fiscal year. The rule requires the written contract and the certificate of each examination to be transmitted to the Commission. The purpose of the rule is to ensure the safekeeping of fund assets.

Commission staff estimates that approximately five funds maintain their assets with a national securities exchange member.[1] The annual burden of the rule's requirements is estimated to be approximately 4.5 hours for each of these funds.[2] Commission staff estimates the total annual burden for all funds is 22.5 hours.

Compliance with the collection of information required by rule 17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange. Responses will not be kept confidential. Form N–17f–1 is entitled: ''Certificate of Accounting of Securities and Similar Investments of a Management Investment Company in the Custody of Members of National Securities Exchanges.'' Form N–17f–1 is the cover sheet for accountant examination certificates filed under rule 17f–1 of the Act. Rule 17f–1 requires the accountant's certificate of each examination be attached to Form N–17f–1 and transmitted to the Commission promptly after each examination. The form facilities the filing of the accountant's certificate, and increases the accessibility of the certificate to both Commission's staff and interested investors.

Commission staff estimates that approximately five funds maintain their assets with a national securities exchange member. The annual burden of the rule's requirements is estimated to be approximately 27 minutes for each of these funds.[3] The total annual burden for all funds is therefore estimated to be 2.25 burden hours.

Compliance with the collection of information required by Form N–17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange member.

Rule 17f–2 under the Act is entitled: ''Custody of Investments by Registered Management Investment Company.'' Rule 17f–2 establishes safeguards for arrangements in which a registered management investment company is deemed to maintain custody of its own assets, such as when the fund maintains its assets in a facility that provides safekeeping but not custodial services. The rule includes several recordkeeping or reporting requirements. The fund's directors must prepare a resolution designating not more than five fund officers or responsible employees who may have access to the fund's assets. The designated access persons (two or more of whom must act jointly when handling fund assets) must prepare a written notation providing certain information about each deposit or withdrawal of fund assets, and must transmit the notation to another officer or director designated by the directors. Independent public accounts must verify the fund's assets at least three times a year, and two of the examinations must be unscheduled.

The requirement that directors designate access persons is intended to ensure that directors evaluate the trustworthiness of insiders who handle fund assets. The requirements that access persons act jointly in handling fund assets, prepare a written notation of each transaction, and transmit the notation to another designated person

[1] The Commission's records show that five funds filed Form N–17f–1 during calendar year 1999.

[2] The Commission staff estimates, based upon the experience of staff familiar with the information collection requirements of the rule, that each fund spends approximately 4.5 hours annually in complying with the rule's requirements: 4 hours of clerical time (1 hour to prepare the custodial contract for board review and to transmit the contract, and 1 hour to transmit of the accountant's certificates three times yearly), and 0.5 hours for the board of directors to ratify the custodial contract.

[3] Commission staff estimates that it takes approximately 9 minutes of clerical time to prepare each Form N–17f–1. This estimated is based on Commission staff members filling out the Form N–17f–1. Each fund is required to file Form N–17f–1 three times annually, for an average hour burden per dund of 27 minutes.

are intended to reduce the risk of misappropriation of fund assets by access persons, and to ensure that adequate records are prepared, reviewed by a responsible third person, and available for examination by the Commission. The requirement that auditors verify fund assets without notice twice each year is intended to provide an additional deterrent to the misappropiation of fund assets and to detect any irregulatirites.

Commission staff estimates that approximately 204 funds rely upon the rule (and that each fund offers an average of two separate series or portfolios subject to the rule)[4] Commission staff estimates that each fund spends approximately 2 hours annually in drafting resolutions by directors, 24 hours annually in preparing transaction notations, and 100 hours annually assisting independent public accountants perform unscheduled verifications of assets.[5] The total annual burden of the rule's paperwork requirements thus is estimated to be 25,704 hours. This represents an increase of 10,844 hours from a prior estimate of 13,860 hours, based on an increase in the number of funds relying on the rule from 110 to 204 funds.

Form N–17f–2 is entitled ''Certificate of Accounting of Securities and Similar Investments in the Custody of Management Investment Companies.'' Form N–17f–2 is the cover sheet for the accountant examination certificates filed under rule 17f–2 of the Act by registered management investment companies maintaining custody of securities or other investments. Form N–17f–2 facilitates the filing of the accountant's examination certificates. The use of the form allows the certificates to be filed electronically, and increases the accessibility of the examination certificates to both the Commission's examination staff and interested investors by ensuring that the certificates are filed under the proper SEC file number and the correct name of a fund.

Commission staff estimates that approximately 204 funds rely on rule 17f–2, and therefore, file Form N–17f–2 with the Commission. A fund relying on rule 17f–2 must file the form with the Commission at least three times a year. Commission staff estimates that each fund spends approximately nine minutes (0.15 hours) preparing each response on Form N–17f–2[6] Therefore, the total annual burden of Form N–17f–2's annual paperwork requirements is estimated to be approximately 92 hours,[7] an increase of 72 hours from the prior estimate of 20 hours. The increase in the annual hour burden is primarily attributable to the increase in the number of respondents from 130 funds to 204 funds.[8]

Complying with the collection of information requirements of the rule is mandatory for those funds that maintain custody of their own assets. The information provided to the Commission by the fund's independent public accounts about each verification of the fund's assets will not be kept confidential.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 5, 2000.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–14716 Filed 6–9–00; 8:45 am]

BILLING CODE 8010–01–M

[4] A fund relying upon rules 17f–2 is required to file Form N–17f–2 with the Commission three times yearly. The Commission's records indicate that approximately 204 funds filed Form N–17f–2 with the Commission during calendar year 1999.

[5] Each of these hour burden estimates is based upon conversations with attorneys and accountants familiar with the information collection requirements of the rule.

[6] This estimate is based on the experience of members of the Commission staff in completing Form N–17f–2.

[7] This estimate is based on the following calculation: 204 (respondents) × 3 (responses per fund per year) × .015 (hours per response) = 91.8 burden hours.

[8] The estimate of the hour burden per fund per response remains 9 minutes for each Form N–17f–2 filed with the Commission. The prior annual hour burden estimate was based on a calculation of .05 hours (which equals 3 minutes) instead of .015 hours (9 minutes). The annual hour burden for Form N–17f–2 has, therefore, increased by only 42.3 burden hours if the prior annual hour burden is recalculated: 110 (respondents) x 3 (responses per respondent per year) x .015 (hours per response) = 49.5 burden hours.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27180]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

June 5, 2000.

AGENCY: Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 27, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After June 27, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Energy, Inc., et al. (70–9627)

Allegheny Energy, Inc., (''Allegheny''), a registered holding company, Allegheny Energy Service Company (''AESC''), a service subsidiary of Allegheny, The Potomac Edison Company (''Potomac Edison''), a wholly owned electric public utility subsidiary of Allegheny, all located at 10435 Downsville Pike, Hagerstown, Maryland 21740–1766, and Allegheny Energy Supply Company, LLC, a wholly owned nonutility subsidiary of Allegheny located at 10435 Downsville Pike, Hagerstown, Maryland 21740–1766, and Allegheny Energy Supply Company, LLC, a wholly owned nonutility subsidiary of Allegheny located at R.R. 12, P.O. Box 1000, Roseytown, Pennsylvania 15601 (''Genco'' and collectively, ''Applicants''), have filed an application-declaration under sections

6(a), 7, 9(a), 10, 12(b), 12(c), 12(d), and 13(b) of the Act, and rules 43, 44, 45, 46, 54, 90 and 91 under the Act.

Potomac Edison, subject to obtaining the requisite regulatory approvals, intends to leave the generating business entirely. To accomplish this, Applicants request authority for Potomac Edison to transfer most of its electric generating business to Genco, which was organized to compete in deregulated, competitive electricity generation markets. Specifically, Applicants request authority for Potomac Edison to transfer to Genco, at net book value, Potomac Edison's undivided ownership interests in certain jointly held and certain wholly owned generating facilities and related fixed assets (''Generating Assets''), in certain current assets related to the Generating Assets (''Related Assets''), and other related interests (''Other Interests'') each of which is more particularly described below. In addition, Applicants request authority for Potomac Edison to transfer and for Genco to assume certain net liabilities and debt associated with the Generation Assets and Related Assets (''Related Liabilities''). As discussed below, Applicants also request authority for Potomac Edison to transfer its undivided ownership interests in certain hydroelectric generating stations located in Virginia (''Virginia Hydros'') to a subsidiary it proposes to organize, PE VA Hydro, LLC (''PE VA Hydro'').

The Generating Assets consist of the undivided ownership interests in the following generating facilities: a 25% interest in the Fort Martin Power station located in Maidsville, West Virginia; a 33% interest in the Albright Power Station located in Albright, West Virginia; a 32.76% interest in the Harrison Power Station located in Shinnston, West Virginia; a 20% interest in the Hatfield's Ferry Power Station located in Masontown, Pennsylvania; a 30% interest in the Pleasants Power Station, located in Saint Mary's, West Virginia; a 100% interest in the R. Paul Smith Station and R. Paul Smith Ash Basin, both located in Williamsport, Maryland; and a 100% interest in the Millville, Dam #4 and Dam #5 hydro stations located in West Virginia. The Generating Assets also consist of step-up transformers and ancillary transmission and distribution equipment, production equipment, buffers and rights of way, and other equipment that connect the Generating Assets to the transmission grid. Applicants project that the total net book value of the Generating Assets will be approximately $448.4 million as of June 30, 2000. Potomac Edison also intends to transfer fuel, supplies, and other inventory (''Inventory'') to Genco through intermediate subsidiaries more particularly described below.[1]

The Related Assets consist of current assets, deferred charges, cash, temporary cash investments, and an undivided 28% ownership interest in Allegheny Generating Company (''ACC'').[2] Applicants project that the net book value of the Related Assets will be approximately $57.9 million as of June 30, 2000. The Other Interests consist of an undivided 2% ownership interest in Ohio Valley Electric Corporation (''OVEC''), a public utility, and Potomac Edison's rights and obligations under four agreements regarding the operation of four of the generating facilities included as Generating Assets.

The Related Liabilities consist of accounts payables, accrued taxes, tax deferrals, pollution control bonds, and other deferred credits related to the Generating Assets. Applicants project that the book value of the Related Liabilities will be approximately $215.3 million as of July 1, 2000. Applicants state that the Related Liabilities do not include Potomac Edison's first mortgage bonds. Applicants state that Potomac Edison expects to obtain a release from the lien of the first mortgage by pledging additional bondable property in an amount not to exceed the net book value of the Generating Assets, which could include remaining utility assets of Potomac Edison, and request authority to pledge those assets to obtain the described release.

The Virginia Hydros consist of Potomac Edison's undivided 100% ownership interests in the Luray, Newport, Shenandoah and Warren hydroelectric generating stations. According to Applicants, the net book value of the Virginia Hydros will be approximately $3.6 million as of June 30, 2000.

To accomplish the proposed transfers, Applicants request authority to form two limited liability corporations, PE Transferring Agent, LLC (''PE Transferring Agency'') and PE Genco, LLC (''PE Genco''). Potomac Edison would acquire the ownership interests in PE Transferring Agent in exchange for an initial cash contribution of $200,000, and PE Transferring Agent would acquire the membership interests in PE Genco for an initial cash contribution of $100,000, with the contributions to be in the form of collateralized government obligations.

Potomac Edison would then transfer its undivided ownership interests in the Generating Assets, Related Assets, Inventory and Other Interests to PE Transferring Agent. PE Transferring Agent would issue a promissory note to Potomac Edison in an amount equal to the sum of the net book values of the Generating Assets and Inventory (''Purchase Note'') in exchange for the transfer of these assets. In order to assure that PE Transferring agent has sufficient assets to cover the principal amount of the Purchase Note and its accrued interest, Potomac Edison would issue a non-interest bearing note to PE Transferring agent in an amount $20 million greater than the Purchase Note as a capital contribution. In addition, Potomac Edison would issue a non-interest bearing promissory note to PE Transferring Agency in an amount constituting the difference between the net book values of the Related Assets and the Related Liabilities.

PE Transferring Agent would in turn contribute the undivided ownership interests in the Generating Assets, Related Assets, Inventory and Other Interests to PE Genco, which would also assume the Related Liabilities. PE Transferring Agent would then dividend its membership interests in PE Genco to Potomac Edison, which would in turn dividend these membership interests to Allegheny, after which PE Genco would merge with Genco.

Applicants state that it is undesirable, at this time, for Genco to directly acquire the Virginia Hydros because the acquisition could subject Genco to regulation as a ''public utility'' under Virginia law. In order to facilitate Potomac Edison's exit from the generation business and Genco's entry into Virginia''s deregulated generation market, Applicants request authority for Potomac Edison to organize and acquire PE VA Hydro and for Potomac Edison to transfer the Virginia Hydros to PE VA Hydro. Applicants also request authority for Potomac Edison to dividend the membership interests in PE VA Hydro to Allegheny, and for Allegheny to contribute these interests in PE VA Hydro to Genco, making PE VA Hydro a wholly owned subsidiary of Genco.

In addition, Applicants request authority for Potomac Edison to render operating services with respect to the Generating Assets on behalf of Genco, and to render operating services with respect to the Virginia Hydros on behalf of PE VA Hydro, until Genco and PE VA

[1] Applicants state that Potomac Edison will transfer the Inventory at net book value. Applicants project that the net book value of the Inventory will be approximately $32.8 million as of June 30, 2000.

[2] AGC, a Virginia corporation that is currently jointly owned by Potomac Edison, Genco, and Monongahela Power Company, owns a 40% undivided interest in a pumped storage hydroelectric generating facility and related facilities located in Bath County, Virginia.

Hydro obtain the necessary permits and licenses to operate the Generating Assets and the Virginia Hydros, respectively. These services will be rendered at cost, in accordance with rules 90 and 91 under the Act. Further, Applicants request authority for AE Units 1 and 2, LLC (''AEU''), a public utility subsidiary of Allegheny, to merge with Genco in exchange for Genco assuming the former company's outstanding debt.[3]

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14717 Filed 6–9–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Reunion Industries, Inc., Common Stock, $.01 Par Value) File No. 1–15739

June 5, 2000.

Reunion Industries, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.01 par value (''Security''), from listing and registration on the Pacific Exchange, Inc. (''PCX'').

Following the completion of its merger with Chatwins Group, Inc., on March 16, 2000, the Company, whose Security has been listed on the PCX, additionally effected its listing and registration on the American Stock Exchange (''Amex''). Trading in the Security on the Amex began on March 23, 2000. The Company's board of directors subsequently determined that the Security's limited trading volume on the PCX, compared with that on the Amex, did not justify the cost of maintaining such listing. On March 27, 2000, therefore, the Company's board passed a resolution authorizing the withdrawal of the Security from listing and registration on the PCX.

The PCX, having determined that the Company complied with the rules of the PCX governing the withdrawal of the Security from listing and registration, has indicated by letter to the Company that it shall not interpose any objection to the proposed withdrawal. The matter was considered and decided by the Equity Listings Committee of the PCX at a meeting held on May 2, 2000.

The Company's application relates solely to the withdrawal of the Security from listing and registration on the PCX and shall have no effect upon the Security's continued listing and registration on the Amex under Section 12(b) of the Act.[3]

Any interested persons may, on or before June 26, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the PCX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–14719 Filed 6–9–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42894; File No. SR–Amex–99–36]

Self-Regulatory Organizatons: Orders Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1, 2, and 3 to the Proposed Rule Change by the American Stock Exchange LLC Relating to Facilitation, Solicitation, and Crossing Transactions

June 2, 2000.

I. Introduction

On September 2, 1999, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19–4 thereunder,[2] a proposed rule change to amend its rules by adopting Commentary .02(d) and Commentary .04 to Amex Rule 950(d).[3] The proposed rule change was published for comment in the **Federal Register** on October 15, 1999.[4] On November 1, 1999, May 26, 2000, and May 31, 2000, the Amex filed Amendment Nos. 1, 2, and 3, respectively, to the proposal.[5] No comments were received regarding the proposed rule change. This order approves the portion of the proposal, as amended, adopting Commentary .04 to Amex Rule 950(d); this order also approves the portion of the proposal adopting Commentary .02(d) to Amex Rule 950(d) on a pilot basis until August 31, 2000. Finally, this order accelerates approval of Amendment Nos. 1, 2 and 3, and solicits comments from interested persons on those amendments.

II. Description of the Proposal

A. Proposed New Commentary .02(d)

Commentary .02 to Amex Rule 950(d) generally sets forth the procedures by which a floor broker representing the order of a public customer of a member firm may cross that order with a contra side order from the firm's proprietary account. In these circumstances, the firm is said to be ''facilitating'' the customer order, and the transaction is called a ''facilitation cross.''

Under the current version of the rule, a floor broker seeking to execute a facilitation cross must first bring the transaction to the trading floor and request a market from the trading crowd. After receiving bids and offers from the crowd, the floor broker must propose a price at which to cross the order that improves upon the price provided by the crowd. However, before the floor broker can effect the cross, the market makers in the crowd are given the opportunity to take all or part of the transaction at the proposed price.

Under the current rule, if the crowd does not want to participate in the trade, the floor broker may proceed with the cross. If the crowd wants to take part of the order, however, the crowd has precedence and the floor broker may cross only that amount remaining after the crowd has taken its portion. If the crowd wants to take the entire order, the floor broker will not be able to cross any part of the order.

[3] AEU's principal assets are to 44MW generation units in Springdale, Pennsylvania.

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240 19b–4.

[3] The current proposal replaces an earlier proposed (file No. SR–Amex–98–19) that the Amex withdrew. *See* Securities Exchange Act Release No. 41864 No. 41864 (September 10, 1999), 64 FR 50843 (September 20, 1999).

[4] *See* Securities Exchange Act Release No. 41985 (October 7, 1999), 64 FR 55998.

[5] The modifications made by these amendments are incorporated in the description of the proposal in Section II below, and are further discussed in Section III below.

The proposed rule change would add new paragraph (d) to Commentary .02 to establish a 90-day pilot program that would apply to facilitation cross transactions in equity options.[6] The proposal would entitle the floor broker, under certain conditions, to cross a specified percentage of the customer order on behalf of the member firm before market makers in the crowd can participate in the transaction. This provision would generally apply to orders of 400 contracts or more. However, the Exchange would be permitted to establish a smaller eligible order size, so long as that size is not smaller than 50 contracts.[7]

The percentage of the floor broker's guarantee would depend upon whether the price at which the order is ultimately traded is at the crowd's best bid or offer in response to the broker's initial request for a market, or at an improved price.

First, the floor broker would be granted a right under the proposal to execute a facilitation cross even at a price that does not improve upon the best bid or offer provided by the crowd in response to his initial request for a market. The proposed rule change provides that where the 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 would need to be satisfied first. Once these public customer orders are satisfied, the floor broker would be entitled to facilitate 20% of the contracts remaining in the customer order.[8]

The proposed rule change further provides that if the floor broker proposes the 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 would be entitled to priority over the crowd to facilitate 40% of the contracts.[9] However, 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 be entitled to priority to facilitate 20% of the contracts.[10]

The proposed rule change 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[11] 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. However, in no case could the total number of contracts guaranteed to the member firm and the specialist exceed 40% of the facilitation transaction.[12]

The proposed rule change makes clear that if the facilitation transaction takes place at a price at which the specialist is not on parity with registered options traders in the crowd, the specialist would not be guaranteed any participation. The proposal also makes clear, however, that it is not intended to prohibit either a member firm or specialist from trading more than their percentage entitlements if the other members of the trading crowd do not choose to trade with the remaining portion of the facilitated order.[13]

B. Proposed New Commentary .04

Proposed new Commentary .04 to Amex 950(d) states that it may be considered conduct inconsistent with just and equitable principles of trade for any member or person associated with a member, who has knowledge of all material terms and conditions of (1) an originating order[14] and a solicited order, (2) an order being facilitated, or (3) orders being crossed, the execution of which are imminent, to enter, based on such knowledge, an order to buy or sell an option of the same class as any option that is the subject of the order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument until either (1) all of the terms of the originating order[15] and any changes in the terms or conditions of the order of which the member or associated person has knowledge are disclosed to the trading crowd, or (2) the trade can no longer reasonably be considered imminent in view of the passage of time since the order was received. For purposes of proposed Amex Rule 950(d), Commentary .04, an order to buy or sell a ''related instrument,'' means, in reference to an index option, an order to buy or sell securities comprising 10% or more of the component securities in the index or an order to buy or sell a futures contract on an economically equivalent index.

The Amex stated that it seeks to codify and expand its policy prohibiting either a member or a person associated with a member from using non-public information for the member's or associated person's benefit by trading in the underlying stock or any closely related instrument. Specifically, proposed Commentary .04 is designed to prevent members and associated persons from using undisclosed information about imminent solicited, facilitated, or crossed options transactions to trade the relevant option or any closely related instrument in advance of persons represented in the trading crowd. The Amex believes that trading on the basis of undisclosed information could threaten the integrity of the auction market or disadvantage other market participants.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the provisions of the Act applicable to a national securities exchange, particularly those of Section

[6] *See* Amendment No. 2.

[7] Amendment No. 2 concerning proposed subsection (d)(2). The Exchange would be permitted to adjust the eligible order size on a class by class basis. Telephone conversation between Clarie McGrath, Vice President and Special Counsel, Derivative Securities, Amex, and Ira Brandriss, Attorney, Division of Market Regulation, the Commission, on May 26, 2000.

[8] *See* Amendment No. 1, concerning proposed subsection(d)(1)(i).

[9] *See* Amendment No. 2, which reduces the proposed percentage guarantee from 50% to 40%.

[10] *See* Amendment No. 2.

[11] These 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. *See* Amendment No. 3. The Commission notes that the Amex has separately filed a proposal to codify its specialist allocation practices. *See* File No. SR–Amex–00–30, available for inspection in the Commission's Public Reference Room.

[12] *See* Amendment No. 3, concerning proposed subsection (d)(3).

[13] *See* Amendment No. 2, concerning proposed subsection (d)(4).

[14] Amex Rule 950(d), Commentary .03 states, in part, that a member or member organization representing an order in options (''originating order'') may solicit another member, member organization, or non-member broker-dealer outside the trading crowd (''solicited party'') to participate in the transaction on a proprietary basis provided the member or member organization, upon entering the trading crowd to execute the transaction, announces to the trading crowd the same terms and conditions about the originating order as disclosed to the solicited party and bids at the price he is prepared to buy from the solicited party or offers at the price he is prepared to sell to the solicited party.

[15] The proposal as originally filed refers to ''all the terms of the order.'' Amendment No. 2 modifies this phrase to refer to ''all the terms of the originating order,'' defining more clearly the disclosure requirement. See Section III.C below.

6(b)(5) [16] and Section 6(b)(8) [17] of the Act, and the rules and regulations thereunder.[18]

A. Proposed New Commentary .02(d)

The Commission believes that proposed new Commentary. 02(d) to Amex Rule 950(d) will enable the Amex to better compete with other options exchanges in attracting the order flow of broker-dealer firms seeking to facilitate customer orders, without adversely impacting the prices those orders receive.

The Commission finds that the Amex's proposal to grant participation rights, under certain conditions, to member firm seeking to execute facilitation crosses on the Exchange is reasonable. Currently, Amex market makers have priority rights for the full size of a customer order over the firm that brings a crossing transaction of the Amex floor, as long as the market makers are willing to trade at the proposed price.

While the proposal entitles the member firm to a specified percentage of a facilitation transaction when executed at the trading crowd's best bid or offer, it does not eliminate the crowd's ability to trade with a portion of the order proposed to be crossed, or even so substantially reduce that ability so as to raise serious concern that the proposal would reduce price competition by the crowd. Moreover, the Commission believes that the proposal may contribute to better prices for crossing transactions. Specifically, it provides an incentive for upstairs firms to improve on the prices quoted by the crowd by offering these firms a greater participation in the trade when they better the crowd's price. In addition, market makers will always have an opportunity to improve the market and compete for a greater portion of the trade.

In evaluating the proposed rule change, the Commission considered, among other matters, whether the Amex's proposal to guarantee that a member firm could cross up to 40% of an order would reduce the incentive of crowds to compete for orders, and thus impair the price discovery mechanism of the Exchange's market.

It is recent approval of the application of the International Securities Exchange (''ISE'') for registration as a national securities exchange, the Commission discussed the same concern with respect to the ISE's proposed ''facilitation mechanism,'' a system designed to effect a type of facilitation guarantee in an electronic context. The Commission wrote:

> It is difficult to assess the precise level at which guarantees may begin to erode competitive market maker participation and potential price competition within a given market. In the future, after the Commission has studied the impact of guarantees, the Commission may need to reassess the level of these guarantees. For the immediate term, the Commission believes that 40% is not clearly inconsistent with the statutory standards of competition and free and open markets.[19] By the same token, the Commission believes that the Amex's proposed rule change,

which allocates no more than 40% of an order to the firm seeking to facilitate an order, is not inconsistent with the statutory standard. The Commission notes, moreover, that for those crossing transactions in which a specialist, pursuant to Amex trading floor practices, is entitled to an allocation in addition to the proposed allocation for the facilitating firm, the Amex has included a provision to limit the combined allocations awarded to the firm and the specialist an aggregate of no more than 40% of the order.

B. Proposed New Commentary .04

As described more fully above, proposed Commentary .04 restricts trading by a member or associated person who has knowledge of all of the material terms of a solicited order, an order being facilitated, or orders being crossed. The restriction does not apply however, if either (1) all of the terms of the originating order and any changes in the terms and conditions of the order of which the member or associated person has knowledge are disclosed to the trading crowd; or (2) the trade can no longer reasonably be considered imminent in view of the passage of time since the order was received.

According to the Amex, proposed Amex Rule 950(d), Commentary .04 is designed to prevent members and associated persons from using undisclosed information about imminent solicited, facilitated, or crossing transactions to trade the relevant option or any closely related instrument in advance of persons represented in the trading crowd.

The Commission believes that it is reasonable for the Amex to prohibit, as inconsistent with just the equitable principles of trade, transactions by members or associated persons based on the knowledge of imminent undisclosed solicited, facilitated, or crossing transactions. The Commission believes that such trading could threaten the integrity of the auction market or disadvantage other market participants.[20] Accordingly, by restricting trading based on knowledge of an imminent undisclosed solicited, facilitated, or crossing transaction, the Commission believes that the proposal will help to maintain the integrity of the Amex's market. As noted above, a member or associated person who has knowledge of all of the material terms of a solicited order, an order being facilitated, or orders being crossed may trade after disclosing to the trading crowd the terms of the originating order and any changes in the terms and conditions of the order.[21] The Commission believes that this disclosure requirement should provide the trading crowd with a fair and full opportunity to make informed trading decisions.[22]

The Commission notes that proposed Commentary .04 does not relieve market participants of the general Amex requirement that their acts and practice be consistent with just and equitable principles of trade.[23] Thus, the Commission notes, as it has concluded previously,[24] that disclosing the terms of an order and any change in the terms and conditions of the order to the trading crowd prior to effecting a trade does not provide a safe harbor from possible violations of front-running prohibitions.[25]

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[16] 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of a national securities exchange be designed to, among other things, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. It also requires that those rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[17] 15 U.S.C. 78f(b)(8). Section 6(b)(8) requires that the rules of the exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[18] 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).

[19] *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000).

[20] *See* Securities Exchange Act Release No. 34959 (November 9, 1994), 59 FR 59446 (November 17, 1994) (order approving File No. SR–CBOE–94–15).

[21] Under proposed Commentary .04, a member or associated person with knowledge of the terms and conditions of a solicited, facilitated, or crossing transaction also may trade based on knowledge of the order if the trade can no longer reasonably be considered imminent in view of the passage of time since the order was received.

[22] *See* Securities Exchange Act Release No. 36195 (August 25, 1995), 60 FR 45753 (September 1, 1995) (order approving File No. SR–CBOE–95–07) (''1995 CBOE Order'').

[23] *See* Amex Constitution, Article V, Section h(4).

[24] *See* 1995 CBOE Order, *supra* note 22.

[25] *See* Securities Exchange Act Release No. 25233 (December 30, 1987), 53 FR 296 (January 6, 1998) (noting the filing and immediate effectiveness of frontrunning policies filed by the American Stock Exchange, New York Stock Exchange, Pacific Exchange, Philadelphia Stock Exchange, Chicago Board Options Exchange, and the National Association of Securities Dealers).

The Commission notes that proposed Commentary .04 is substantially similar to current Chicago Board Options Exchange (''CBOE'') Rule 6.9(e). The Commission believes that it is reasonable for the Amex to adopt a rule that is substantially similar to CBOE Rule 6.9(e) to provide similar protections for the Amex's marketplace. In addition, Commission believes that it is reasonable for the Amex to include solicited, facilitated, and crossing transactions in Amex Rule 950(d), Commentary .04 because solicited, facilitated, and crossing transactions could present opportunities for misuse of non-public information.

C. Accelerated Approval of Amendments

The Commission finds good cause, pursuant to Section 19(b)(2)(B)[26] of the Act, for approving Amendment Nos. 1, 2, and 3 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.**

Amendment No. 1 adds the provision, described above, that would provide an allocation to a member firm seeking to facilitate a customer order even when it only matches, but does not improve upon, the prices given by the crowd in response to the floor broker's initial request for a market. The Commission has already approved rules of the ISE, the CBOE, and the Pacific Exchange (''PCX'') that establish participation guarantees for firms seeking to facilitate orders even when they only match the best prices offered by other market participants.[27] Thus, the addition of this provision to the Amex proposal raises no new regulatory issues. Further, it should benefit options market participants by allowing for substantially consistent treatment of crossing mechanisms under the rules of the various exchanges, and will allow the Amex to compete without disadvantage for facilitation orders.

Amendment No. 2 reduces the allocation to the member firm seeking to facilitate a customer order from 50% to 40% when the firm improves the price given by the crowd in response to the floor broker's request for a market. It thus limits guaranteed participation to a percentage that the Commission has previously found consistent with the Act and raises no new regulatory issues. Amendment No. 2 also includes the provisions described above concerning specialist allocations, and stipulates that the allocations guaranteed to the member firm and the specialist in the aggregate may not exceed 40% of the order. It thus strengthens the proposal by adding a necessary clarification of priority rights pursuant to current trading practices.

Amendment No. 2 also provides the Exchange the authority to reduce the size of orders to which the new guarantee applies from 400 to 50 contracts. The Commission has already approved ISE and CBOE rules permitting guarantees to firms facilitating crosses in order sizes as low as 50 contracts.[28] Thus, this modification of the Amex proposal raises no new regulatory issues. Further, it will benefit options market participants by allowing for substantially consistent treatment of crossing mechanisms under the rules of the ISE, the CBOE, and the Amex, and will allow the Amex to compete without disadvantage for facilitation orders.

Amendment No. 2 also seeks to establish proposed Commentary .02(d) to Rule 950(d) as a 90-day pilot program. The Commission finds no reason to delay approval of this modification.

With respect to proposed Commentary .04, Amendment No. 2 clarifies that the restriction on trading for a person who has knowledge of the terms of a solicited, facilitation, or crossing order no longer applies as long as he disclosed all the terms of the *originating* order.[29] This clarification brings the proposed rule change in conformity with the disclosure requirement of CBOE Rule 6.9(e) and raises no new regulatory issue.

Amendment No. 3 includes several modifications of the proposed new rule text that were made for technical purposes[30] or to clarify its meaning, and thus strengthen the proposal.

Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5)[31] and 19(b)(2)[32] of the Act to accelerate approval of Amendment Nos. 1, 2, and 3 to the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1, 2, and 3, including whether they are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–99–36 and should be submitted by July 3, 2000.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the portion of the proposed rule change (SR–Amex–99–36), as amended, adopting Commentary .04 to Amex Rule 950(d) is approved, and the portion of the proposed rule change adopting Commentary .02(d) to Amex Rule 950(d) is approved on a pilot basis until August 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[33]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14720 Filed 6–9–00; 8:45 am]

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[26] 15 U.S.C. 78s(b)(2)(B).

[27] See Securities Exchange Act Release Nos. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) (approving ISE's registration as a national securities exchange); 42835 (May 26, 2000) (approving File No. SR–CBOE–99–10); and 42848 (May 26, 2000) (approving File No. SR–PCX–99–18).

[28] *See* relevant citations at *supra,* note 27.

[29] *See supra,* note 14.

[30] One modification refers to current trading floor practices on the Amex regarding specialist allocations, rather than to the Amex proposal that would codify these practices, which is still pending before the Commission. *See supra,* note 11.

[31] 15 U.S.C. 78f(b)(5).

[32] 15 U.S.C. 78s(b)(2).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42895; File No. SR–AMEX–00–10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the American Stock Exchange LLC Relating to the Listing and Trading of Trust Issued Receipts

June 2, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act'')[1] and Rule 196–4 thereunder,[2] notice is hereby given that on February 14, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. Amendment No. 1 was filed on June 2, 2000.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 1202 to provide for the trading of Holding Company Depository Receipts (''HOLDRs'') pursuant to Rule 19b–4(e) of the Act.[4] The text of the proposed rule change follows. *Italics* indicate text to be added.

TRUST ISSUED RECEIPTS

Initial and Continued Listing

Rule 1202

Trust Issued Receipts will be listed and traded on the Exchange subject to application of the following criteria:

(a)–(e) No change.

Commentary .01 The Exchange may approve a series of HOLDRs for listing and trading on the Exchange pursuant to Rule 19b–4(e) under the Securities Exchange Act of 1934 (''Act''), provided each of the component securities satisfies the following criteria:

Eligibility Criteria for Component Securities Represented by a series of HOLDRs:

(i) each component security must be registered under Section 12 of the Exchange Act;

(ii) each component security must have a minimum public float of at least $150 million;

(iii) each component security must be listed on a national securities exchange or traded through the facilities of Nasdaq and be a reported national market system security;

(iv) each component security must have an average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period;

(v) each component security must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least $1 million; and

(vi) the most heavily weighted security may not initially represent more than 20% of the overall value of the HOLDR.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Amex rule 1202 to provide for the trading of HOLDRs pursuant to Rule 19b–4(e) of the Act. On September 21, 1999, the Amex received approval to adopt new Rules 1200 *et seq.* to permit the trading of Trust Issued Receipts (of which HOLDRs are a type).[5] Since that time, the Exchange has listed Internet, Biotechnology, Pharmaceutical, Telecommunications, Business to Business, Internet Architecture, Internet Infrastructure, Broadband, and Semiconductor HOLDRs. The Exchange anticipates additional proposals to list new HOLDRs products.

To accommodate the listing of additional HOLDRs, the Exchange now proposes to revise existing listing criteria and trading rules to permit the listing and trading of HOLDRs pursuant to Rule 19b–4(e).[6] The Exchange believes listing newly proposed HOLDRs products pursuant to Rule 19–4(e) is appropriate because the Commission has approved, pursuant to Section 19(b) of the Act, trading rules, procedures and listing standards for the HOLDRs product class and the Exchange has a surveillance program for the HOLDRs' product class.[7] In addition, the Commission has reviewed a number of proposals to list and trade the Internet and Biotech holders that comprised the same product structure. The Commission noticed these proposed rule changes regarding the Internet and Biotech HOLDRS in the **Federal Register** and did not receive any comments concerning the proposals.

Amex Rule 1200 subjects HOLDRs to all of the Exchange's trading rules by providing that the provisions of the Exchange's Constitution and all other rules and policies of the Board of Governors apply to the trading of HOLDRs on the Exchange. Further, initial and continued listing standards applicable to HOLDRs, as set forth in Amex Rule 1202, currently provide that HOLDRs will be listed and traded on the Exchange subject to application of the following criteria: (a) Initial Listing—For each Trust, the Exchange will establish a minimum number of Trust Issued Receipts required to be outstanding at the time of commencement of trading on the Exchange: (b) Continued Listing—Following the initial twelve month period following formation of a Trust and commencement of trading on the Exchange, the Exchange will consider the suspension of trading in or removal from listing of a Trust upon which a series of Trust Issued Receipts is based under any of the following circumstances: (i) if the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, which has been incorporated into the proposed rule change, the Exchange replaced the word ''companies'' with the term ''component securities'' throughout the proposed rule change and the proposed rule text. The Exchange also clarified that the Exchange, and not the Commission, may approve a series of HOLDRs for listing pursuant to Rule 19b–4(e) provided each of the component securities satisfies the proposed listing criteria. *See* Letter from Scott Van Hatten, Attorney, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, dated May 24, 2000.

[4] Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by an SRO shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that include the new derivative securities product and the self-regulatory organization has a surveillance program for the product class. 17 CFR 240.19b–(4)(e).

[5] HOLDRs are negotiable receipts issued by trusts that represent investors' discrete identifiable and undivided beneficial ownership interest in the securities deposited into the trust. *See* Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999).

[6] Rule 19b–4(e), adopted by the Commission on December 8, 1998, permits the Exchange to list and trade new derivative securities products without a rule change provided the Exchange has in place trading rules, procedures, a surveillance program and listing standards that pertain to the class of securities covering the new product. *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

[7] *See* Amendment to Rule Filing Requirements for Self-Regulatory Organizations Regarding New Derivative Securities Products and Order Approving the Listing and Trading of Trust Issued Receipts, Securities Exchange Act Release Nos. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) and 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999), respectively.

consecutive trading days; (ii) if the Trust has fewer than 50,000 receipts issued and outstanding; (iii) if the market value of all receipts issued and outstanding is less than $1,000,000; or, (iv) if such other event shall occur or condition exists which in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

In addition, the component securities represented by the securities in the portfolio underlying HOLDRs must meet the following minimum criteria: (1) Each component security must be registered under Section 12 of the Exchange Act; (2) the minimum public float of each component security included in the portfolio must be at least $150 million; (3) each component security must either be listed on a national securities exchange or be traded through the facilities of Nasdaq and be a reported national market system security; (4) the average daily trading volume for each component security must be at least 100,000 shares during the preceding sixty-day trading period; and (5) the average daily dollar value of the shares traded during the preceding sixty-day trading period must be at least $1 million. And lastly, no component security may initially represent more than 20% of the overall value of the receipt.[8]

The Exchange believes codifying the abovbe listing criteria for HOLDRs listed pursuant to Rule 19b–4(e) will ensure that no security included in the basket and HOLDRs will be readily susceptible to manipulation, while permitting sufficient flexibility in the construction of various HOLDRs baskets to meet investors' needs. Additionally, the listing criteria will further serve to ensure sufficient liquidity for those investors seeking to purchase and deposit in basket securities with the trustee to create HOLDRs.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[9] in general and furthers the objectives of Section 6(b)(5)[10] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

[8] *See* Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 File No. SR–AMEX–00–10 and should be submitted by July 3, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14721 Filed 6–9–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42888; File No. SR–Amex–00–05]

Self-Regulatory Organizations; American Stock Exchange LLC.; Order Approving Proposed Rule Change to Rescind Rules 5 and 6, the Exchange's Off-Board Trading Rules, and to Make Conforming Changes to Rules 25, 317, 900 and 959

June 1, 2000.

I. Introduction

On February 1, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to rescind Rules 5 and 6, the Exchange's off-board trading rules, and to make conforming changes to Rules 25, 317, 900 and 959. The proposed rule change was published for comment in the **Federal Register** on March 3, 2000.[3] Proposed rule changes filed by thee Chicago Stock Exchange and the Philadelphia Stock Exchange to rescind their off-board trading rules were published on the same date as the Amex proposing release.[4] Shortly thereafter, the Boston Stock Exchange and the Pacific Exchange filed similar proposed rule changes.[5] The Commission received no comments on any of these proposals. Today, in separate orders, the Commission is approving the proposed rule changes to rescind off-board trading

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42460 (February 25, 2000), 65 FR 11618.

[4] Securities Exchange Act Release No. 42459 (February 25, 2000). 65 FR 11619 (March 3, 2000) (File No. SR–CHX–99–28); Securities Exchange Act Release No. 42458 (February 25, 2000), 65 FR 11628 (March 3, 2000) (File NO. SR–Phlx–00–12).

[5] Securities Exchange Act Release No. 42661 (April 10, 2000), 65 FR 20497 (April 17, 2000) (File No. SR–BSE–00–02); Securities Exchange Act Release NO. 42660 (April 10, 2000), 65 FR 21052 (April 19, 2000) (File No. SR–PCX–00–11).

rules filed by the exchanges noted above.[6]

II. Description of the Proposal

Exchange Rules 5 and 6 restrict a member's ability to effect transactions in Exchange-listed securities (Rule 5) and bonds (Rule 6) off a national securities exchange. In the proposing release, the Exchange explained that these rules were originally intended to ''centralize buying and selling interest in listed securities to ensure the execution of orders at the best possible prices. Over time, however, these off-board trading restrictions came to be viewed by many as anticompetitive.'' The Exchange also noted that Chairman Levitt had recently called for the elimination of off-board trading rules.

The Exchange proposed to eliminate Exchange Rule 5 because the rule is ''largely irrelevant'' to the trading of Amex-listed equity securities, given the applicability of Commission Rule 19c–3[7] and the fact that most Amex-listed stocks were listed for trading after April 26, 1979. The Exchange also noted that Exchange Rule 5 only applies to Amex members, and that non-member firms do in fact trade Amex-listed equities off an exchange. With respect to Exchange Rule 6, the Exchange stated that the rule was of ''little practical consequence'' due to the exceptions in the rule that permit ''the great bulk of listed bond transactions to occur over-the counter.'' Therefore, in light of the ''limited practical impact of the Exchange's off-board trading rules and the changing view on their propriety.'' the Exchange proposed to eliminate its off-board trading restrictions for Amex-listed equities and bonds.

III. Discussion

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. In particular, the Commission finds the proposed rule change is consistent with Section 6(b)(5) of the Act[8] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and Section 6(b)(8), which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the Act. The rescission of the Exchange's off-board trading restrictions is also consistent with Section 11A of the Act[9] which sets forth the findings and objectives that are to guide the Commission in its oversight of the national market system. Specifically, rescinding the off-board trading restrictions will help further the national market system objective in Section 11(A)(a)(1)(C)(i) to assure the economically efficient execution of securities transactions, and in Section 11A(a)(1)(C)(ii) to assure fair competition between exchange markets and markets other than exchange markets.[10]

As discussed more fully in the NYSE Approval Order, the existence of off-board trading restricting can no longer be justified in an age when advancing technology and expanding trading volume are introducing new competitive challenges for the U.S. securities markets, both at home and abroad. Off-board trading rules such as Exchange Rules 5 and 6 directly restrict a certain type of market center competition—competition between exchange markets and markets other than exchange markets. Their rescission today eliminates an inappropriate regulatory burden on competition that runs contrary to the objectives set forth in the Act.

Off-board trading restrictions have been justified on the basis that they promote the interaction of investors' orders without participation by a dealer—indeed an objective set forth in the Act.[11] The Commission believes, however, that whatever beneficial effect off-board trading restrictions such as Exchange Rules 5 and 6 may have in enhancing the interaction of investor orders can no longer justify their anticompetitive nature. To the extent off-board trading rules enhance order interaction, they do so in an undesirable way—by attempting a direct restriction on competition. Such attempts are never wholly successful and typically only distort, rather than eliminate, competition and introduce unnecessary costs ultimately borne by investors.

The outcome of competition between market centers should depend on which market centers are most able to serve investor interests by providing the highest quality trading services at the lowest possible prices; the Commission's regulatory task is removing unwarranted regulatory barriers to competition between market centers. As stated in the NYSE Approval Order, the rescission of off-board trading rules is ''intended solely to free the forces of competition and allow investor interests to control the success or failure of individual market centers.''[12] The same rationale and motivation support the Commission's action today.

IV. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR-Amex-00–05) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14724 Filed 6–09–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42887; File No. SR–BSE–00–02]

Self-Regulatory Organizations; Boston Stock Exchange Inc.; Order Approving Proposed Rule Change to Rescind Chapter II, Section 23, the Exchange's Off-Board Trading Rule

June 1, 2000.

I. Introduction

On March 9, 2000, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a

[6] The New York Stock Exchange was first to submit a proposed rule change rescinding its off-board trading rule, Rule 390. Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577 (February 28, 2000) (''NYSE Release'').

On May 5, 2000 the Commission approved the New York Stock Exchange's proposed rule change to rescind Rule 390. Securities Exchange Act Release 34–42758 (May 5, 2000), 65 FR 30175 (May 10, 2000) (''NYSE Approval Order'').

In the NYSE Release, the Commission also solicited the public's views on a broad range of issues related to market fragmentation—the trading of orders in multiple locations without interaction of those orders. The period for public comment on market fragmentation expired on May 12, 2000. The Commission currently is reviewing the comments submitted in response to the NYSE Release.

[7] Commission Rule 19c–3 prohibits a national securities exchange from imposing off-board trading restrictions to equity securities listed after April 26, 1979. 17 CFR 240.19c(3).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78k–1.

[10] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] Section 11A(a)(1)(C)(v) of the Act.

[12] NYSE Approval Order at 30179.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change to rescind Chapter II, Section 23, the Exchange's off-board trading rule. The proposed rule change was published for comment in the **Federal Register** on April 17, 2000.[3] Shortly thereafter, a proposed rule change filed by the Pacific Exchange rescinding its off-board trading rule was published for public comment.[4] Similar proposed rule changes filed by the American Stock Exchange, Chicago Stock Exchange, and the Philadelphia Stock Exchange had already been published for public comment.[5] The Commission received no comments on any of these proposals. Today, in separate orders, the Commission is approving the proposed rule changes to rescind off-board trading rules filed by the exchange noted above.[6]

II. Description of the Proposal

Chapter II, Section 23 restricts a member's ability to effect transactions in Exchange-listed securities off a national securities exchange. In the proposing release, the Exchange noted that ''[a]dvances in the application of technology have resulted in the creation of new competitors to the regional exchanges, such as Alternative Trading Systems. As such, the Exchange recognizes the need for exchanges and their members to take part in the greater level of free market trading.'' The Exchange also noted that the NYSE had proposed to rescind its off-board trading rule, and that the Commission had requested that the Exchange review its restrictions on off-board trading.

[3] Securities Exchange Act Release No. 42661 (April 10, 2000), 65 FR 20497.

[4] Securities Exchange Act Release No. 42660 (April 10, 2000, 65 FR 21052 (April 19, 2000) (File No. SR–PCX–00–11).

[5] Securities Exchange Act Release No. 42460 (February 25, 2000), 65 FR 11618 (March 3, 2000) (File No. SR–Amex–00–05); Securities Exchange Act Release No. 42459 (February 25, 2000, 65 FR 11619 (March 3, 2000) (File No. SR–CHX–99–28); Securities Exchange Act Release No. 42458 (February 25, 2000), 65 FR 11628 (March 3, 2000) (File No. SR–Phlx–00–12).

[6] The New York Stock Exchange was first to submit a proposed rule change rescinding its off-board trading rule, Rule 390. Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577 (February 28, 2000) (''NYSE Release'').

On May 5, 2000, the Commission approved the New York Stock Exchange's proposed rule change to rescind Rule 390. Securities Exchange Act Release No. 34–42758 (May 5, 2000), 65 FR 30175 (May 10, 2000) (''NYSE Approval Order'').

In the NYSE Release, the Commission also solicited the public's views on a broad range of issues related to market fragmentation—the trading of orders in multiple locations without interaction of those orders. The period for public comment on market fragmentation expired on May 12, 2000. The Commission currently is reviewing the comments submitted in response to the NYSE Release.

III. Discussion

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. In particular, the Commission finds the proposed rule change is consistent with Section 6(b)(5) of the Act[7] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and Section 6(b)(8), which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the Act. The rescission of the Exchange's off-board trading restrictions is also consistent with Section 11A of the Act[8] which sets forth the findings and objectives that are to guide the Commission in its oversight of the national market system. Specifically, rescinding the off-board trading restrictions will help further the national market system objective in Section 11A(a)(1)(C)(i) to assure the economically efficient execution of securities transactions, and in Section 11A(a)(1)(C)(ii) to assure fair competition between exchange markets and markets other than exchange markets.[9]

As discussed more fully in the NYSE Approval Order, the existence of off-board trading restrictions can no longer be justified in an age when advancing technology and expanding trading volume are introducing new competitive challenges for the U.S. securities markets, both at home and abroad. Off-board trading rules such as Chapter II, Section 23 directly restrict a certain type of market center competition—competition between exchange markets and markets other than exchange markets. Their rescission today eliminates an inappropriate regulatory burden on competition that runs contrary to the objectives set forth in the Act.

Off-board trading restrictions have been justified on the basis that they promote the interaction of investors' orders without participation by a dealer—indeed an objective set forth in the Act.[10] The Commission believes, however, that whatever beneficial effect off-board trading restrictions such as Chapter II, Section 23 may have in enhancing the interaction of investor orders can no longer justify their anticompetitive nature. To the extent off-board trading rules enhance order interaction, they do so in an undesirable way—by attempting a direct restriction on competition. Such attempts are never wholly successful and typically only distort, rather than eliminate, competition and introduce unnecessary costs ultimately borne by investors.

The outcome of competition between market centers should depend on which market centers are most able to serve investor interests by providing the highest quality trading services at the lowest possible prices; the Commission's regulatory task removing unwarranted regulatory barriers to competition between market centers. As stated in the NYSE Approval Order, the rescission of off-board trading rules is ''intended solely to free the forces of competition and allow investor interests to control the success or failure of individual market centers.''[11] The same rationale and motivation support the Commission's action today.

IV. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–BSE–00–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14726 Filed 6–9–00; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k–1.

[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] Section 11A(a)(1)(C)(v) of the Act.

[11] NYSE Approval Order at 30179.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42891; File No. SR–CHX–00–07]

Self Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. to Eliminate the Series 7B Qualification Examination for Floor Clerks Who May Accept Orders From Professional Customers for Execution on the Exchange's Trading Floor

June 1, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2000, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Interpretation .01(d) of CHX Article VI, Rule 3 by eliminating the Series 7B Qualification Examination [3] for Exchange floor clerks who may, among other functions, accept orders from professional customers [4] for execution on the Exchange's complete the Exchange's Floor Membership Examination and either the Series 7 Examination or the Series 7A Qualification Examination.[5] Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

ARTICLE VI

RESTRICTIONS AND REQUIREMENTS

* * * * *

Training and Examination of Registrants

Rule 3. The Exchange may require the successful completion of a training course or an examination, or both, in connection with registration of members and persons associated with a member or member organization, and may charge fees for such registration and examination. This provision shall apply to all members[,] and member organizations, including members and member organizations which are to be solely on the Floor of the Exchange.

Interpretations and Policies:

.01 (a) No change.

(b) No change.

(c) No change.

(d) Public Business Exam

Floor members who successfully complete the Series 7 Examination may conduct a public business which is limited to accepting orders while on the floor directly from non-broker-dealer customers. In lieu of the Series 7 Examination, Floor members who successfully complete the Series 7A examination may conduct a public business which is limited to accepting orders directly from professional customers for execution on trading floor. Floor clerks of floor members that have successfully completed the

Series 7 or Series 7A examination may accept orders from professional customers for execution on the trading floor so long as such clerks successfully complete *both the Floor Membership Exam and either* the Series 7 *Examination* or *the* Series *7A*[7B]*E*[e]*xamination.* For purposes of this interpretation and policy, a ''professional customer'' includes a bank; trust company; insurance company; investment trust; a state or political subdivision thereof; *a* charitable or nonprofit educational institution regulated under the laws of the United States, or any state;[,] *a* [or] pension or profit sharing plan subject to ERISA, or of any agency of the Untied States *or* [as] of a state or political subdivision thereof; or any person (other than a natural person) who has, or who has under management, net tangible assets of at least sixteen million dollars.

.02 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In this filing with the Commission, the CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in 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

The Exchange proposes to amend its Interpretation .01(d) of CHX Article VI, Rule 3 to eliminate the Series 7B Examination for Exchange floor clerks. Under existing Exchange rules, a floor clerk of a qualified floor member may accept orders from professional customers for execution on the Exchange's trading floor, so long as the floor clerk has successfully completed either the Series 7 Examination or the Series 7B Examination.[6] The Exchange's proposed rule change would require that Exchange floor clerks who will accept professional orders pass (i) the Floor Membership Examination [7] already administered by the Exchange to prospective floor members and (ii) either the Series 7 or the Series 7A Examination. The CHX's Floor Membership Examination addresses the rules and practices of the Exchange's trading floor but has broader coverage than the Series 7B Examination.[8]

The Exchange notes that the New York Stock Exchange, Inc. (''NYSE'') recently eliminated the Series 7B Examination and now requires its floor clerks to pass both a new Trading Assistant Examination (''Series 25 Examination'') [9] and either the Series 7 Examination or the Series 7A Examination before becoming eligible to accept professional orders.[10] Like the CHX's Floor Membership Examination, the NYSE's new Trading Assistant Examination contains questions relating to its floor rules and policies but has broader coverage that the questions formerly included in the Series 7B Examination. The CHX therefore proposes to change its examination requirements to correspond to the recent NYSE changes that have been approved by the Commission. The CHX represents

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Series 7B Qualification Examination (''Series 7B Examination'') was originally implemented by the NYSE in 1994, to serve as an alternative qualification examination to the General Securities Registered Representative Examination (''Series 7 Examination''). *See* Securities Exchange Act Release No. 34334 (July 8, 1994), 59 FR 35964 (July 14, 1994).

[4] The Exchange's proposed rule change defines the term ''professional customer'' to include a bank; trust company; insurance company; investment trust; a state or political subdivision thereof; a charitable or nonprofit education institution regulated under the laws of the United States, or any state; a pension or profit sharing plan subject to ERISA, or of an agency of the United States or of a state or political subdivision thereof; or any person (other than a natural person) who has, or who has under management, net tangible assets of at least sixteen million dollars.

[5] The Series 7A Qualification Examination (''Series 7A Examination'') was originally implemented by the NYSE in 1993, to serve as an alternative qualification exam to the Series 7 Examination. *See* Securities Exchange Act Release No. 32698 (July 29, 1993), 58 FR 41539 (August 4, 1993).

[6] *See* Securities Exchange Act Release No. 37690 (September 17, 1996), 61 FR 49803 (September 23, 1996).

[7] The Exchange adopted the Floor Membership Exam in 1996. *See* Securities Exchange Act Release No. 37690 (September 17, 1996), 61 FR 49803 (September 23, 1996).

[8] Telephone conversation between Michael Cardin, Market Regulation Department, CHX, and Susie Cho, Attorney, Division of Market Regulation, Commission, on April 5, 2000.

[9] *See* Securities Exchange Act Release No. 40943 (January 13, 1999), 64 FR 3330 (January 21, 1999) (order approving the Series 25 Examination).

[10] *See* Securities Exchange Act Release No. 42092 (November 2, 1999), 64 FR 61375 (November 10, 1999) (order approving the elimination of the Series 7B Examination and establishing the Series 7A Examination as the appropriate qualification examination for NYSE floor clerks).

that successful completion of the Exchange's Floor Membership Examination would ensure that clerks wishing to perform certain functions on the floor, such as accepting professional orders, are sufficiently familiar with the rules and practices of the Exchange's trading floor.

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with Section 6(b) of the Act [11] in general and furthers the objectives of Section 6(b)(5) [12] in particular in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period(i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 File No. SR–CHX–00–07 and should be submitted by July 3, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14723 Filed 6–9–00; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42886; File No. SR–CHX–99–28]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving Proposed Rule Change To Delete Certain Provisions of Article VIII, Exchange Rule 9, Prohibiting Off-Floor Transactions by Exchange Members

June 1, 2000.

I. Introduction

On December 27, 1999, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to rescind certain provisions of Article VIII, Exchange Rule 9, the Exchange's off-board trading rules. The proposed rule change was published for comment in the **Federal Register** on March 3, 2000.[3] Proposed rule changes filed by the American Stock Exchange and the Philadelphia Stock Exchange to rescind their off-board trading rules were published on the same date as the CHX proposing release.[4] Shortly thereafter, the Boston Stock Exchange and the Pacific Exchange filed similar proposed rule changes.[5] The Commission received no comments on any of these proposals. Today, in separate orders, the Commission is approving the proposed rule changes to rescind off-board trading rules filed by the exchanges noted above.

II. Description of the Proposal

Certain provision of Article VIII, Exchange Rule 9 restricts a member's ability to effect transactions in Exchange-listed securities off a national securities exchange. In the proposing release, the Exchange noted that the New York Stock Exchange, along with other exchanges, had submitted similar proposals to rescind their off-board trading rules,[6] and that the Commission had recently adopted amendments to the Intermarket Trading System Plan (''ITS'') to expand the ITS linkage with the National Association of Securities Dealers' Computer Assisted Execution System. Thus, ''to confirm the Exchange's commitment to the competitive ideals on which those actions are based,'' the Exchange proposed to rescind certain provisions of its off-board trading rule, Article VIII, Exchange Rule 9.

III. Discussion

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. In particular, the Commission finds the proposed rule change is consistent with Section 6(b)(5) of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42459 (February 25, 2000), 65 FR 11619.

[4] Securities Exchange Act Release No. 42460 (February 25, 2000), 65 FR 11618 (March 3, 2000) (File No. SR–Amex–00–05); Securities Exchange Act Release No. 42458 (February 25, 2000), 65 FR 11628 (March 3, 2000) (File No. SR–Phlx–00–12).

[5] Securities Exchange Act Release No. 42461 (April 10, 2000), 65 FR 20497 (April 17, 2000) (File No. SR–BSE–00–02); Securities Exchange Act Release No. 42660 (April 10, 2000), 65 FR 21052 (April 19, 2000) (File No. SR–PCX–00–11).

[6] Referring to Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577 (February 28, 2000) (''NYSE Release'').

On May 5, 2000, the Commission approved the New York Stock Exchange's proposed rule change rescinding its off-board trading rule, Rule 390. Securities Exchange Act Release No. 34–42758 (May 5, 2000), 65 FR 30175 (May 10, 2000) (''NYSE Approval Order'').

In the NYSE Release, the Commission also solicited the public's views on a broad range of issues related to market fragmentation—the trading of orders in multiple locations without interaction of those orders. The period for public comment on market fragmentation expired on May 12, 2000. The Commission currently is reviewing the comments submitted in response to the NYSE Release.

Act[7] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and Section 6(b)(8), which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the Act. The rescission of the Exchange's off-board trading restrictions is also consistent with Section 11A of the Act[8] which sets forth the findings and objectives that are to guide the Commission in its oversight of the national market system. Specifically, rescinding the off-board trading restrictions will help further the national market system objective in Section 11A(a)(1)(C)(i) to assure the economically efficient execution of securities transactions, and in Section 11A(a)(1)(C)(ii) to assure fair competition between exchange markets and markets other than exchange markets.[9]

As discussed more fully in the NYSE Approval Order, the existence of off-board trading restrictions can no longer be justified in an age when advancing technology and expanding trading volume are introducing new competitive challenges for the U.S. securities markets, both at home and abroad. Off-board trading rules such as Articles VIII, Exchange Rule 9 directly restrict a certain type of market center competition—competition between exchange markets and markets other than exchange markets. Their rescission today eliminates an inappropriate regulatory burden on competition that runs contrary to the objectives set forth in the Act.

Off-board trading restrictions have been justified on the basis that they promote the interaction of investors' orders without participation by a dealer—indeed an objective set forth in the Act.[10] The Commission believes, however, that whatever beneficial effect off-board trading restrictions such as Article VIII, Exchange Rule 9 may have in enhancing the interaction of investors orders can no longer justify their anticompetitive nature. To the extent off-board trading rules enhance order interaction, they do so in an undesirable way—by attempting a direct restriction on competition. Such attempts are never wholly successful and typically only distort, rather than eliminate, competition and introduce unnecessary costs ultimately borne by investors.

The outcome of competition between market centers should depend on which market centers are most able to serve investors interests by providing the highest quality trading services at the lowest possible prices; the Commission's regulatory task is removing unwarranted regulatory barriers to competition between market centers. As stated in the NYSE Approval Order, the rescission of off-board trading rules is ''intended solely to free the forces of competition and allow investors interest to control the success or failure of individual market centers.''[11] The same rationale and motivation support the Commission's action today.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CHX–99–28) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14727 Filed 6–9–00; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k–1.

[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] Section 11A(a)(1)(C)(v) of the Act.

[11] NYSE Approval Order at 30179.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42885; File No. SR–NASD–99–67]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by NASD Regulation, Inc. Relating to Amendments to Membership Rules

June 1, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 2, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. On May 1, 2000, the NASD Regulation filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend the Rule 1010 Series, which concerns member admission. Additions are *italicized;* deletions are [bracketed].

1010. Membership Proceedings

1011. Definitions

Unless otherwise provided, terms used in the Rule 1010 Series shall have the meaning as defined in Rule 0120.

(a) ''Applicant''

The term ''Applicant'' means a person [or entity] that applies for membership in the Association under Rule 1013[,] *or a member that* files an application [to remove or modify a restriction under Rule 1017, or files a notice and application for continuance in membership under Rule 1018] *for approval of a change in ownership, control, or business operations under Rule 1017.*

(b) ''Associated Person''

The term ''Associated Person'' means: (*1*) a natural person registered under the Rules of the Association; or (*2*) a sole proprietor, partner, officer, director, branch manager, or *other* natural person occupying a similar status or performing similar functions who will be or is anticipated to be associated with the Applicant, or a natural person engaged in the investment banking or securities business who will be or is anticipated to be directly or indirectly controlling or controlled by the Applicant, whether or not any such person is registered or exempt from registration under the NASD By-Laws or the Rules of the Association.

(c) ''Department''

The term ''Department'' means the Department of Member Regulation of NASD Regulation.

(d) ''Director''

The term ''Director'' means a member of the NASD Regulation Board.

(e) ''district''

The term ''district'' means a district established by the NASD Regulation Board.

(f) ''district office''

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This 19b–4 filing, represents Amendment No. 1 to File No. SR–NASD–99–67.

The term ''district office'' means an office of NASD Regulation located in a district.

(g) ''Governor''

The term ''Governor'' means a member of the NASD Board.

(h) ''Interested Association Staff''

The term ''Interested Association Staff'' means an employee who directly participates in a decision under Rule 1014[,] *or* 1017, [or 1018,] an employee who directly supervises an employee with respect to such decision, an employee who conducted an investigation or examination of a member that files an application under Rule 1017 [or a notice and application under Rule 1018], the District Director for the relevant district, and the head of the Department.

(i) ''material change in business operations''

The term ''material change in business operations'' includes, but is not limited to:

(1) removing or modifying a membership agreement restriction;

(2) market making, underwriting, or acting as a dealer for the first time; and

(*3) adding business activities that require a higher minimum net capital under SEC Rule 15c3–1.*

[(i)](*j)* ''NASD Board''

The term ''NASD Board'' means the Board of Governors of the NASD.

[(j)](*k*) ''NASD Regulation Board''

The term ''NASD Regulation Board'' means the Board of Directors of NASD Regulation.

(l) ''principal place of business''

The term ''principal place of business'' means the executive office from which the sole proprietor or the officers, partners, or managers of the Applicant direct, control, and coordinate the activities of the Applicant, unless the Department determines that the principal place of business is where: (1) the largest number of Associated Persons of the Applicant are located; or (2) the books and records necessary to provide information and data to operate the business and comply with applicable rules are located.

[(k)](*m*) ''sales practice [violations] *event*''

The term ''sales practice [violations] *event*'' means any [conduct directed at or involving a customer that would constitute a violation of any Rule in the Rule 2000 or 3000; any provision of the Act, Securities Exchange Act of 1934; or any state statute prohibiting fraudulent conduct in connection with the offer, sale, or purchase of a security or in connection with the rendering of investment advice] *customer complaint, arbitration, or civil litigation that has been reported to the Central Registration Depository, currently is required to be reported to the Central Registration Depository, or otherwise has been reported to the Association.*

[(l)](*n*) ''Subcommittee''

The term ''Subcommittee'' means a subcommittee of the National Adjudicatory Council that is constituted pursuant to Rule 1015 to conduct a review of a Department decision issued under the Rule 1010 Series.

IM–1011–1. Safe Harbors for Business Expansions

This interpretive material concerns the types of business expansions that will not require a member to submit a Rule 1017 application to obtain NASD Regulation's approval of the expansion. This safe harbor applies to: (1) firms that do not have a membership agreement, and (2) firms that have a membership agreement that does not contain a restriction on the factors listed below.

The safe harbor is not available to a member that has a membership agreement that contains a specific restriction as to one or more of the factors listed below. In that case, the agreement takes precedence because NASD Regulation has determined that a particular restriction should apply as to one or more of the factors, and NASD Regulation has issued a decision with a rationale for that restriction. Similarly, the safe harbor also does not apply if the member has a membership agreement that permits expansion beyond the limits set forth below (e.g., an Applicant requests and obtains approval for ten registered representatives in the first six months with an additional ten registered representatives in the next year); in such case, the Department has specifically considered the firm's expansion plans and approved them.

The safe harbor is not available to any member that has disciplinary history. For purposes of this Interpretation, ''disciplinary history'' means a finding of a violation by the member or a principal of the member in the past five years by the Securities and Exchange Commission, a self-regulatory organization, or a foreign financial regulatory authority of one or more of the following provisions (or a comparable foreign provision) or rules or regulations thereunder: Sections 15(b)(4)(E) and 15(c) of the Securities Exchange Act of 1934; Section 17(a) of the Securities Act of 1933; SEC Rules 10b–5 and 15g–1 through 15g–9; NASD Rules 2110, 2120, 2310, 2330, 2440, 3010 (failure to supervise only), 3310, and 3330; and MSRB Rules G–19, G–30, and G–37(b) & (c).

For those firms to which the safe harbor is available, the following types of expansions are presumed not to be a material change in business operations and therefore do not require a Rule 1017 application. For any expansion beyond these limits, a member should contact its district office prior to implementing the change to determine whether the proposed expansion requires an application under Rule 1017. Expansions in each area are measured on a rolling 12-month basis; members are required to keep records of increases in personnel, offices, and markets to determine whether they are within the safe harbor.

''Associated Persons involved in sales'' includes all Associated Persons, whether or not registered, who are involved in sales activities with public customers, including sales assistants and cold callers, but excludes clerical, back office, and trading personnel who are not involved in sales activities.

	Safe Harbor-Number of Increase Permitted Within One Year Period Without Rule 1017 Application
Number of Associated Persons Involved in Sales	
1–10	*10 persons.*
11 or more	*10 persons or a 30 percent increase, whichever is greater.*
Number of Offices (registered or unregistered)	
1–5	*3 offices.*
6 or more	*3 offices or a 30 percent increase, whichever is greater.*
Number of Markets Made	
1–10	*10 markets.*
11 or more	*10 markets or a 30 percent increase, whichever is greater.*

1012. General Provisions

(a) [Service of Notices and Decisions;] Filing by Applicant or *Service by the Association*

[A notice or a decision issued by the Association under the Rule 1010 Series with respect to an application shall be served promptly by first-class mail on the Applicant or its counsel, unless a Rule specifies a different method of service. Service by the Association or filing by an Applicant by mail shall be deemed complete upon mailing. Service by the Association or filing by an Applicant by commercial courier or facsimile shall be deemed complete on the date specified in the written confirmation of receipt.]

(1) An Applicant may file an application or any document or information requested under the Rule 1010 Series by first-class mail, overnight courier, or hand delivery. If the Department and the Applicant agree, the Applicant also may file a requested document or information by facsimile.

(2) The Association shall serve a notice or decision issued under the Rule 1010 Series by first-class mail on the Applicant or its counsel, unless a Rule specifies a different method of service.

(3) Service by the Association or filing by an Applicant shall be deemed complete as follows:

(A) Service or filing by first-class mail shall be deemed complete on the date of postmark;

(B) Service or filing by overnight courier shall be deemed complete on the date of delivery to the overnight courier as specified in the airbill;

(C) Service or filing by hand delivery shall be deemed complete on the date of receipt as evidenced by a date stamp; and

(D) Service or filing by facsimile shall be deemed complete on the date specified in the document and on the written confirmation of transmission.

(b) Lapse of Application

(1) Absent a showing of good cause, an application filed under Rule 1013 or 1017 shall lapse if an Applicant fails to:

(A) respond fully within 60 days after service of an initial written request for information or documents under Rule 1013, within 30 days after service of an initial written request for information or documents under Rule 1017, within 30 days after service of a subsequent written request for information or documents under Rule 1013 or 1017, or within such other time period agreed to by the Department and the Applicant;

(B) appear at or otherwise participate in a scheduled membership interview pursuant to Rule 1013(b) or 1017(f); or

(C) file an executed membership agreement under Rule 1014(d) or Rule 1017(g)(4) within 25 days after service of the agreement, or within such other period agreed to by the Department and the Applicant.

(2) If an Applicant wishes to continue to seek membership or approval of a change in ownership, control, or business operations, then the Applicant shall be required to submit a new application and fee under Rule 1013 or 1017, respectively. The Association shall not refund any fee for a lapsed application.

[(b)] *(c)* Ex Parte Communications

(1) The prohibitions against ex parte communications shall become effective when Association staff has knowledge that an Applicant intends to file a written request for review by the National Adjudicatory Council under Rule 1015.

[(1)] *(2)* Unless on notice and opportunity for an Applicant and Interested Association Staff to participate, or to the extent required for the disposition of ex parte matters as authorized by the Rules of the Association:

(A) an Applicant, a counsel or representative of an Applicant, or an Interested Association Staff shall not make or knowingly cause to be made an ex parte communication relevant to the merits of a membership proceeding under the Rule 1010 Series to a Governor, a member of the National Adjudicatory Council or a Subcommittee thereof, or an Association employee who is participating or advising in a decision of such a person with respect to that proceeding; and

(B) a Governor, a member of the National Adjudicatory Council or a Subcommittee thereof, or an Association employee who is participating or advising in the decision of such a person with respect to a membership proceeding shall not make or knowingly cause to be made to an Applicant, a counsel or representative of the Applicant, or an Interested Association Staff an ex parte communication relevant to the merits of that proceeding.

[(2)] *(3)* A Governor, a member of the National Adjudicatory Council or a Subcommittee thereof, or an Association employee participating or advising in the decision of such a person, who receives, makes, or knowingly causes to be made a communication prohibited by this paragraph shall place in the record of the membership proceeding:

(A) all such written communications;

(B) memoranda stating the substance of all such oral communications; and

(C) all written responses and memoranda stating the substance of all oral responses to all such communications.

[(3) The prohibitions against ex parte communications shall become effective when Association staff has knowledge that an Applicant intends to file a written request for review by the National Adjudicatory Council under Rule 1015.]

[(c)] *(d)* Recusal or Disqualification

A Governor or a member of the National Adjudicatory Council or a Subcommittee thereof shall not participate in a matter governed by the Rule 1010 Series as to which that person has a conflict of interest or bias, or if circumstances otherwise exist where his or her fairness might reasonably be questioned. In such a case, the person shall recuse himself or shall be disqualified as follows:

(1) The Chair of the NASD Board shall have authority to direct the disqualification of a Governor, and a majority of the Governors of the NASD Board excluding the Chair shall have authority to direct the disqualification of the Chair of the NASD Board.

(2) The Chair of the National Adjudicatory Council shall have authority to direct the disqualification of a member of the *National Adjudicatory* Council or a member of a Subcommittee appointed pursuant to Rule 1015, and the Vice Chair of the *National Adjudicatory* Council shall have authority to direct the disqualification of the Chair of the National Adjudicatory Council.

[(d)] *(e)* Computation of Time

(1) Calendar Day

In the Rule 1010 Series, ''day'' means calendar day.

(2) Formula

In computing a period of time under the Rule 1010 Series, the day of the act, event, default, or lapse from which the period of time designated begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday. Intermediate Saturdays, Sundays, and Federal holidays shall be excluded from the computation when the period prescribed is ten days or less.

1013. New Member Application [and Membership] and Interview

(a) Filing of Application

(1) Where To File

[Each Applicant for Association membership shall file its application in two parts. The first part of the application shall be filed with the Membership Department and shall include the following documents:]

An Applicant for Association membership shall file its application with the Department of Member Regulation at the district office in the district in which the Applicant intends to have its principal place of business as defined in Rule 1011(l).

(2) Contents

The application shall include:

(A) an original signed and notarized *paper* Form BD, with applicable schedules;

(B) an original signed *paper* Form U–4 for each Associated Person who is required to be registered under the Rules of the Association;

(C) an original NASD-approved fingerprint card for each Associated Person who will be subject to SEC Rule 17f–2;

(D) a new member assessment report;

[(E) a new member firm contact questionnaire; and]

[(F)] *(E)* a check for the appropriate fee[.];

[(2) The second part of the application shall be filed with the Department of Member Regulation at the district office in the district in which the Applicant intends to have its principal place of business and shall include the following information and documents:]

[(A)] *(F)* a detailed business plan [, in a form prescribed by the Association,] that *adequately and comprehensively* describes all material aspects of the business that will be, or are reasonably anticipated to be, performed at and after the initiation of business operations, *including future business expansion plans, if any,* and includes:

(i) a trial balance, balance sheet, supporting schedules, and computation of net capital, each of which has been prepared as of a date that is within 30 days before the *filing* date of *the* application;

(ii) a monthly projection of income and expenses, with a supporting rationale, for the first twelve months of operations;

(iii) an organizational chart;

(iv) [a list of] the intended [locations] *location* of [all offices,] *the Applicant's principal place of business and all other offices, if any,* whether or not such offices would be required to be registered under the Rules of the Association, and the names of the persons who will be in charge of each office;

(v) a list of the types of securities to be offered and sold and the types of retail or institutional customers to be solicited;

(vi) a description of the methods and media to be employed to develop a customer base and to offer and sell products and services to customers, including the use of the Internet, telephone solicitations, seminars, or mailings;

(vii) a description of the business facilities and a copy of any proposed or final lease;

(viii) the number of markets to be made, if any, the type and volatility of the products, and the anticipated maximum inventory positions;

(ix) any plan to enter into contractual commitments, such as underwritings or other securities-related activities;

(x) any plan to distribute or maintain securities products in proprietary positions, and the risks, volatility, degree of liquidity, and speculative nature of the products; [and]

(xi) any other activity that the Applicant may engage in that reasonably could have a material impact on net capital within the first twelve months of business operations*; and*

(xii) a description of the communications and operational systems the Applicant will employ to conduct business with customers or other members and the plans and procedures the Applicant will employ to ensure business continuity, including: system capacity to handle the anticipated level of usage; contingency plans in the event of systems or other technological or communications problems or failures that may impede customer usage or firm order entry or execution; system redundancies; disaster recovery plans; system security; disclosures to be made to potential and existing customers who may use such systems; and supervisory or customer protection measures that may apply to customer use of, or access to, such systems;

[(B) a copy of the Applicant's most recent Form BD;]

[(C)]*(G)* a copy of any decision *or order* by a federal or state authority or self-regulatory organization taking permanent or temporary adverse action with respect to a registration or licensing determination regarding the Applicant or an Associated Person;

[(D)]*(H)* a list of all Associated Persons[, the most recent Form U–4 and Form U–5 for each Associated Person, any other document that discloses the disciplinary history of each Associated Person, and a list of any other persons or entities that will exercise control with respect to the Applicant's business];

[(E)]*(I)* documentation *of any of the following events, unless the event has been reported to the Central Registration Depository:*

(i) *a* regulatory action against or investigation of the Applicant or an Associated Person by the Commission, the Commodity Futures Trading Commission, a federal, state, or foreign regulatory agency, or a self-regulatory organization that is pending, adjudicated, or settled;

(ii) *an* investment-related civil action for damages or an injunction against the Applicant or an Associated Person that is pending, adjudicated, or settled;

(iii) *an* investment-related customer complaint or arbitration [involving sales practice violations, theft, misappropriation, conversion, or breach of fiduciary duty, against the Applicant or an Associated Person that is pending, settled, or has resulted in an award or judgment] *that is required to be reported on Form U–4*; [and]

(iv) *a* criminal action (other than a minor traffic violation) against the Applicant or an Associated Person that is pending, adjudicated, or that has resulted in a guilty or no contest plea; *and*

[(F)](*v*) a copy of any document evidencing a termination for cause or a permitted resignation after investigation of an alleged violation of a federal or state securities law, a rule or regulation thereunder, a self-regulatory organization rule, or an industry standard of conduct;

[(G)](*J*) a description of any remedial action, such as special training [or], continuing education requirements, or heightened supervision, imposed on an Associated Person by a state or federal authority or self-regulatory organization;

[(H)](*K*) a written acknowledgment that heightened supervisory procedures and special educational programs may be required *pursuant to Notice To Members 97–19* for an Associated Person whose record[s] reflects[:

(i)] disciplinary actions [involving] *or* sales practice [violations] *events;*

[(ii) customer complaints; or

(iii) arbitrations that were resolved adversely to the Associated Person;]

[(I)](*L*) a copy of final or proposed contracts with banks, clearing entities, or service bureaus, and a general description of any other final or proposed contracts;

[(J)](*M*) a description of the nature and source of Applicant's capital *with supporting documentation,* including a

list of all persons or entities that have contributed or plan to contribute financing to the Applicant's business, the terms and conditions of such financing arrangements, the risk to net capital presented by the Applicant's proposed business activities, and any arrangement for additional capital should a business need arise;

[(K)](*N*) a description of the financial controls to be employed by the Applicant;

[(L)](*O*) a description of the Applicant's supervisory system and a copy of its written supervisory procedures, internal operating procedures (including operational and internal controls), internal inspections plan, written approval process, and qualifications investigations required by Rule 3010;

[(M)](*P*) a description of the number, experience, and qualifications of supervisors and principals and the number, experience, and qualifications of persons to be supervised by such personnel, the other responsibilities of the supervisors and principals with the Applicant, their full-time or part-time status, any business activities that the supervisors or principals may engage in outside of their association with the Applicant, the hours per week devoted to such activities, and an explanation of how a part-time supervisor or principal will be able to discharge his or her designated functions on a part-time basis;

[(N)](*Q*) a description of Applicant's proposed recordkeeping system;

[(O)](*R*) a copy of the Applicant's written training plan to comply with Firm Element continuing education requirements described in Rule 1120(b), including the name of the Associated Person responsible for implementation; and

(P) [a copy of the documents described in paragraph (a)(1)] *a Web CRD entitlement request form and a Member Contact Questionnaire user access request form.*

(3) *Electronic Filings* [The Applicant shall file both parts of the application simultaneously by commercial courier. The application shall be deemed received on the date specified in the written confirmation of receipt generated by the commercial courier for the delivery of the second part of the application to the district office.] *Upon approval of the Applicant's Web CRD entitlement request form, the Applicant shall submit any amendments to its Forms BD or U–4, any additional Forms U–4, and any Form U–5 electronically via Web CRD. Upon approval of the Applicant's membership, the Applicant shall submit any amendments to its Member Contact Questionnaire electronically.*

(4) Rejection Of Application That Is Not Substantially Complete

I*f the Department determines within 30 days after the filing of an application that the application is not substantially complete, the Department may reject the application and deem it not to have been filed. In such case, within the 30 day period, the Department shall serve a written notice on the Applicant of the Department's determination and the reasons therefor. The Association shall refund the application fee, less $350, which shall be retained by the Association as a processing fee. If the Applicant determines to continue to seek membership, the Applicant shall submit a new application and fee under this Rule.*

(5) Request For Additional Documents Or Information

Within 30 days after the [receipt] *filing* of an application, the Department shall [determine whether the application is complete and, if not, shall request] *serve an initial request for any* additional information or documents *necessary to render a decision on the application.* The Department may [request] *serve subsequent requests for* additional information or documents at any time during the membership application process.

[(5)] Unless otherwise agreed by the Department and the Applicant, the Applicant shall file any additional information and documents with the Department within 60 days after *service of* the Department's initial request and 30 days after *service* of any subsequent request.

[(b) Lapse of Application]

[(1) Absent a showing of good cause, an application for membership shall lapse if an Applicant fails to:

(A) respond fully within 60 days after an initial request for information or documents, within 30 after any subsequent request, or within such other time period agreed to by the Department and the Applicant;

(B) appear at or otherwise participate in a scheduled membership interview pursuant to paragraph (c); or

(C) return an executed membership agreement under Rule 1014(c) within 25 days after service of the agreement.]

[(2) The lapse of an application shall require an Applicant continuing to seek membership to submit a new application under paragraph (a).]

[(c)](*b*) Membership Interview

(1) Requirement for Interview

Before the Department [issues a] *serves its* decision on an application for *new* membership in the Association, the Department shall conduct a membership interview with a representative or representatives of the Applicant.

(2) Service of Notice

At least seven days before the membership interview, the Department shall serve on the Applicant a written notice that specifies the date and time of the interview and the representative or representatives of the Applicant who are required to participate in the interview. The Department shall serve the notice by facsimile or [commercial] *overnight* courier. The Applicant and the Department may agree to a shorter or longer period for notice or a different method of service under this subparagraph.

(3) Time

Unless the Department directs otherwise for good cause shown, a membership interview shall be scheduled to occur within 90 days after the [receipt] *filing* of an application or within 60 days after the [receipt] *filing* of all additional information or documents requested, whichever is later.

(4) Place

Unless the Department and the Applicant otherwise agree, the membership interview shall be conducted in the district office for the district in which the Applicant has or intends to have its principal place of business.

(5) *Updated Financial Documents*

On or before the date of the membership interview, the Applicant shall file an updated trial balance, balance sheet, supporting schedules, and computation of net capital. The Applicant shall prepare such documents as of a date that is within 45 days before the date of the membership interview, unless the Applicant and the Department agree on a longer period. The Applicant shall promptly notify the Department in writing of any material adverse change in its financial condition that occurs before a decision constituting final action of the Association is served on the Applicant.

[(5)](*6*) Review of Standards for Admission

During the membership interview, the Department shall review the application and the standards for admission to membership with the Applicant's representative or representatives.

[(6)](*7*) Information From Other Sources

During the membership interview, the Department shall provide to the Applicant's representative or representatives any information or document that the Department has obtained from the Central Registration

Depository or a source other than the Applicant and upon which the Department intends to base its decision under Rule 1014. If the Department receives such information or document after the membership interview or decides to base its decision on such information after the membership interview, the Department shall promptly serve the information or document and an explanation thereof on the Applicant.

1014. Department Decision

(a) Standards for Admission

After considering the application, the membership interview, other information and documents provided by the Applicant, other information and documents obtained by the Department, and the public interest and the protection of investors, the Department shall determine whether the Applicant meets each of the following standards:

(1) The application and all supporting documents are complete and accurate.

(2) The Applicant and its Associated Persons have all licenses and registrations required by state and federal authorities and self-regulatory organizations.

(3) The Applicant and its Associated Persons are capable of complying with the federal securities laws, the rules and regulations thereunder, and the Rules of the Association, including observing high standards of commercial honor and just and equitable principles of trade. In determining whether this standard is met, the Department may take into consideration whether:

(A) a state or federal authority or self-regulatory organization has taken permanent or temporary adverse action with respect to a registration or licensing determination regarding the Applicant or an Associated Person;

(B) an Applicant's or Associated Person's record[s] reflects[: (i) disciplinary actions involving sales practice violations; (ii) customer complaints; or (iii) arbitrations that were resolved adversely to the Applicant or Associated Person] *a sales practice event;*

(C) an Applicant or Associated Person is the subject of a pending, adjudicated, or settled regulatory action or investigation by the Commission, the Commodity Futures Trading Commission, a federal, state, or foreign regulatory agency, or a self-regulatory organization; a pending, adjudicated, or settled investment-related civil action for damages or an injunction; [an investment-related customer complaint or arbitration alleging sales practice violations, theft, misappropriation, conversion, or breach of fiduciary duty that is pending, settled, or has resulted in an award or judgment;] or a criminal action (other than a minor traffic violation) that is pending, adjudicated, or that has resulted in a guilty or no contest plea;

(D) an Associated Person was terminated for cause or permitted to resign after an investigation of an alleged violation of a federal or state securities law, a rule or regulation thereunder, a self-regulatory organization rule, or industry standard of conduct;

(E) a state or federal authority or self-regulatory organization has imposed a remedial action, such as special training [or], continuing education requirements, or heightened supervision, on an Associated Person; and

(F) a state or federal authority or self-regulatory organization has provided information indicating that the Applicant or an Associated Person otherwise poses a threat to public investors.

(A) The Applicant has established all contractual or other arrangements and business relationships with banks, clearing corporations, service bureaus, or others necessary to:

a. initiate the operations described in the Applicant's business plan, considering the nature and scope of operations and the number of personnel; and

b. comply with the federal securities laws, the rules and regulations thereunder, and the Rules of the Association.

(5) The Applicant has or has adequate plans to obtain facilities that are sufficient to:

(B) initiate the operations described in the Applicant's business plan, considering the nature and scope of operations and the number of personnel; and

(C) comply with the federal securities laws, the rules and regulations thereunder, and the Rules of the Association.

(6) The communications and operational systems that the Applicant intends to employ for the purpose of conducting business with customers and other members are adequate and provide reasonably for business continuity in each area set forth in Rule 1013(a)(2)(F)(xii);

[(6)](*7*) The Applicant is capable of maintaining a level of net capital in excess of the minimum net capital requirements set forth in SEC Rule 15c3–1 adequate to support the Applicant's intended business operations on a continuing basis, based on information [that is current within 30 days before the membership interview] *filed under Rule 1013(b)(5)*. The Department may impose a reasonably determined higher net capital requirement for the initiation of operations after considering:

(A) the amount of net capital sufficient to avoid early warning level reporting requirements, such as SEC Rule 17a–11;

(B) the amount of capital necessary to meet expenses net of revenues for at least twelve months, based on reliable projections agreed to by the Applicant and the Department;

(C) any planned market making activities, the number of markets to be made, the type and volatility of products, and the anticipated maximum inventory positions;

(D) any plan to enter into other contractual commitments, such as underwritings or other securities-related activities;

(E) any plan to distribute or maintain securities products in proprietary positions, and the risks, volatility, degree of liquidity, and speculative nature of the products; and

(F) any other activity that the Applicant will engage in that reasonably could have a material impact on net capital within the first twelve months of business operations.

[(7)](*8*) The Applicant has financial controls to ensure compliance with the federal securities laws, the rules and regulations thereunder, and the Rules of the Association.

[(8)](*9*) The Applicant has compliance, supervisory, operational, and internal control practices and standards that are consistent with practices and standards regularly employed in the investment banking or securities business, taking into account the nature and scope of Applicant's proposed business.

[(9)](*10*) The Applicant has a supervisory system, including written supervisory procedures, internal operating procedures (including operational and internal controls), and compliance procedures designed to prevent and detect, to the extent practicable, violations of the federal securities laws, the rules and regulations thereunder, and the Rules of the Association. In evaluating the adequacy of a supervisory system, the Department shall consider the overall nature and scope of the Applicant's intended business operations and shall consider whether:

(A) the number, location, experience, and qualifications of supervisory personnel are adequate in light of the number, location, experience, and qualifications of persons to be

supervised; the [disciplinary history of such] *Central Registration Depository record or other disciplinary history of supervisory personnel and* persons *to be supervised;* [any criminal, civil, administrative, or arbitration actions or written customer complaints against such persons;] and the number and locations of the offices that the Applicant intends to open *and the nature and scope of business to be conducted at each office*;

(B) the Applicant has identified specific Associated Persons to supervise and discharge each of the functions in Applicant's business plan, and to supervise each of the Applicant's intended offices, whether or not such offices are required to be registered under the Rules of the Association;

(C) the Applicant has identified the functions to be performed by each Associated Person and has adopted procedures to assure the registration with the Association and applicable states of all persons whose functions are subject to such registration requirements.

[(C)](*D*) each Associated Person identified *in the business plan* to discharge a supervisory function [in the business plan] has at least one year of direct experience or two years of related experience in the subject area *to be supervised*;

[(D)](*E*) the Applicant will solicit retail or institutional business;

[(E)](*F*) the Applicant will recommend securities to customers;

[(F)](*G*) the location or part-time status of a supervisor or principal will affect such person's ability to be an effective supervisor;

[(G)](*H*) [the records of an Associated Person reflect: (i) disciplinary actions involving sales practice violations; (ii) customer complaints; or (iii) arbitrations that were resolved adversely to the Associated Person] *the Applicant should be required to place one or more Associated Persons under heightened supervision pursuant to Notice to Members 97–19*;

[(H)](*I*) any remedial action, such as special training or continuing education requirements or heightened supervision, has been imposed on an Associated Person by a state or federal authority or self-regulatory organization; and

[(I)](*J*) any other condition that will have a material impact on the Applicant's ability to detect and prevent violations of the federal securities laws, the rules and regulations thereunder, and the Rules of the Association.

[(10)](*11*) The Applicant has a recordkeeping system that enables Applicant to comply with federal, state, and self-regulatory organization recordkeeping requirements and a staff that is sufficient in qualifications and number to prepare and preserve required records.

[(11)](*12*) The Applicant has completed a training needs assessment and has a written training plan that complies with the continuing education requirements imposed by the federal securities laws, the rules and regulations thereunder, and the Rules of the Association.

[(12)](*13*) The Association does not possess any information indicating that the Applicant may circumvent, evade, or otherwise avoid compliance with the federal securities laws, the rules and regulations thereunder, or the Rules of the Association.

[(13)](*14*) The application and all supporting documents otherwise are consistent with the federal securities laws, the rules and regulations thereunder, and the Rules of the Association.

(b) Granting or Denying Application

(1) If the Department determines that the Applicant meets each of the standards in paragraph (a), the Department shall grant the application for membership.

(2) If the Department determines that the Applicant does not meet one or more of the standards in paragraph (a) in whole or in part, the Department [may] *shall*:

(A) grant the application subject to one or more restrictions reasonably designed to address a specific financial, operational, supervisory, disciplinary, investor protection, or other regulatory concern based on the standards for admission in Rule 1014(a); or

(B) deny the application.

[(c) Submission of Membership Agreement

If the Department grants an application, with or without restriction, the Applicant's approval for membership shall be contingent upon the Applicant's submission of a written membership agreement, satisfactory to the Department, undertaking to:

(1) engage only in the business set forth in the business plan and the membership agreement;

(2) abide by any restriction specified in the Department's decision;

(3) obtain the Department's prior approval of the removal or modification of such a restriction pursuant to Rule 1017; and

(4) notify and obtain the Department's approval of a change in ownership or control or a material change in business operations pursuant to Rule 1018.

The Applicant shall not waive the right to file a written request for review under Rule 1015 by executing a membership agreement under this paragraph.]

[(d)](*c*) Decision

(1) Time

The Department shall [issue] *serve* a written decision on the membership application within 30 days after the conclusion of the membership interview or after the [submission] *filing* of additional information or documents, whichever is later.

(2) Content

If the Department denies the application, the decision shall explain *in detail* the reason for denial, referencing the applicable standard or standards in paragraph (a). If the Department grants the application subject to restrictions, the decision shall explain *in detail* the reason for each restriction, referencing the applicable standard or standards in paragraph (a) upon which the restriction is based and identify the specific financial, operational, supervisory, disciplinary, investor protection, or other regulatory concern that the restriction is designed to address and the manner in which the restriction is reasonably designed to address the concern.

(3) Failure to [Issue] *Serve* Decision

If the Department fails to [issue] *serve* a decision within 180 days after [receipt] *the filing* of an application or such later date as the Department and the Applicant have agreed in writing, the Applicant may file a written request with the NASD Board requesting that the NASD Board direct the Department to [issue] *serve* a decision. Within seven days after [receipt] *the filing* of such a request, the NASD Board shall direct the Department to serve its written decision immediately or to show good cause for an extension of time. If the Department shows good cause for an extension of time, the NASD Board may extend the 180 day time limit by not more than 90 days.

(d) Submission of Membership Agreement

If the Department grants an application, with or without restriction, the Applicant's approval for membership shall be contingent upon the Applicant's filing of an executed written membership agreement, satisfactory to the Department, undertaking to:

(1) abide by any restriction specified in the Department's decision; and

(2) obtain the Department's approval of a change in ownership, control, or business operations pursuant to Rule 1017, including the modification or

removal of a membership agreement restriction.

The Applicant shall not waive the right to file a written request for review under Rule 1015 by executing a membership agreement under this paragraph.

(e) Service and Effectiveness of Decision

The Department shall serve its decision and the membership agreement on the Applicant in accordance with Rule 1012. The decision shall become effective upon service and shall remain in effect during the pendency of any review until a decision constituting final action of the Association is issued under Rule 1015 or 1016, unless otherwise directed by the National Adjudicatory Council, the NASD Board, or the Commission.

(f) Effectiveness of Restriction

A restriction imposed under this Rule shall remain in effect and bind the Applicant and all successors to the ownership or control of the Applicant unless:

(1) removed or modified by [the Department under Rule 1017] *a decision constituting final action of the Association issued under Rule 1015, 1016, or 1017;*

[(2) removed or modified by a decision constituting final action of the Association issued under Rule 1015 or 1016;] or

[(3)](*2*) stayed by the National Adjudicatory Council, the NASD Board, or the Commission.

(g) Final Action

Unless the Applicant files a written request for a review under Rule 1015, the Department's decision shall constitute final action by the Association.

1015. Review by National Adjudicatory Council

(a) Initiation of Review *by Applicant*

[(1) Request by Applicant]

Within 25 days after service of a decision under Rule 1014[,] *or* 1017 [or 1018], an Applicant may file a written request for review with the National Adjudicatory Council. A request for review shall state with specificity why the Applicant believes that the Department's decision is inconsistent with the membership standards set forth in Rule 1014, or otherwise should be set aside, and state whether a hearing is requested. The Applicant simultaneously shall [send] *file* by first-class mail a copy of the request to the district office where the Applicant filed its [membership] application.

[(2) Notice by National Adjudicatory Council

A decision issued under Rule 1014, 1017, or 1018 shall be subject to a call for review by any member of the National Adjudicatory Council or the Review Subcommittee defined in Rule 9120 within 30 days after service of the decision. If the National Adjudicatory Council calls a decision for review, a written notice of review shall be served promptly on the Applicant by first-class mail. The written notice of review shall state the specific grounds for the review and whether a hearing is directed. If a decision is called for review by any member of the National Adjudicatory Council or the Review Subcommittee, the decision shall be reviewed by the National Adjudicatory Council. The National Adjudicatory Council simultaneously shall send by first-class mail a copy of the notice to the district office where the Applicant filed its membership application.]

(b) Transmission of Documents

Within ten days after [receipt] *the filing* of a request for [or notice of] review, the Department shall:

(1) transmit to the National Adjudicatory Council copies of all documents that were considered in connection with the Department's decision and an index to the documents; and

(2) serve on the Applicant a copy of such documents (other than those documents originally submitted by Applicant) and a copy of the index.

(c) Membership Application Docket

The Department shall promptly record in the Association's membership application docket each request for [or notice of] review filed with the National Adjudicatory Council under this Rule and each material subsequent event, filing, and change in the status of a membership proceeding.

(d) Appointment of Subcommittee

The National Adjudicatory Council or the Review Subcommittee defined in Rule 9120 shall appoint a Subcommittee to participate in the review. The Subcommittee shall be composed of at least two members. One member shall be a current member of the National Adjudicatory Council. The remaining member or members shall be current or past Directors or past Governors.

(e) Powers of Subcommittee

If a hearing is requested [or directed], the Subcommittee shall conduct the hearing. If a hearing is not requested, the Subcommittee may serve a notice directing that a hearing be held. If a hearing is not requested or directed, the Subcommittee shall conduct its review on the basis of the record developed before the Department and any written submissions made by the Applicant or the Department in connection with the request for review.

(f) Hearing

(1) Notice

If a hearing is requested or directed, the hearing shall be held within 45 days after the [receipt] *filing* of the request [or service of the notice by] *with* the National Adjudicatory Council *or service of the notice by the Subcommittee*. The National Adjudicatory Council shall [send] *serve* written notice of the date and time of the hearing to the Applicant by facsimile or [commercial] *overnight* courier not later than 14 days before the hearing.

(2) Counsel

The Applicant and the Department may be represented by counsel at a hearing conducted pursuant to this Rule.

(3) Evidence

Formal rules of evidence shall not apply to a hearing under this Rule. Not later than five days before the hearing, the Applicant and the Department shall exchange copies of their proposed hearing exhibits and witness lists and provide copies of the same to the National Adjudicatory Council. If the Applicant or the Department fails to provide copies of its proposed hearing exhibits or witness list within such time, the Subcommittee shall exclude the evidence or witnesses from the proceeding, unless the Subcommittee determines that good cause is shown for failure to comply with the production date set forth in this subparagraph.

(4) Transcript

The hearing shall be recorded and a transcript prepared by a court reporter. A transcript of the hearing shall be available for purchase from the court reporter at prescribed rates. The Applicant, the Department, or a witness may seek to correct the transcript. A proposed correction of the transcript shall be submitted to the Subcommittee within a reasonable period of time prescribed by the Subcommittee. Upon notice to the Applicant and the Department, the Subcommittee may direct the correction to the transcript as requested or sua sponte.

[(5) Failure to Appear at Hearing]

[If an Applicant fails to appear at a hearing for which it has notice, the National Adjudicatory Council may dismiss the request for review as abandoned, and the decision of the Department shall become the final action of the Association. Upon a showing of good cause, the National

Adjudicatory Council may withdraw a dismissal entered pursuant to this subparagraph.]

(g) Additional Information, Briefs

At any time during its consideration, the Subcommittee or the National Adjudicatory Council may direct the Applicant or the Department to [submit] *file* additional information [and to file] *or* briefs. Any additional information or brief [submitted] *filed* shall be provided to all parties before the National Adjudicatory Council renders its decision.

(h) Abandonment of Request for Review

If an Applicant fails to specify the grounds for its request for review under Rule 1015(a)(1), appear at a hearing for which it has notice, or file information or briefs as directed, the National Adjudicatory Council or the Review Subcommittee may dismiss the request for review as abandoned, and the decision of the Department shall become the final action of the Association. Upon a showing of good cause, the National Adjudicatory Council or the Review Subcommittee may withdraw a dismissal entered pursuant to this paragraph.

[(h)](*i*) Subcommittee Recommendation
The Subcommittee shall present a recommended decision in writing to the National Adjudicatory Council within 60 days after the date of the hearing held pursuant to paragraph (f), and not later than seven days before the meeting of the National Adjudicatory Council at which the membership proceeding shall be considered.

[(i)](*j*) Decision

(1) Proposed Written Decision
After considering all matters presented in the review and the Subcommittee's recommended written decision, the National Adjudicatory Council may affirm, modify, or reverse the Department's decision or remand the membership proceeding with instructions. The National Adjudicatory Council shall prepare a proposed written decision pursuant to subparagraph (2).

(2) Contents
The decision shall include:

(A) a description of the Department's decision, including its rationale;

(B) a description of the principal issues raised in the review;

(C) a summary of the evidence on each issue; and

(D) a statement whether the Department's decision is affirmed, modified, or reversed, and a rationale therefor that references the applicable standards in Rule 1014.

(3) Issuance of Decision After Expiration of Call for Review Periods
The National Adjudicatory Council shall provide its proposed written decision to the NASD Board. The NASD Board may call the membership proceeding for review pursuant to Rule 1016. If the NASD Board does not call the membership proceeding for review, the proposed written decision of the National Adjudicatory Council shall become final. The National Adjudicatory Council shall serve the Applicant with a written notice specifying the date on which the call for review period expired and stating that the final written decision will be served within 15 days after such date. The National Adjudicatory Council shall serve its final written decision within 15 days after the date on which the call for review period expired. The decision shall constitute the final action of the Association for purposes of SEC Rule 19d–3, unless the National Adjudicatory Council remands the membership proceeding.

(4) Failure to Issue Decision
If the National Adjudicatory Council fails to serve its final written decision within the time prescribed in subparagraph (3), the Applicant may file a written request with the NASD Board requesting that the NASD Board direct the National Adjudicatory Council to serve its decision immediately or to show good cause for an extension of time. Within seven days after [receipt] *the filing* of such a request, the NASD Board shall direct the National Adjudicatory Council to serve its written decision immediately or to show good cause for an extension of time. If the National Adjudicatory Council shows good cause for an extension of time, the NASD Board may extend the 15 day time limit by not more than 15 days.

1016. Discretionary Review by NASD Board

(a) Call for Review by Governor

A Governor may call a membership proceeding for review by the NASD Board if the call for review is made within the period prescribed in [sub]paragraph [(2)](*b*).

(b) 15 Day Period; Waiver

A Governor shall make his or her call for review at the next meeting of the NASD Board that is at least 15 days after the date on which the NASD Board receives the proposed written decision of the National Adjudicatory Council. By unanimous vote of the NASD Board, the NASD Board may shorten the period to less than 15 days. By an affirmative vote of the majority of the NASD Board then in office, the NASD Board may, during the 15 day period, vote to extend the period to more than 15 days.

(c) Review At Next Meeting

If a Governor calls a membership proceeding for review within the time prescribed in paragraph (b), the NASD Board shall review the membership proceeding not later than the next meeting of the NASD Board. The NASD Board may order the Applicant and the Department to file briefs in connection with review proceedings pursuant to this paragraph.

(d) Decision of NASD Board, Including Remand

After review, the NASD Board may affirm, modify, or reverse the proposed written decision of the National Adjudicatory Council. Alternatively, the NASD Board may remand the membership proceeding with instructions. The NASD Board shall prepare a written decision that includes all of the elements described in Rule 1015[(i)(2)]*(j)(2)*.

(e) Issuance of Decision

The NASD Board shall serve its written decision on the Applicant within 15 days after the meeting at which it conducted its review. The decision shall constitute the final action of the Association for purposes of SEC Rule 19d–3, unless the NASD Board remands the membership proceeding.

1017. [Removal or Modification of Business Restriction] *Application for Approval of Change in Ownership, Control, or Business Operations*

(a) *Events Requiring* Application

[A member of the Association may seek modification or removal of a restriction on its business activities imposed pursuant to the Rule 1010 Series by filing a written application with the Department at the district office for the district in which the member's principal place of business is located. The application shall present facts showing that the circumstances that gave rise to the restriction have changed and state with specificity why the restriction should be modified or removed in light of the standards set forth in Rule 1014 and the articulated rationale for the imposition of the restriction. A copy of the decision and membership agreement pertaining to such restriction shall be appended to the application.]

A member shall file an application for approval of any of the following changes to its ownership, control, or business operations:

(1) a merger of the member with another member, unless both are members of the New York Stock Exchange, Inc. or the surviving entity will continue to be a member of the New York Stock Exchange, Inc.;

(2) a direct or indirect acquisition by the member of another member, unless the acquiring member is a member of the New York Stock Exchange, Inc.;

(3) a direct or indirect acquisition of substantially all of the member's assets, unless the acquirer is a member of the New York Stock Exchange, Inc.;

(4) a change in the equity ownership or partnership capital of the member that results in one person or entity directly or indirectly owning or controlling 25 percent or more of the equity or partnership capital; or

(5) a material change in business operations as defined in Rule 1011(i).

(b) *Filing and Content of Application*

(1) The member shall file the application with the Department at the district office in the district in which the member's principal place of business is located. If the application involves a merger between members with principal places of business in two or more districts, the application shall be filed and processed by the district office wherein the surviving firm's principal place of business will be located.

(2) The application shall describe in detail the change in ownership, control, or business operations and include a business plan, pro forma financials, an organizational chart, and written supervisory procedures reflecting the change.

(A) If the application requests approval of a change in ownership or control, the application also shall include the names of the new owners, their percentage of ownership, and the sources of their funding for the purchase and recapitalization of the member.

(B) If the application requests the removal or modification of a membership agreement restriction, the application also shall:

(i) present facts showing that the circumstances that gave rise to the restriction have changed; and

(ii) state with specificity why the restriction should be modified or removed in light of the standards set forth in Rule 1014 and the articulated rationale for the imposition of the restriction.

(C) If the application requests approval of an increase in Associated Persons involved in sales, offices, or markets made, the application shall set forth the increases in such areas during the preceding 12 months.

(c) Effecting Change and Imposition of Interim Restrictions

(1) A member shall file an application for approval of a change in ownership or control at least 30 days prior to such change. A member may effect a change in ownership or control prior to the conclusion of the proceeding, but the Department may place new interim restrictions on the member based on the standards in Rule 1014, pending final Department action.

(2) A member may file an application to remove or modify a membership agreement restriction at any time. An existing restriction shall remain in effect during the pendency of the proceeding.

(3) A member may file an application for approval of a material change in business operations, other than the modification or removal of a restriction, at any time, but the member may not effect such change until the conclusion of the proceeding, unless the Department and the member otherwise agree.

(d) Rejection Of Application That Is Not Substantially Complete

If the Department determines within 30 days after the filing of an application that the application is not substantially complete, the Department may reject the application and deem it not to have been filed. In such case, within the 30 day period, the Department shall serve a written notice on the Applicant of the Department's determination and the reasons therefor. If the Applicant determines to continue to apply for approval of a change in ownership, control, or business operations, the Applicant shall submit a new application under this Rule.

[(b)](*e*) Request for *Additional* Documents *and Information*

Within 30 days after the [receipt] *filing* of an application [to remove or modify a restriction], the Department shall [determine whether the application is complete, and if not, shall] *serve a* request *for* any additional information or documents necessary to render a decision [under paragraph (e)] *on the application.* The Department may serve subsequent requests for additional information or documents at any time during the application process. Unless otherwise agreed by the Department and the Applicant, the Applicant shall file any additional information and documents with the Department within 30 days after service of a request.

[(c) Lapse]

[(1) Absent a showing of good cause, an application to modify or remove a restriction shall lapse if an Applicant fails to:

(A) respond fully within 30 days after a request for information or documents;

(B) appear at or otherwise participate in a scheduled membership interview pursuant to paragraph (d); or

(C) return an executed membership agreement under paragraph (e)(4) within 25 days after service of the agreement.

(2) The lapse of an application shall require the Applicant to submit a new application to modify or remove a restriction under paragraph (a).]

[(d)]*(f)* Membership Interview

(1) The Department may require the Applicant to participate in a membership interview within 30 days after the [receipt] *filing* of the application, or if the Department requests additional information or documents, within 30 days after the filing of the additional information or documents by the Applicant.

(2) At least seven days before the membership interview, the Department shall serve on the Applicant a written notice that specifies the date and time of the interview and [the representative or representatives of the Applicant] *persons* who are required to participate in the interview. The Department shall serve the notice by facsimile or [commercial] *overnight* courier. The Applicant and the Department may agree to a shorter or longer period for notice or a different method of service.

(3) Unless the Department and the Applicant otherwise agree, the membership interview shall be conducted in the district office for the district in which the Applicant has its principal place of business.

(4) During the membership interview, the Department shall review the application and the considerations for the Department's decision set forth in paragraph [(e)(1)]*(g)(1).* The Department shall provide to the Applicant's representative or representatives any information or document that the Department has obtained from the Central Registration Depository or a source other than the Applicant and upon which the Department intends to base its decision under paragraph *[(e)](g).* If the Department receives such information or document after the membership interview or decides to base its decision on such information after the membership interview, the Department shall promptly serve the information or document and an explanation thereof on the Applicant.

[(e)]*(g)* Department Decision

(1) [In evaluating an application submitted under paragraph (a)] *The*

Department shall consider the application, the membership interview, other information and documents provided by the Applicant or obtained by the Department, the public interest, and the protection of investors.

(A) In rendering a decision on an application for approval of a change in ownership or control, or an application for approval of a material change in business operations that does not involve modification or removal of a membership agreement restriction, the Department shall determine if the Applicant would continue to meet the standards in Rule 1014(a) upon approval of the application.

(B) In rendering a decision on an application requesting the modification or removal of a membership agreement restriction, the Department shall consider whether maintenance of the restriction is appropriate in light of:

[(A)]*(i)* the standards set forth in Rule 1014;

[(B)]*(ii)* the circumstances that gave rise to the imposition of the restriction;

[(C)]*(iii)* the Applicant's operations since the restriction was imposed;

[(D)] *(iv)* [a] *any* change in ownership or control or supervisors and principals; and

[(E)]*(v)* any new evidence submitted in connection with the application.

(2) The Department shall [issue] *serve* a written decision on the application within 30 days after the *conclusion of the* membership interview or the [submission] *filing* of additional information or documents, whichever is later. If the Department does not require the Applicant to participate in a membership interview or request additional information or documents, the Department shall [issue] *serve* a written decision within 45 days after the [receipt] *filing* of the application under paragraph (a). The decision shall state whether the application [to modify or remove the restriction] is granted or denied in whole or in part, and shall provide a rationale for the Department's decision, referencing the applicable standard in Rule 1014.

(3) If the Department fails to [issue] *serve* a decision within 180 days after [receipt] *filing* of an application or such later date as the Department and the Applicant have agreed in writing, the Applicant may file a written request with the NASD Board requesting that the NASD Board direct the Department to issue a decision. Within seven days after [receipt] *the filing* of such a request, the NASD Board shall direct the Department to issue a written decision immediately or to show good cause for an extension of time. If the Department shows good cause for an extension of time, the NASD Board may extend the time limit for issuing a decision by not more than 30 days.

(4) If the Department [modifies or removes a restriction on the Applicant's business activities, the] *approves an application under this Rule in whole or part, the Department shall require an Applicant to file an executed* membership agreement [submitted under Rule 1014 shall be modified accordingly].

[(f)]*(h)* Service and Effectiveness of Decision

The Department shall serve its decision on the Applicant in accordance with Rule 1012. The decision shall become effective upon service and shall remain in effect during the pendency of any review until a decision constituting final action of the Association is [issued] *served* under Rule 1015 or 1016, unless otherwise directed by the National Adjudicatory Council, the NASD Board, or the Commission.

[(g)]*(i)* Request for Review; Final Action

An Applicant may file a written request for review of the Department's decision with the National Adjudicatory Council pursuant to Rule 1015. The procedures set forth in Rule 1015 shall apply to such review, and the National Adjudicatory Council's decision shall be subject to discretionary review by the NASD Board pursuant to Rule 1016. If the Applicant does not file a request for a review, the Department's decision shall constitute final action by the Association.

[(h)]*(j)* Removal or Modification of Restriction on Department's Initiative

The Department shall modify or remove a restriction on its own initiative if the Department determines such action is appropriate in light of the considerations set forth in paragraph [(e)(1)]*(g)(1).* The Department shall notify the member in writing of the Department's determination and inform the member that it may apply for further modification or removal of a restriction by filing an application under paragraph (a).

(k) Lapse or Denial of Application for Approval of Change in Ownership

If an application for approval of a change in ownership lapses, or is denied and all appeals are exhausted or waived, the member shall, no more than 60 days after the lapse or exhaustion or waiver of appeal:

(1) submit a new application;

(2) unwind the transaction; or

(3) file a Form BDW.

For the protection of investors, the Department may shorten the 60 day period. For good cause shown by the member, the Department may lengthen the 60 day period. The Department shall serve written notice on the Applicant of any change in the 60-day period and the reasons therefor. During the 60-day or other imposed period, the Department may continue to place interim restrictions on the member for the protection of investors.

[1018. Change in Ownership, Control, or Operations]

[(a) Notice

At least 30 days prior to the occurrence of any of the following changes in ownership, control, or operations, a member shall file a written notice and application for continuance in membership with the Department at the district office in the district in which the member's principal place of business is located:

(1) a merger of the member with another member;

(2) an acquisition by the member of another member;

(3) an acquisition of substantially all of the member's assets;

(4) a change in the equity ownership or partnership capital of the member that results in one person or entity owning or controlling 25 percent or more of the equity or partnership capital; or

(5) a material change in the member's business operations.]

[(b) Review and Imposition of Interim Restrictions

The Department shall review a change in ownership, control, or operations described in paragraph (a) prior to the change taking effect. The Department may maintain existing restrictions on the member's business activities and place new interim restrictions on the member based on the standards in Rule 1014, pending final Department action.]

[(c) Request for Information

Within 30 days after receipt of the notice and application under paragraph (a), the Department shall request any additional information or documents necessary to render a decision under paragraph (f). Unless otherwise agreed by the Department and the Applicant, the Applicant shall file such additional information or documents with the Department within 30 days after the Department's request. The Department may request additional information and documents at any time during the application process; unless the Applicant and the Department agree otherwise, the Applicant shall file such

information or documents within 30 days after the Department's request.]

[(d) Lapse

(1) Absent a showing of good cause, an application for continuance in membership shall lapse if an Applicant fails to:

(A) respond fully within 30 days after a request for information or documents;

(B) appear at or otherwise participate in a scheduled membership interview pursuant to paragraph (e); or

(C) return an executed membership agreement under paragraph (g) within 25 days after service of the agreement.

(2) The lapse of an application shall require the Applicant to submit a new application under paragraph (a).]

[(e) Membership Interview

(1) The Department may require the Applicant to participate in a membership interview. The membership interview shall be held within 30 days after the receipt of the application, or if the Department requests additional information or documents, within 30 days after the filing of such additional information or documents by the Applicant.

(2) At least seven days before the membership interview, the Department shall serve on the Applicant a written notice that specifies the date and time of the interview and the representative or representatives of the Applicant who are required to participate in the interview. The Department shall serve the notice by facsimile or commercial courier. The Applicant and the Department may agree to a shorter or longer period for notice or a different method of service.

(3) Unless the Department and the Applicant otherwise agree, the membership interview shall be conducted in the district office for the district in which the Applicant has or intends to have its principal place of business.

(4) During the membership interview, the Department shall review the application and the considerations for the Department's decision set forth in paragraph (f). The Department shall provide to the Applicant's representative or representatives any information or document that the Department has obtained from the Central Registration Depository or a source other than the Applicant and upon which the Department intends to base its decision under paragraph (f). If the Department receives such information or document after the membership interview or decides to base its decision on such information after the membership interview, the Department shall promptly serve the information or document and an explanation thereof on the Applicant.]

[(f) Department Decision

(1) In evaluating an application submitted under paragraph (a), the Department shall consider whether the Applicant continues to meet the standards set forth in Rule 1014 in light of the change in ownership, control, or operations, and whether current restrictions, if any, or new restrictions are necessary for the Applicant to continue to meet such standards.

(2) The Department shall issue a written decision within 30 days after the membership interview or the submission of additional information or documents, whichever is later. If the Department does not require the Applicant to participate in a membership interview or submit additional information or documents, the Department shall issue a written decision within 45 days after receipt of an application under paragraph (a). The decision shall state the terms for continuance in NASD membership, whether current restrictions, if any, are maintained or new restrictions are imposed, and shall provide a rationale for the Department's decision, referencing the applicable standard in Rule 1014.

(3) If the Department fails to issue a decision within 180 days after receipt of an application or such later date as the Department and the Applicant have agreed in writing, the Applicant may file a written request with the NASD Board requesting that the NASD Board direct the Department to issue a decision. Within seven days after receipt of such a request, the NASD Board shall direct the Department to issue a written decision immediately or to show good cause for an extension of time. If the Department shows good cause for an extension of time, the NASD Board may extend the time limit for issuing a decision by not more than 30 days.]

[(g) Submission of Membership Agreement

The Department may condition approval of an application for continuance in membership on the Applicant's submission of a new written membership agreement pursuant to Rule 1014(c).]

[(h) Service and Effectiveness of Decision

The Department shall serve its decision on the Applicant in accordance with Rule 1012. The decision shall become effective upon service and shall remain in effect during the pendency of any review until a decision constituting final action of the Association is issued under Rule 1015 or 1016, unless otherwise directed by the National Adjudicatory Council, the NASD Board, or the Commission.]

[(i) Request for Review; Final Action

An Applicant may file a written request for review of the Department's decision with the National Adjudicatory Council pursuant to Rule 1015. The procedures set forth in Rule 1015 shall apply to such a review, and the National Adjudicatory Council's decision shall be subject to discretionary review by the NASD Board pursuant to Rule 1016. If the Applicant does not file a request for review, the Department's action shall constitute the final action of the Association.]

1018. Stay of Application During Pendency of Criminal or Other Proceeding

(a) The Department may stay an application filed under Rule 1013 or 1017 if:

(1) a state or federal authority files criminal charges against the Applicant or a principal or proposed principal of the Applicant;

(2) the Commission files a complaint or a request for injunctive relief against the Applicant or a principal or proposed principal of the Applicant; or

(3) the Association, another self-regulatory organization, or a state files a disciplinary complaint against the Applicant or a principal or proposed principal of an Applicant alleging a violation of a law or rule listed in IM–1011–1 (or a comparable state law, rule, or regulation).

In such case, the application shall be stayed during the pendency of the proceeding. If the Department has imposed interim restrictions under Rule 1017(c), the restrictions shall remain in effect during the stay.

(b) If the Applicant or principal or proposed principal prevails in the proceeding, the stay shall be lifted automatically.

(c) If there is a material change in the circumstances that gave rise to the stay, the Applicant may file a written request with the Department to lift the stay. The Department shall serve a written response on the Applicant within 14 days after the filing of the request by the Applicant. If the Department denies the request, the Applicant may file a written request for review with the National Adjudicatory Council. The National Adjudicatory Council or the Review Subcommittee shall serve a written

response on the Applicant within 30 days.

1019. Application to Commission for Review

No change.

* * * * *

Rule 1140. Electronic Filing Rules

(a) Filing Requirement

Except as provided in Rule 1013(a)(2), all [All] forms required to be filed by the By-Laws shall be filed through an electronic process or such other process the Association may prescribe to the Central Registration Depository.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD Regulation proposes to amend the Rule 1010 Series, which governs NASD membership. NASD Regulation staff worked with the Member Admission Review Committee (Committee),[4] an ad-hoc committee convened in August 1998, to develop the proposed changes. The purpose of the proposed rule change is to streamline the Rules and make them more efficient while preserving their investor protection function.

The most significant changes are as follows:

- reorganizing and consolidating some of the current rules to make them easier to use;
- clarifying the rules and policies that apply to business expansions by—
- adopting a policy of building expansion plans into membership agreements,
- defining in the rules what kinds of ''material changes in business operations'' require a member to file an application for approval with NASD Regulation, and
- providing a safe harbor for modest expansions that will not require an application,

which together are intended to provide more even-handed treatment among members for various business expansions, provide more certainty regarding which expansions require approval, and eliminate unnecessary applications;

- permitting the staff to stay membership applications if a firm or one of its principals is the subject of a disciplinary action;
- permanently rescinding the National Adjudicatory Council's authority to review membership decisions that are not appealed by an Applicant;
- simplifying administrative procedures for submitting an application and calculating the various time limits that apply to the process; and
- permitting the staff to reject immediately applications that are not substantially complete.

A detailed explanation of the proposed rule change follows.

a. Proposed Rule 1011

The definition of ''Associated Person'' is amended to clarify that it includes only natural persons.

The term ''material change in business operations'' is defined for the first time. The definition is significant because it triggers a requirement for a member to apply to the district office for approval of the change under proposed Rule 1017. The term is defined to include removing or modifying a membership agreement restriction;[5] market making, underwriting, or acting as a dealer for the first time; or adding business activities that require a higher minimum net capital.

NASD Regulation does not believe that it is possible to develop an exhaustive definition of the term ''material change in business operations.'' If a change in a member's business falls outside of the definition, or the safe harbor described below (*e.g.,* because it exceeded the safe harbor limits or the member has disciplinary history), then the member may contact the district office to determine if the district would deem the change to be material. A member is not required to contact the district office if the member believes the change is not material. However, if the staff later determines that the change is indeed material, then the member potentially could be subject to disciplinary action for failure to file an application under proposed Rule 1017.

Proposed Interpretive Material 1011–1 (IM–1011–1) is added to create a safe harbor for certain changes that are presumed not to be material and therefore do *not* require a member to submit an application for approval of the change. The safe harbor would not be available to members that have a ''disciplinary history.'' The term ''disciplinary history'' shall mean a finding of a violation by the member or a principal of the member in the past five years by the Commission, a self-regulatory organization, or a foreign financial regulatory authority of one or more of the following provisions (or comparable foreign provisions) or rules or regulations thereunder: Sections 15(b)(4)(E) and 15(c) of the Act (failure to supervise; fraud and manipulation); Section 17(a) of the Securities Act of 1933 (fraudulent interstate transactions); Exchange Act 10b–5 (fraud and manipulation), and 15g–1 through 15g–9 (penny stock rules); NASD Rules 2110 (just and equitable principles of trade), 2120 (fraud and manipulation), 2310 (suitability), 2330 (protection of customer securities and funds), 2440 (fair prices and commissions), 3010 (failure to supervise only), 3310 (manipulative and deceptive quotations), and 3330 (payments to influence market prices); and MSRB Rules G–19 (suitability), G–30 (prices and commissions), and G–37(b) and (c) (political contributions).

The term ''principal place of business'' is defined for the first time. An Applicant's principal place of business determines which district office will process its application. ''Principal place of business'' means the location where the officers, partners, or managers direct and control the activities of the Applicant, unless NASD Regulation staff designates a different location. That location may be where the largest number of associated persons are located or where the books and records are kept. This definition is designed to prevent an Applicant from trying to select a particular district office to process its application through its designation of a principal place of business.

[4] Members of the Committee are: Faith Colish, New York, New York; Linda Lerner, All-Tech Investment Group, Inc., Montvale, New Jersey; Brian T. Shea, Pershing, Jersey City, New Jersey; Theodore W. Urban, Ferris, Baker & Watts, Incorporated, Washington, D.C.; and Richard P. Woltman, Spelman & Co., Inc., San Diego, California. Mr. Urban chairs the Committee.

[5] NASD Regulation included removing or modifying a restriction in this definition to effect the consolidation of current Rules 1017 and 1018. The rationale for the consolidation is set forth in the section titled ''Proposed Rule 1017,'' below.

NASD Regulation proposes to redefine ''sales practice violations'' as ''sales practice event'' because the definition includes not only proven violations, but also unproven allegations.[6] The proposed definition includes any customer complaint, arbitration, or civil litigation that has been or is required to be reported to the Central Registration Depository (''CRD'') or otherwise is required to be reported to the Association (*e.g.,* via Rule 3070).

The terms ''Applicant'' and ''Interested Association Staff'' are amended to make them consistent with other rule changes.

b. Proposed Rule 1012

NASD Regulation proposes to amend the service and filing provisions to permit additional methods of delivery and to use consistent terminology for calculating deadlines. The term ''commercial courier'' is replaced with ''overnight courier'' to clarify that Applicants and NASD Regulation staff may use the overnight delivery service offered by the United States Post Office. NASD Regulation interprets the term ''overnight courier'' to refer to any entity that regularly provides such overnight delivery services, such as Federal Express, DHL, or the United States Post Office. Use of the term ''overnight courier'' is not intended to imply that only actual overnight delivery may be used under the Rule. Overnight delivery should be used if it is available. However, if overnight delivery is not available for a particular location, the Applicant or NASD Regulation staff may use the most rapid delivery option available (*e.g.,* two day service) from the overnight courier and still be in compliance with the proposed Rule.

Throughout the proposed rules, the term ''file'' is used uniformly to refer to submissions by an Applicant, and the term ''serve'' is used uniformly to refer to delivery of requests, decisions, and the like by the Association; other terminology, such as ''issuance'' or ''receipt'' is deleted.[7] These changes provide greater clarity in calculating deadlines in accordance with proposed Rule 1012(a).

The lapse of application provisions are consolidated and moved from Rules 1013(b), 1017(c), and 1018(d) to proposed Rule 1012(b) for ease of reference. The lapse rule, which is discussed in greater detail in the next section, permits the staff to discontinue processing an application if an Applicant does not timely provide requested information or documents. The only changes to the lapse rule are to permit the staff and the Applicant to agree on a submission date for the membership agreement, rather than requiring that all agreements be submitted within 25 days, and clarify that fees are not refunded for lapsed applications.

The subparagraphs of Rule 1012(c) are reordered for ease of reading.

c. *Proposed Rule 1013*

One of the major changes to this Rule is to simplify application submission procedures. Currently, this Rule requires Applicants to submit their applications in two parts. Part One, which includes primarily forms and fees (*e.g.,* the initial Forms BD and U–4), is sent directly to the CRD in Rockville, Maryland, for processing. Part Two, which includes all remaining documents required for member admission, is sent to the district office that will review the application. At the time the rule was adopted, the staff thought it would be more efficient to send each part to the location where it would be processed. In practice, this has created problems when both parts of the application are not submitted at the same time, or one or both parts are incomplete, making it difficult to determine when the application should be treated as filed and when the staff should begin reviewing it. The application filing date is critical because the 180-day limitation placed on the staff for rendering a decision on the application is measured from this date.

To alleviate these problems, NASD Regulation recommends one point of entry for the entire application, the district office. District staff will review the entire application to determine if it is substantially complete. If so, they will forward any documents that need to go to CRD and continue processing the application.

NASD Regulation proposes a new rule for dealing with applications that are not substantially complete at the time of submission. Currently, the staff does not have any authority to refuse to begin processing an inadequately prepared application. Instead, they attempt to begin processing such an application by sending a request for further information to the Applicant. If the Applicant does not timely provide the requested information, then the rules permit the staff to ''lapse'' the application. The staff then notifies the Applicant that the application has lapsed, all fees are forfeited, and the Applicant is required to start over with the application process if it still wants to become an NASD member. These procedures can consume as much as 90 days and a considerable amount of staff and Applicant resources, but still result in a rejected application.

Under the proposed rule, if an application is so deficient upon initial submission that the staff cannot begin processing it (*e.g.,* it is missing major components of the application, such as written supervisory procedures or a business plan), then the staff may reject the application. The staff would have no more than 30 days after submission to do this, and would be required to provide reasons for its action in writing. NASD Regulation proposes a $350 processing fee for the rejection of an application that is not substantially complete. NASD Regulation considered but rejected defining the term ''substantially complete'' because the determination will vary depending on the type and complexity of the proposed business, among other things. The lapse rules will still apply to those situations where an Applicant stops providing information in the middle of the application process.

Rule 1013 also is simplified by removing requirements for Applicants to submit information that has already been submitted to CRD. The district staff has full access to CRD and can obtain the information they need directly from it. This change will make the application process simpler for Applicants by eliminating duplicative submissions to NASD Regulation.

Under the proposed Rule 1013(a)(2), an Applicant will continue to submit only its initial Forms BD and U–4 in paper along with the rest of the application. The Applicant also will submit a Web CRD entitlement request form with its application. Under proposed Rule 1013(a)(3), upon approval of the Web CRD entitlement request form by NASD Regulation, the Applicant must make all subsequent Form filings and amendments electronically via Web CRD[sm]. A conforming change is proposed for Rule 1140. This process will be in conformity with Commission requirements for the submission of Form BD and amendments to it.[8] Similarly, the initial Member Contact Questionnaire and user access request form also are submitted on paper; upon approval of a membership application, the member may update the Member Contact Questionnaire electronically.

The proposed rule adds new requirements for Applicants to submit information concerning their ability to

[6] NASD Regulation is not proposing any change to the definition of sales practice violation on the Form U–4.

[7] *See, e.g.,* proposed Rules 1013(a)(5), (b)(1), and 1014(c)(3).

[8] *See* Exchange Act Release No. 41594 (July 2, 1999), 64 FR 37586 (July 12, 1999).

ensure business continuity, including information about the capacity of their communications and operational systems, contingency plans, disaster recovery plans, and the like. NASD Regulation also proposes a new standard for admission that requires that such systems, plans, and procedures be adequate in proposed Rule 1014(a)(6). The staff would not be required to investigate the adequacy themselves; rather, the Applicant would certify that the systems, plans, and procedures are adequate for the Applicant's business. The Applicant may self-certify or may rely on a third party (*e.g.,* a vendor of such a system) to provide the certification if the Applicant so chooses.

NASD Regulation also wishes to clarify that under Rule 1013(b)(4), the Applicant and the staff may agree to hold the membership interview at the Applicant's place of business.

Rule 1013 is amended by adding new subparagraph (b)(5) to require Applicants to provide updated financial information at the time of their membership interview.

d. Proposed Rule 1014

NASD Regulation proposes few changes with respect to the standards for admission. NASD Regulation proposes a new standard with respect to business continuity, as described above. NASD Regulation also proposes that the Applicant's supervisory procedures must specifically include procedures to ensure proper registrations are obtained by the firm. All other changes to the standards for admission are conforming changes.[9]

NASD Regulation also considered the requirement of Rule 1014(a)(9)(C) that prospective supervisors have at least one year of direct experience or at least two years of related experience in the subject area to be supervised. NASD Regulation believes that this requirement should continue to be imposed and has published interpretive guidance on this subject in *How To Become A Member,* which is available at www.nasdr.com/4700_toc.htm. NASD Regulation does not believe that supervisory experience requirements should be increased.

Rule 1014(c), which concerns the submission of membership agreements, is amended by deleting the requirement that any member with a membership agreement obtain approval from NASD Regulation of any change in business outside the terms of the agreement. NASD Regulation believes that this provision is too restrictive, particularly for firms with no disciplinary history. The provision also puts members with a membership agreement at a disadvantage vis-aacute;-vis members that do not have a membership agreement.[10] Therefore, this provision is deleted. When the proposed rule change becomes effective, to ensure that members are treated equally, NASD Regulation will permit members that are eligible for the safe harbor to use it, even if their membership agreement includes a general requirement to obtain approval from NASD Regulation of any change in business outside the terms of the agreement. When NASD Regulation examines a member, it will update the membership agreement to reflect the new rule. As part of the proposed rule change, paragraphs 1014(c) and (d) also are reordered for ease of reading.

In addition, upon adoption of the proposed rules, NASD Regulation will begin including business expansions plans in membership agreements to the extent practicable.

e. Proposed Rule 1015

Under current Rule 1015, the NAC or the Review Subcommittee may call for review a district decision on a membership application, even if the Applicant does not appeal the decision. NASD Regulation considered at length whether a procedure or policy could be developed to implement this provision effectively, but ultimately determined that it is unworkable. NASD Regulation has temporarily suspended calls for review of membership decisions and proposes to delete this provision altogether for the reasons set forth in Exchange Act Release No. 41311 (Apr. 20, 1999), 64 FR 20347 (Apr. 26, 1999) (File SR–NASD–99–15).

NASD Regulation believes that the oversight function envisioned for the call for review provision, which has proved to be unworkable, is performed through a variety of other existing mechanisms. The Home Office of the Member Regulation Department employs a full time Membership Manager to coordinate and oversee the national program. Part of the manager's responsibility includes a quality control function. This function is carried out in several ways: maintenance of a Membership Procedures Manual; periodic advice memoranda sent to District Office staff (''MAP Bulletins''); regularly scheduled telephone conferences with District Office staff to discuss procedural and substantive issues arising in the program; and periodic training sessions for new and incumbent staff. To supplement these tools, Member Regulation's Office of Quality Assurance conducts periodic peer reviews of the membership admission program, most recently in 1998 and 1999. The purpose of these peer reviews was to assess the District Offices' application of the membership rules and procedures. The reviews included an examination of 265 files in recently-issued membership decisions. The reviews included spot checks of source documents to confirm the facts underlying the decisions. In addition, peer reviews of the membership program will be conducted in the future.

NASD Regulation also proposes a new paragraph (h) for dismissing appeals that are abandoned by an applicant, which includes failing to appear at a hearing as set forth in current Rule 1015(f)(5), among other things.

f. Proposed Rule 1017

Current Rule 1017, which addresses applications for removal or modification of a business restriction, and Rule 1018, which addresses applications for approval of changes in ownership, control, or operations, are consolidated in proposed Rule 1017. Sometimes a member initiates business changes that involve both rules, which creates confusion as to which rule should be used. Therefore, NASD Regulation proposes to consolidate these rules to make them easier for staff and applicants to use and to eliminate any confusion that may arise from overlapping provisions.

This consolidation is achieved in part by defining the term ''material change in business operations'' in proposed Rule 1011(i) to include the removal or modification of a business restriction. All material changes in business operations would trigger a review under proposed Rule 1017. Members should

[9] NASD Regulation also wishes to provide some guidance on how it treats unadjudicated violations under Rule 1014. The Rule permits the staff to consider unadjudicated violations as part of a decision on a membership application. In most cases, an unadjudicated violation by itself will not result in a restriction or a denial, but depending on the circumstances, may require heightened supervision. However, a particularly egregious allegation, *e.g.,* a criminal charge involving a large number of customers, may cause the staff to consider a restriction or denial.

[10] In 1984, the SEC approved a codification of the NASD's member admission procedures, which included a requirement that any restriction on a member's business be included in a membership agreement executed by the member. *See* Exchange Act Release No. 21159 (July 20, 1984), 49 FR 30268 (July 27, 1984) (File No. SR–NASD–82–24). Thus, a member admitted before 1984 or a member admitted without any restriction from 1984 to 1997 may not have a membership agreement. In 1997, NASD Regulation began requiring all new members to execute a membership agreement, regardless of whether NASD Regulation imposed any restriction. *See* NASD Rule 1014(c); Exchange Act Release. No. 38908 (Aug. 7, 1997), 62 FR 43385 (Aug. 13, 1997) (File No. SR–NASD–97–28).

note that a ''restriction'' is specifically labeled as such in the membership agreement, and NASD Regulation issues a decision that states the rationale for the restriction.

A restriction is distinct from other limitations that a member may set forth in its business plan that may be recited as part of the ''Business Activities'' section of a membership agreement. For example, an applicant may include in its business plan that it intends to have 10–20 registered representatives and make markets in no more than 10 stocks. If the NASD approves the application, these self-imposed limitations, which have been considered as part of the application, may be included in the ''Business Activities'' section of the membership agreement. These types of limitations are not considered ''restrictions'' under the Rules because they are not imposed by NASD Regulation, and therefore NASD Regulation does not have to include a rationale for them in the decision in the application. Under the proposed Rules, a member that has such limitations in its membership agreement may expand beyond those limitations to the extent permitted in the safe harbor in IM–1011–1.

In contrast, for example, NASD Regulation may specifically restrict the number of markets a member makes because NASD Regulation determines and issues a decision stating that the member cannot adequately supervise a large number of markets. In such a case, the restricted member cannot take advantage of the safe harbor in proposed Rule 1011 and must apply under proposed Rule 1017 to lift the restriction.

Another type of change that triggers an application under proposed Rule 1017 is a change in the equity ownership or partnership capital of the member that results in one person or entity owning or controlling 25 percent or more of the equity or partnership capital. NASD Regulation wishes to clarify that a group of individuals acting in concert to obtain control of 25 percent or more of the equity or partnership capital of a member will be deemed to be an ''entity'' under the Rule, and as such, trigger the requirement to submit an application to obtain approval of the ownership change.

NASD Regulation proposes to discontinue its review of certain changes. Under proposed Rule 1017, NASD Regulation would discontinue review of member mergers and acquisitions that are reviewed by the New York Stock Exchange, thereby eliminating duplication by self-regulatory organizations.

Proposed Rule 1017 also sets forth for the first time what type of information should be included in an application and the content of the staff's decision on an application under this Rule. The Rule also clarifies when the application should be filed and what changes can be effected prior to obtaining NASD Regulation's approval.

NASD Regulation proposes a new paragraph (k) to clarify what happens if a change in ownership application lapses or is denied. The proposed rule change provides that if the ownership change application lapses or is denied, then the member has a fixed period of time to submit a new application,[11] unwind the transaction, or file a Form BDW. Of course, as under the current rules, a member could continue to operate with the approved owners if the transaction has not closed. The Department may shorten the 60-day period for the protection of investors or lengthen it upon good cause shown by the Applicant. The Department may continue to place interim restrictions on the member during the 60-day (or other imposed) period. NASD Regulation's practice has been to inform Applicants of these options, but not impose particular deadlines. The purpose of the proposed rule change is to provide more structure to this process and ensure that members who do not timely obtain approvals of ownership changes are not doing business with the public.

As part of its review of the Rule 1010 Series, NASD Regulation considered whether the time frames in Rule 1017 could be shortened so that the overall process would be completed in 90 days. NASD Regulation determined not to shorten the time frames at this time because other rule revisions (*e.g.,* defining material change in operations and listing the documents required for the application), should speed up processing of applications. NASD Regulation also intends to publish on its Web site further guidance to members on what types of documents and information the staff will require if a member requests approval to engage in certain specialized areas of the securities or investment banking business. NASD Regulation believes that these changes should be given a chance to work before any time frames are shortened. NASD Regulation will reconsider the issue one year after the rule revisions have become effective and more information is available about the processing time for applications.

g. Proposed Rule 1018

NASD Regulation proposes to adopt a new NASD Rule 1018, which would permit the staff to stay a membership application under NASD Rule 1013 or 1017 if a state or federal authority files criminal charges against the Applicant or a principal or proposed principal of the Applicant; the SEC files a complaint or a request for injunctive relief against the Applicant or a principal or proposed principal of the Applicant; or the NASD, another self-regulatory organization, or a state files a complaint alleging a violation of one of the laws or rules listed in IM–1011–1 (or a comparable state provision).

Under the proposed rule, the stay would be lifted automatically if the Applicant prevailed in the disciplinary action. The staff also would be authorized to lift the stay if circumstances changed. If the staff denied the request to lift the stay, the Applicant could appeal to the National Adjudicatory Council.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[12] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Section 15A(b)(8) of the Act [13] requires that a national securities association establish rules providing a fair procedure for the denial of membership in such association. NASD Regulation believes that the proposed rule change is consistent with these sections because it provides better notice to applicants about the various requirements of the application process, simplifies and clarifies the rules, and better protects investors by circumscribing expansions by members with disciplinary histories and by permitting the Association in certain circumstances to stay applications by members who are subject to disciplinary action. The proposed rule change also provides better notice to applicants whose change in ownership is denied by informing them of their options once the denial is final.

[11] A lapsed Applicant may propose the same owners; a denied Applicant must propose new owners.

[12] 15 U.S.C. 78o–3(b)(6).

[13] 15 U.S.C. 78o–3(b)(8).

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in NASD Notice to Members 99–67. Two comments were received in response to the Notice.

The commenters raised several issues. One commenter, the Jeffrey Matthews Financial Group LLC, stated that the staff has been given too much time to review an Applicant's submission and request additional information. As part of its deliberations on the proposed rules, NASD Regulation considered shortening certain deadlines. NASD Regulation determined not to shorten the time frames at this time because other rule revisions (*e.g.*, defining material change in operations and listing the documents required for the application) should speed up processing of applications. NASD Regulation also has provided additional guidance to members on what types of documents and information the staff will require if a member requests approval to engage in certain specialized areas of the securities or investment banking business. This guidance is posted at www.nasdr.com/cm__apps__1.htm. NASD Regulation concluded that these changes should be given a chance to work before any time frames are shortened. NASD Regulation will reconsider the issue one year after the rule revisions have become effective and more information is available about the processing time for applications. In the meantime, NASD Regulation will make every effort to respond promptly and within the time limits to each submission of information.

This same commenter also suggested that a member should be permitted to add business activities without approval from NASD Regulation if the revenues from the activity are less than five percent of total revenue. Certain types of business expansions (adding a limited numbers of sales personnel, offices, and markets) are permitted under the proposed safe harbor. After further consideration of this comment by the Board, NASD Regulation determined to revise the definition of material change in business operations as proposed in Notice To Members 99–67 so that the definition would not apply to adding any new type of business, but only to adding market making, underwriting, or acting as a dealer for the first time.

The California Association of Independent Broker-Dealers (''CAIBD'') also submitted a comment letter. CAIBD stated that: (1) the staff has too much discretion in determining whether a member should be permitted to expand; (2) NASD Regulation does not need to ask for lease arrangement information or descriptions of communications and operations systems; (3) supervisory experience should not be required; (4) membership interviews should be waived in certain circumstances; (5) a list of persons to be registered should not be required; and (6) an Applicant should not be required to describe the volatility of its products.

First, NASD Regulation does not believe that the staff has too much discretion in rendering a decision on a member's application to expand its business. Indeed, the criteria for approval of membership applications is set forth in detail in Rule 1014. To the extent a decision on an application is denied in whole or in part or approved subject to restrictions, the rules require that the reason for the denial or imposition of restrictions be specifically explained, referencing the applicable standard for membership upon which the decision is based.

Furthermore, as part of its proposal, NASD Regulation is creating a safe harbor that will permit members to undertake certain types of business expansions without obtaining NASD Regulation approval. NASD Regulation believes that it is appropriate to continue exercising discretion in reviewing expansions outside of the safe harbor because such expansions could be material.

Second, NASD Regulation has routinely required Applicants to provide information about their lease arrangements. This permits NASD Regulation to verify certain aspects of an application. For example, an Applicant that proposed to have a very small number of registered persons in most cases would lease space commensurate with staffing. If that Applicant instead leased a very large space, NASD Regulation would most likely request further information about the business purpose for the lease and to ensure that the Applicant was not planning an unapproved expansion. Likewise, if an applicant proposed to employ a large number of associated people in a relatively small space, NASD Regulation would question the Applicant's ability to support the number of personnel proposed from both a supervisory and operational standpoint.

Third, NASD Regulation determined that it should begin asking Applicants for information about their ability to ensure business continuity, including information about the capacity of their communications and operational systems, contingency plans, disaster recovery plans, and the like. The staff would not be required to investigate the adequacy themselves; rather, the applicant would certify that the systems, plans, and procedures are adequate for the applicant's business. The applicant may rely on a third party (*e.g.*, a vendor of such a system) to provide the certification if the applicant so chooses. This review will be less extensive in the case of an introducing broker-dealer that is relying on the systems of a clearing broker.

Fourth, NASD Regulation staff, as well as the NAC and the District Committees, have expressed the view that the experience requirement for supervisors is appropriate. In some cases, NASD Regulation has appropriately denied membership or a business expansion application where the Applicant has not demonstrated any experience in the proposed business line.[14] NASD Regulation believes that this experience requirement serves an important investor protection function.

Fifth, NASD Regulation believes that membership interviews are essential for new member Applicants under NASD Rule 1013. The in-person interview plays an important role in determining whether the Applicant and its principals are knowledgeable about the legal and regulatory requirements of operating a broker-dealer and can demonstrate that they are capable of complying with all laws and regulations, as required by the membership standard in proposed NASD Rule 1014(a)(3). Interviews with a current member applying to remove a restriction or expand its business are not required by the rules, but may be held at the election of staff under proposed NASD Rule 1017.

Sixth, a list of prospective registered persons is also essential to rendering a decision under proposed Rule 1014. NASD Regulation must check the disciplinary history of all such persons in determining whether an Applicant meets the standards set forth in proposed Rule 1014(a)(3) and (10).

Finally, NASD Regulation believes taking the volatility of a firm's products into consideration is necessary in order to assess a firm's ability to maintain an adequate net capital level under

[14] *In the Matter of Sierra Nevada Securities, Inc.*, Exchange Act Release No. 41330, 1999 SEC LEXIS 833, Apr. 26, 1999.

Exchange Act Rule 15c3–1 and the adequacy of the firm's procedures for supervising its financial and operational functions.

NASD Regulation requested, but did not receive, comment on several issues in NTM 99–67. NASD Regulation has determined to retain the safe harbor numbers as proposed in the Notice. However, NASD Regulation has determined that the definition of disciplinary history should be amended to include violations by officers or principals of the member. NASD Regulation also has determined that restrictions in a membership agreement should not automatically sunset after a fixed period (*e.g.*, five years) if the applicant does not have any disciplinary history; instead, restrictions will continue to be individually reviewed. Finally, NASD Regulation determined that it should clarify what happens if a change in ownership is denied and has proposed Rule 1017(k) to address this situation.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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 No. SR–NASD–99–67 and should be submitted by July 3, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14718 Filed 6–9–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42890; File No. SR–PCX–00–11]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change To Rescind Rules 5.43–5.49, and Modify Rule 5.5(b), Relating to the Exchange's Off-Board Trading Restrictions

June 1, 2000.

I. Introduction

On March 26, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to rescind Rules 5.43–5.49, the Exchange's off-board trading rules, and to make a conforming change to Rule 5.5(b). The proposed rule change was published for comment in the **Federal Register** on April 19, 2000.[3] Similar proposed rule changes filed by the American Stock Exchange, Chicago Stock Exchange, the Philadelphia Stock Exchange, and the Boston Stock Exchange had already been published for public comment.[4] The Commission received no comments on any of these proposals. Today, in separate orders, the Commission is approving the proposed rule changes to rescind off-board trading rules filed by the exchanges noted above.[5]

II. Description of the Proposal

Exchange Rules 5.43–5.49 restrict a member's ability to effect transactions in Exchange-listed securities off a national securities exchange. In the proposing release, the Exchange stated that ''once the Commission approves the NYSE's proposal to rescind its off-board trading restrictions, the Exchange's off-board trading restrictions will no longer be necessary or appropriate.'' Therefore, the Exchange proposed to rescind Rules 5.43–5.49, and to make a conforming change to Rule 5.5(b).

III. Discussion

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. In particular, the Commission finds the proposed rule change is consistent with Section 6(b)(5) of the Act[6] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and Section 6(b)(8), which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the Act. The rescission of the Exchange's off-board trading restrictions is also consistent with Section 11A of the Act[7] which sets forth the findings and objectives that are to guide the Commission in its oversight of the national market system. Specifically, rescinding the off-board trading restrictions will help further the national market system objective in Section 11A(a)(1)(C)(i) to assure the

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[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42660 (April 10, 2000), 65 FR 21052.

[4] Securities Exchange Act Release No. 42460 (February 25, 2000), 65 FR 11618 (March 3, 2000) (File No. SR–Amex–00–05); Securities Exchange Act Release No. 42459 (February 25, 2000), 65 FR 11619 (March 3, 2000) (File No. SR–CHX–99–28); Securities Exchange Act Release No. 42458 (February 25, 2000), 65 FR 11628 (March 3, 2000) (File No. SR–Phlx–00–12); Securities Exchange Act Release No. 42661 (April 10, 2000), 65 FR 20497 (April 17, 2000) (File No. SR–BSE–00–02).

[5] The New York Stock Exchange was first to submit a proposed rule change rescinding its off-board trading rule, Rule 390. Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577 (February 28, 2000) (''NYSE Release'').

On May 5, 2000, the Commission approved the New York Stock Exchange's proposed rule change to rescind Rule 390. Securities Exchange Act Release No. 34–42758 (May 5, 2000), 65 FR 30175 (May 10, 2000) (''NYSE Approval Order'').

In the NYSE Release, the Commission also solicited the public's views on a broad range of issues related to market fragmentation—the trading of orders in multiple locations without interaction of those orders. The period for public comment on market fragmentation expired on May 12, 2000. The Commission currently is reviewing the comments submitted in response to the NYSE Release.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1.

economically efficient execution of securities transactions, and in Section 11A(a)(1)(C)(ii) to assure fair competition between exchange markets and markets other than exchange markets.[8]

As discussed more fully in the NYSE Approval order, the existence of off-board trading restrictions can no longer be justified in an age when advancing technology and expanding trading volume are introducing new competitive challenges for the U.S. securities markets, both at home and abroad. Off-board trading rules such as Rules 5.43–5.49 directly restrict a certain type of market center competition—competition between exchange markets and markets other than exchange markets. Their rescission today eliminates an inappropriate regulatory burden on competition that runs contrary to the objectives set forth in the Act.

Off-board trading restrictions have been justified on the basis that they promote the interaction of investors' orders without participation by a dealer—indeed an objective set forth in the Act.[9] The Commission believes, however, that whatever beneficial effect off-board trading restrictions such as Rules 5.43–5.49 may have in enhancing the interaction of investor orders can no longer justify their anticompetitive nature. To the extent off-board trading rules enhance order interaction, they do so in an undesirable way—by attempting a direct restriction on competition. Such attempts are never wholly successful and typically only distort, rather than eliminate, competition and introduce unnecessary costs ultimately borne by investors.

The outcome of competition between market centers should depend on which market centers are most able to serve investor interests by providing the highest quality trading services at the lowest possible prices; the Commission's regulatory task is removing unwarranted regulatory barriers to competition between market centers. As stated in the NYSE Approval Order, the rescission of off-board trading rules is ''intended solely to free the forces of competition and allow investor interests to control the success or failure of individual market centers.'' [10] The same nationale and motivation support the Commission's action today.

[8] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] Section 11A(a)(1)(C)(v) of the Act.

[10] NYSE Approval Order at 30179.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–PCX–00–11) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

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[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42889; File No. SR–Phlx–00–12]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Ordering Approving Proposed Rule Change to Rescind Rule 132, the Exchange's Off-Board Trading Rule

June 2, 2000.

I. Introduction

On February 10, 2000, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to rescind Rule 132, the Exchange's off-board trading rule. The proposed rule change was published for comment in the **Federal Register** on March 3, 2000.[3] Proposed rule changes filed by the American Stock Exchange and the Chicago Stock Exchange to rescind their off-board trading rules were published on the same date as the Phlx proposing release.[4] Shortly thereafter, the Boston Stock Exchange and the Pacific Exchange filed similar proposed rule changes.[5] The Commission received no comments on any of these proposals. Today, in separate orders, the Commission is approving the proposed rule changes to rescind off-board trading rules filed by the exchanges noted above.[6]

II. Description of the Proposal

Exchange Rule 132 restricts a member's ability to effect transactions in Exchange-listed securities off a national securities exchange. In the proposing release the Exchange noted that the ''staff of the Commission recently asked the Exchange to review its off-board trading restrictions and consider measures to repeal such restrictions.'' Therefore, the Exchange proposed rescinding Rule 132 to ''broaden the free market trading activities of Exchange members and the investors they represent by removing restrictions on over-the-counter trading in listed securities.''

III. Discussion

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. In particular, the Commission finds the proposed rule change is consistent with Section 6(b)(5) of the Act [7] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and Section 6(b)(8), which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the Act. The rescission of the Exchange's off-board trading restrictions is also consistent with Section 11A of the Act [8] which sets forth the findings and objectives that are to guide the Commission in its oversight of the national market system. Specifically, rescinding the off-board trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42458 (February 25, 2000), 65 FR 11628.

[4] Securities Exchange Act Release No. 42460 (February 25, 2000), 65 FR 11618 (March 3, 2000) (File No. SR–Amex–00–05); Securities Exchange Act Release No. 42459 (February 25, 2000), 65 FR 11619 (March 3, 2000) (File No. SR–CHX–99–28).

[5] Securities Exchange Act Release No. 42661 (April 10, 2000), 65 FR 20497 (April 17, 2000) (File No. SR–BSE–00–02); Securities Exchange Act Release No. 42660 (April 10, 2000), 65 FR 21052 (April 19, 2000) (File No. SR–PCX–00–11).

[6] The New York Stock Exchange was first to submit a proposed rule change rescinding its off-board trading rule, Rule 390. Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577 (February 28, 2000) (''NYSE Release'').

On May 5, 2000, the Commission approved the New York Stock Exchange's proposed rule change to rescind Rule 390. Securities Exchange Act Release No. 34–42758 (May 5, 2000), 65 FR 30175 (May 10, 2000) (''NYSE Approval Order'').

In the NYSE Release, the Commission also solicited the public's views on a broad range of issues related to market fragmentation—the trading of orders in multiple locations without interaction of those orders. The period for pubic comment on market fragmentation expired on May 12, 2000. The Commission currently is reviewing the comments submitted in response to the NYSE Release.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k–1.

restrictions will help further the national market system objective in Section 11A(a)(1)(C)(i) to assure the economically efficient executive of securities transactions, and in Section 11A(a)(1)(C)(ii) to assure fair competition between exchange markets and markets other than exchange markets.[9]

As discussed more fully in the NYSE Approval Order, the existence of off-board trading restrictions can no longer be justified in an age when advancing technology and expanding trading volume are introducing new competitive challenges for the U.S. securities markets, both at home and abroad. Off-board trading rules such as Rule 132 directly restrict a certain type of market center competition—competition between exchange markets and markets other than exchange markets. Their rescission today eliminates an inappropriate regulatory burden on competition that runs contrary to the objectives set forth in the Act.

Off-board trading restrictions have been justified on the basis that they promote the interaction of investors' orders without participation by a dealer—indeed an objective set forth in the Act.[10] The Commission believes, however, that whatever beneficial effect off-board trading restrictions such as Rule 132 may have in enhancing the interaction of investor orders can no longer justify their anticompetitive nature. To the extent off-board trading rules enhance order interaction, they do so in an undesirable way—by attempting a direct restriction on competition. Such attempts are never wholly successful and typically only distort, rather than eliminate, competition and introduce unnecessary costs ultimately borne by investors.

The outcome of competition between market center should depend on which market centers are most able to serve investor interests by providing the highest quality trading services at the lowest possible prices; the Commission's regulatory task is removing unwarranted regulatory barriers to competition between market centers. As stated in the NYSE Approval Order, the rescission of off-board trading rules is ''intended solely to free the forces of competition and allow investor interests to control the success or failure of individual market centers.'' [11] The same rationale and motivation support the Commission's action today.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Phlx–00–12) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14725 Filed 6–9–00; 8:45 am]

BILLING CODE 8010–01–M

[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] Section 11A(a)(1)(C)(v) of the Act.

[11] NYSE Approval Order at 30179.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 42898; File No. SR–Phlx–00–41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Pilot Program Regarding Exchange Rule 98, Emergency Committee, Until August 21, 2000

June 5, 2000.

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 April 18, 2000, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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. On April 20, 2000, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Exchange filed the proposed rule change, as amended, pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] 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, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend the pilot program relating to Exchange Rule 98, Emergency Committee, for an additional 120 days, or until August 21, 2000. No changes to the existing rule language are being proposed.

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, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 23, 1999, the Commission granted approval to amendments to Exchange Rule 98, Emergency Committee (the ''Committee'') on a 120-day pilot basis.[6] In general, the Committee is authorized to determine the existence of, and take action with respect to, extraordinary market conditions or other emergencies at the Exchange. The amendments to Exchange Rule 98 updated the composition of the Committee to reflect the current governance structure of the Exchange,[7] clarified that the Committee was authorized to act in the event of any emergency condition created by the Year 200 date change, and deleted a provision referencing CENTRAMART, an equity order entry system which is no longer used on the Exchange. The Committee is now composed of five individuals: the Chairman of the Board of Governors; the On-Floor Vice Chairman of the Board of Governors;

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.16b–4.

[3] *See* April 19, 2000 letter from Richard S. Rudolph, Counsel, Exchange, to Rebekah Liu, Special Counsel, Division of Market Regulation, SEC (''Amendment No. 1''). In Amendment No. 1, the Exchange requested that the proposed rule change be filed under Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b–4(f)(6). The Exchange also requested that the Commission waive the 5-day notice of its intent to file the proposal, and requested that the Commission waive the 30-day period before the proposal becomes effective to permit the proposed rule change to become immediately effective.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* Exchange Act Release No. 42272 (December 23, 1999), 65 FR 153 (January 3, 2000) SR–Phlx–99–42).

[7] The amendments replaced the President, which the Exchange no longer has, with the On-Floor Vice Chairman of the Board of Governors.

and the Chairmen of the Floor Procedure Committee, the Options Committee, and the Foreign Currency Options Committee.

The Commission approved the amendments to Exchange Rule 98 on a pilot basis in order to allow the Exchange to examine the operation of the Committee to ensure that the Committee is not dominated by any one Exchange interest (*e.g.,* On-Floor or Off-Floor interests). The Commission requested that the Exchange report back to the Commission on its views as to whether the Committee structure ensures that all Exchange interests are fairly represented by the Committee. The Exchange has requested that the pilot program be extended in order to provide it more time to examine the operation of the Committee and submit the requested information to the Commission.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with the provisions of Section 6(b)(5) of the Act[8] which requires that the rules of an Exchange be designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change, as amended.

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)(iii) of the Act[9] 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 after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, 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 Commission finds that it is appropriate to accelerate the effective date of the proposed rule change and to permit the proposed rule change to become immediately effective because the proposal simply extends a previously approved pilot program for an additional 120 days, or until August 21, 2000. By extending the pilot program, the Commission will enable the Committee to be in place and operational in the event of any extraordinary market conditions or emergencies at the Exchange, and will afford the Exchange the opportunity to respond to the Commission's request to provide information on whether the Committee is fairly representing all interests of the Exchange.[11]

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 with 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–Phlx–00–41 and should be submitted by July 3, 2000.[12]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–14728 Filed 6–9–00; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of preliminary policy priorities for amendment cycle ending May 1, 2001. Request for comment.

SUMMARY: As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with Rule 5.2 of its Rules of Practice and Procedure, the Commission has preliminarily identified and hereby proposes certain priorities as the focus of its policy development work, including possible amendments to guidelines, policy statements, and commentary, for the amendment cycle ending May 1, 2001. The Commission invites comment on these proposed priority areas and on any other sentencing issues that it should address in the coming year.

DATES: Public comment should be received by the Commission not later than July 7, 2000.

ADDRESSES: Send comment to: United States Sentencing Commission, One Columbus Circle, NE, Suite 2–500, South Lobby, Washington, DC 20002–8002. Attn: Public Affairs.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States Government, is empowered by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal courts. Section 994 also directs the Commission to review and revise periodically promulgated guidelines

and authorizes it to submit guideline amendments to the Congress not later than the first day of May each year. See 18 U.S.C. 994(o), (p).

The Commission hereby gives notice that, during the amendment cycle ending May 1, 2001, it may consider possible amendments to guidelines, policy statements, and commentary, relating to the following: (1) Certain economic crimes, particularly fraud, theft, and tax offenses; (2) money laundering; (3) counterfeiting of bearer obligations of the United States; (4) further response to the Protection of Children from Sexual Predators Act of 1998; (5) firearms; (6) nuclear, chemical, and biological weapons, and related national security issues; (7) the payment to, or receipt by, federal employees of unauthorized compensation, and related offenses; (8) offenses implicating the privacy interests of taxpayers; (9) the resolution of a number of conflicts among the circuit courts on sentencing guideline issues; (10) the implementation of any crime legislation enacted during the second session of the 106th Congress requiring a Commission response; and (11) any minor technical or conforming amendments necessary for proper operation of the sentencing guideline system.

In addition to inviting comment on any of the preliminary priority issues proposed in this notice, the Commission welcomes comment on any other issue that interested persons believe the Commission should address during the amendment cycle ending May 1, 2001, including short-and long-term research issues. To the extent practicable, comments submitted on additional issues should include the following: (1) A statement of the issue, including the scope and manner of study, particular problem areas and possible solutions, and any other matters relevant to a proposed priority; (2) citations to applicable sentencing guidelines, statutes, case law, and constitutional provisions; and (3) a direct and concise statement of why the Commission should make the issue a priority.

Authority: 28 U.S.C. § 994(a), (o), (p); USSC Rules of Practice and Procedure 5.2.

Diana E. Murphy,

Chair.

[FR Doc. 00–14781 Filed 6–9–00; 8:45 am]

BILLING CODE 2210–01–U

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on February 9, 2000 (65 FR 6438).

DATES: Comments must be submitted on or before July 12, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., N.W., Mail Stop 17, Washington, D.C. 20590 (telephone: (202) 493–6292), or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., N.W., Mail Stop 35, Washington, D.C. 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 9, 2000, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 65 FR 6438. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Bridge Worker Safety Rules.

OMB Control Number: 2130–0535.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: Section 20139 of Title 49 of the United States Code required FRA to issue rules, regulations, orders, and standards for the safety of maintenance-of-way employees on railroad bridges, including for ''bridge safety equipment'' such as nets, walkways, handrails, and safety lines, and requirements for the use of vessels when work is performed on bridges located over bodies of water. FRA has added 49 CFR Part 214 to establish minimum workplace safety standards for railroad employees as they apply to railroad bridges. Specifically, section 214.15(c) establishes standards and practices for safety net systems. Safety nets and net installations are to be drop-tested at the job site after initial installation and before being used as a fall-protection system, after major repairs, and at six-month intervals if left at one site. If a drop-test is not feasible and is not performed, then a written certification must be made by the railroad or railroad contractor, or a designated certified person, that the net does comply with the safety standards of this section. FRA and State inspectors use the information to enforce Federal regulations. The information that is maintained at the job site promotes safe bridge worker practices.

Annual Estimated Burden Hours: .2 hour.

Title: Two-way End-of-Train Devices.

OMB Control Number: 2130–0540.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: Section 20141 of the United States Code amended the Federal

railroad safety laws by adding certain statutory mandates related to power brake safety, specifically regarding two-way end-of-train telemetry devices (two-way EOTs). This section required two-way end-of-train devices (or devices able to perform the same function) on road trains other than locals, road switchers, or work trains to enable the initiation of emergency braking from the rear of the train. The information collected enhances rail safety by ensuring that the locomotive engineer is notified if someone other than a train crew member tests the two-way end-of-train devices at the initial terminal or other point of installation to confirm that the device is capable of initiating an emergency power brake application from the rear of the train. The information collected is also used to by FRA to verify that the end-of-train telemetry equipment is properly calibrated for accuracy according to the manufacturer's specifications at least every 365 days. Additionally, the information collected verifies that two-way end-of-train standards, such as the front unit having a manually operated switch that is labeled ''emergency'' which can initiate an emergency brake transmission command to the rear unit (when activated), are met.

Annual Estimated Burden Hours: 5,797 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, N.W., Washington, D.C., 20503; Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Margaret B. Reid,

Acting Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 00–14764 Filed 6–9–00; 8:45 am]

BILLING CODE 4910–06–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–2000–6827 (12412–N)]

Hazardous Materials: Proposed DOT Exemption for Discharging Intermediate Bulk Containers on Motor Vehicles

AGENCY: Research and Special Programs Administration (RSPA) DOT.

ACTION: Notice of proposed exemption.

SUMMARY: RSPA proposes to consolidate and standardize all existing DOT Exemptions that authorize the discharge of intermediate bulk containers (IBC) from a motor vehicle without removing the IBC from the vehicle. These are DOT Exemptions 12245, 12013, 11911, 11769, 11646, 11537, and 10429.

DATES: *Comment Date:* Comments must be received on or before August 11, 2000.

ADDRESSES: *Written Comments:* Address comments to the Dockets Management System, U.S. Department of Transportation, PL 401, 400 Seventh St., SW, Washington, DC 20590–0001. Comments should identify the docket number, RSPA–2000–6827 (12412–N), and should be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Management System is located on the Plaza Level of the Nassif Building, at the above address. Public dockets may be reviewed between the hours of 10:00 a.m. to 5:00 p.m., Monday thru Friday, excluding Federal holidays. In addition, comments can be reviewed by accessing the DMS Website (http://dms.dot.gov). Comments may also be submitted by E-mail to ''ibc@rspa.dot.gov''. In every case, the comment should refer to the Docket number set forth above.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Burger, telephone number (202) 366–4545, Office of Hazardous Materials Technology, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

The rationale and justification presented to RSPA with the original exemption applications to authorize the unloading of IBCs while onboard a motor vehicle were:

- A demonstrated need to deliver hazardous materials to sites which did not have the capability to safely unload an IBC from a motor vehicle prior to discharging the contents;
- The delivery and transfer of small quantities of hazardous materials into storage tanks was safer from IBCs than from several drums and not feasible from a cargo tank motor vehicle; and
- Carriers would have sufficient operational controls in place to ensure safety during the transfer operation.

Based on numerous requests for modification of the subject exemptions, particularly with regard to IBC capacity limitations and authorized materials, RSPA sent a May 27, 1999 letter to each holder and person having party status to DOT Exemptions 11911, 11769, 11646, 11537, 10429, 12013 and 12245. The letter contained 14 procedural and shipment questions regarding the operations of the respective holders. RSPA received numerous responses to the letter. The information gathered from each response was compiled and evaluated. In the replies to the letter, more than one third of the respondents indicated they unload in excess of 1,200 gallons of one hazardous material during a single delivery. Under this scenario, RSPA believes that the IBCs are being used as cargo tanks.

On October 27, 1999 RSPA sent a letter and a draft exemption (draft) to the individuals who received the May 27, 1999 letter. The draft contained many provisions similar to the existing IBC exemptions. In addition, the draft proposed that the maximum quantity of hazardous material discharged from an IBC was not to exceed 300 gallons per shipment per day. RSPA received numerous comments on this draft. The majority of the comments addressed the restriction placed upon the maximum quantity of hazardous material that could be discharged at one location. These comments were an additional indication to RSPA that the IBCs are being used as cargo tanks. Instead of imposing a quantity limitation, RSPA is considering a requirement that the discharge system provide the same level of safety during discharge as is required for use of a cargo tank. On July 10, 1998, RSPA issued a Final Rule under Docket RSPA–1997–2905 (HM–166Y) (63 FR 37454), addressing this issue for IM Portable Tanks where RSPA permitted an IM portable tank to be unloaded while remaining on a vehicle with the power unit attached, provided the tank meets the outlet requirements of § 178.345–11. Section 178.345–11(b)(1)(iii) provides that the remote means of closure for the stop valve on a cargo tank must be capable of thermal activation when required by Part 173 for materials which are flammable, pyrophoric, oxidizing, or poisonous

liquids. The tank outlets are required to be equipped with this feature to ensure that the valve closes in a fire situation. Cargo tanks have been required to have this feature for many years. RSPA believes that when an IM portable tank, as well as an IBC, is used in the same manner as a cargo tank it should have the same level of safety in the event the operator cannot manually operate the closure.

The intended effect of this proposal is to develop a standardized exemption and to provide for the safe discharge of materials from intermediate bulk containers that have not been removed from the transport vehicle prior to unloading. Under this exemption, the holder and all parties to the exemption each would operate under the same controls and provisions. A second major draft of the proposed exemption is provided below.

Expiration Date: TBD

(For Renewal, See 49 CFR 107.109)

1. *Grantee:* TBD

2. *Purpose and Limitation:*

a. This exemption authorizes the discharge of liquid hazardous materials from DOT Specification UN Intermediate Bulk Containers (IBCs) without removing the IBC from the vehicle on which it is transported. This exemption provides no relief from the Hazardous Materials Regulations (HMR) other than as specifically stated herein.

b. The safety analyses performed in development of this exemption only considered the hazards and risks associated with transportation in commerce.

3. *Regulatory System Affected:* 49 CFR Parts 106, 107 and 171–180.

4. *Regulations From Which Exempted:* 49 CFR 177.834(h), in that an IBC is unloaded while on a motor vehicle, and the marking requirements in § 172.302(c).

5. *Basis:* This exemption is based on the application of XXXXXX dated ZZZZZ, submitted in accordance with § 107.105 and the public proceeding thereon.

6. *Hazardous Materials (49 CFR 172.101):*

Proper shipping name/hazardous materials description	Hazard class/ division	Identi-fication No.	Packing group
All materials authorized to be shipped in UN IBCs	As appro-priate.	As appro-priate	As appro-priate

7. *Safety Control Measures:*

a. *Packaging*—Packaging prescribed is a DOT Specification UN IBC.

(1) IBCs may not be manifolded together or have discharge outlets hard piped onto the vehicle.

(2) Discharge outlets must meet the requirements of § 178.345–11.

b. *Operational Controls*—

(1) Two or more materials may not be loaded on the same vehicle if any mixture of the materials would cause an unsafe condition.

(2) The IBC must be attended by a qualified person at all times during unloading operations. For the purposes of this requirement, ''attended'' and ''qualified'' have the meanings described in § 177.834(i)(3) and (4), respectively.

(3) IBCs must be discharged using a mechanical pump with a positive means of stopping the flow of liquid from the pump, by gravity, or by pressurizing the IBC.

(4) Before starting each transfer from an IBC to a receiving system, the person performing the function must determine that each component of the discharge system (including hose) is of sound quality and free of leaks and that connections are secure.

(5) A hose or associated equipment that shows signs of leakage, significant bulging, or other defects may not be used.

(6) If an IBC is unloaded using a pump, or if the IBC is pressurized for unloading, prior to using a new or repaired transfer hose, the hose assembly (the hose and associated fittings) must be subjected to a pressure test. The pressure test must be performed at no less than the pressure the hose is expected to be subjected to during product transfer. This test must include all hose and hose fittings arranged in the configuration to be employed during transfer operations. Burst pressure of the hose must be at least four times the service pressure of the pump.

(7) If the IBC is pressurized, the IBC must be equipped with a pressure relief device set to open at not higher than two-thirds of the IBC test pressure or 9 psig in the case of a metal IBC.

(8) All hazardous material must be purged from the pump, if equipped, piping and the IBC discharge hose prior to re-entering transportation. Hoses may not remain attached to the IBCs during transportation.

(9) Prior to refilling, each IBC and its service equipment must be visually inspected in accordance with the provisions of § 173.35(b).

(10) Transportation is limited to private or contract motor vehicle.

8. *SPECIAL PROVISIONS:*

a. A current copy of this exemption must be maintained at each facility where the package is offered for transportation.

b. The marking requirement of § 172.302(c) is waived.

9. *MODES OF TRANSPORTATION AUTHORIZED:* Motor vehicle.

10. *MODAL REQUIREMENTS:* A current copy of this exemption must be carried aboard each motor vehicle used to transport packages covered by this exemption.

11. *COMPLIANCE:* Failure by a person to comply with any of the following may result in suspension or revocation of this exemption and penalties prescribed by the Federal hazardous materials transportation law, 49 U.S.C. 5101 *et seq:*

- All terms and conditions prescribed in this exemption and the Hazardous Materials Regulations, 49 CFR Parts 171–180.
- Registration required by § 107.601 *et seq.*, when applicable.

Each ''Hazmat employee,'' as defined in § 171.8, who performs a function subject to this exemption must receive training on the requirements and conditions of this exemption in addition to the training required by §§ 172.700 through 172.704.

No person may use or apply this exemption, including display of its number, when this exemption has expired or is otherwise no longer in effect.

12. *REPORTING REQUIREMENTS:* The carrier is required to report any incident involving loss of packaging contents or packaging failure to the Associate Administrator for Hazardous Materials Safety (AAHMS) as soon as practicable. In addition, the holder(s) of this exemption must inform the AAHMS, in writing, of any incident involving the package and shipments made under the terms of this exemption. (Sections 171.15 and 171.16 apply to any activity undertaken under the authority of this exemption.)

Issued in Washington, DC, on May 17, 2000, under the authority delegated in 49 CFR Part 107.

Robert A. McGuire,

Acting Associate Administrator for Hazardous Materials Safety.

[FR Doc. 00–14481 Filed 6–9–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Women Veterans (Committee) will be held on June 26–27, 2000, at the Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 230, Washington, DC. On June 26, the meeting will begin at 9:00 a.m. and adjourn at 5:00 p.m. On June 26, the meeting will begin at 9:00 a.m. and adjourn at 5:00 p.m. On June 27, the meeting will begin at 9:00 a.m. and adjourn at 12 noon.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by the Department of Veterans Affairs designed to meet such needs. The Committee will make recommendations to the Secretary regarding such activities.

Both days of the meeting will be to discuss the proceedings of the National Summit on Women Veterans Issues, scheduled on June 23–25, 2000, in preparation of the Committee's annual report. All sessions will be open to the public.

Those who plan to attend should contact Ms. Maryanne Carson, Department of Veterans Affairs, Center for Women Veterans, 810 Vermont Avenue, NW, Washington, DC 20420 at (202) 273–6193.

Dated: June 5, 2000.

By Direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–14757 Filed 6–9–00; 8:45 am]

BILLING CODE 8320–01–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

AGENCY: Advisory Council on Historic Preservation

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Friday, June 23, 2000. The meeting will be held in the Appropriations Committee Hearing Room, Room 228, The State House, State Street, Augusta, Maine, Beginning at 8:30 a.m.

The Council was established by the National Historic Preservation Act of 1966 (U.S.C. Section 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, and Transportation; the Administrators of the Environmental Protection Agency and General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; a Native Hawaiian; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Welcome
II. Chairman's Report
III. Millennium Discussion
  A. Follow up from Thursday's Lighthouse Tour—Action
  B. Council Millennium Report on Federal Stewardship: Primary Findings and Recommendations—Action
  C. Proposed Executive Order on Federal Stewardship: Working Draft—Action
  D. Task Force on Balancing Cultural and Natural Values in National Parks—Action
IV. Tribal Issues
  A. Proposed Council Policy Regarding Tribal Relations—Action
  B. Narragansett Section 106 Substitution Agreement—Report
V. Executive Director's Report
  A. Lawsuit on Section 106 Regulations—Report
  B. Follow up from March Council Actions—Report
  C. Los Alamos Fire Damage—Report and Possible Action
  D. A Citizen's Guide to Section 106 Review—Report
VI. New Business
  A. Foreclosure of Council's Opportunity to Comment—Corps of Engineer's Civil Works
  B. Proposal to Recognize Federal Preservation Policy Leaders—Action
VII. Adjourn

Note: The meetings of the Council are open to the public. If you need accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., Room 809, Washington, D.C., 202–606–8503, at least seven (7) days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., #809, Washington, DC 20004.

Dated: June 7, 2000.

John M. Fowler,

Executive Director.

[FR Doc. 00–14765 Filed 6–9–00; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–055–1]

General Conference Committee of the National Poultry Improvement Plan; Reestablish

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reestablishment.

SUMMARY: We are giving notice that the Secretary of Agriculture has reestablished the General Conference Committee of the National Poultry Improvement Plan for a 2-year period. The Secretary has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Rhorer, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, Suite A102, 1500 Klondike Road, Conyers, GA 30207–5115; (770) 922–3496.

SUPPLEMENTARY INFORMATION: The purpose of the General Conference Committee of the National Poultry Improvement Plan (Committee) is to maintain and ensure industry involvement in Federal administration of matters pertaining to poultry health.

The Committee Chairperson and the Vice Chairperson shall be elected by the Committee from among its members. There are seven members on the Committee. This Committee differs somewhat from other advisory committees in the selection process and composition of its membership. The poultry industry elects the members of the Committee. The members represent six geographic areas with one member-at-large. The membership is not subject to the U.S. Department of Agriculture's review, and a formal request for nominations for membership is not published in the **Federal Register**.

Done in Washington, DC, this 7th day of June 2000.

Paul W. Fiddick,

Assistant Secretary for Administration.

[FR Doc. 00–14779 Filed 6–9–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 00–048–1]

National Poultry Improvement Plan; General Conference Committee Meeting and Biennial Conference

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan and of the Biennial Conference.

DATES: The General Conference Committee will meet on June 29, 2000, from 8:30 a.m. to 5 p.m. The Biennial Conference will meet on June 30, 2000, from 8 a.m. to 5 p.m. and on July 1, 2000, from 8 a.m. to noon.

ADDRESSES: The meeting will be held at the Doubletree Hotel, 1775 East Cheyenne Mountain Boulevard, Colorado Springs, CO.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Rhorer, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, 1498 Klondike Road, Suite 200, Conyers, GA 30094–1231; (770) 922–3496.

SUPPLEMENTARY INFORMATION: The General Conference Committee (the Committee) of the National Poultry Improvement Plan (NPIP), representing cooperating State agencies and poultry industry members, serves an essential function by acting as liaison between the poultry industry and the Department in matters pertaining to poultry health. In addition, this Committee assists the Department in planning, organizing, and conducting the NPIP Biennial Conference.

Topics for discussion at the upcoming meetings include:

1. Establishment of ''U.S. Salmonella Enteritidis Clean State'' classifications for egg-and meat-type chickens.

2. Establishment of a ''U.S. Salmonella Enteritidis Monitored'' program for commercial table egg pullets.

3. Good management practices for the control of Salmonella and Mycoplasma infections in poultry.

4. Review of the laboratory protocol for the isolation and identification of Salmonella.

5. Review of the approval system for authorized laboratories of the NPIP.

The meetings will be open to the public. The sessions held on June 30 and July 1, 2000, will include delegates to the NPIP Biennial Conference, representing State officials and poultry industry personnel from the 48 cooperating States. However, due to time constraints, the public will not be allowed to participate in the discussions during either of the meetings. Written statements on meeting topics may be filed with the Committee before or after the meetings by sending them to the person listed under **FOR FURTHER INFORMATION CONTACT:** Written statements may also be filed at the meetings. Please refer to Docket No. 00–048–1 when submitting your statements.

This notice of meeting is given pursuant to section 10 of the Federal Advisory Committee Act.

Done in Washington, DC, this 7th day of June 2000.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–14780 Filed 6–9–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension to a currently approved information collection in support of the regulations governing the foreign donation of agricultural commodities under both the section 416(b) and the Food for Progress programs based on re-estimates.

DATES: Comments on this notice must be received by August 11, 2000 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Merle Brown, Director, Program Administration Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1031, Washington, DC 20250–1031, telephone (202) 720–3573. Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Title: Foreign Donation of Agricultural Commodities.

OMB Number: 0551–0035.

Expiration Date of Approval: October 31, 2000.

Type of Request: Extension of currently approved information collection.

Abstract: Cooperating sponsors must provide proposal documents and compliance and related reports until commodities or local currencies generated from the sale thereof are utilized. Shipping agents must submit information and certifications regarding their activities and affiliations. Documents are used to develop effective agreements and assure statutory requirements and objectives are met.

Estimate of Burden: The public reporting burden for these collections vary in direct relation to the number and type of agreements.

Respondents: U.S. private voluntary organizations, U.S. cooperatives, foreign governments, shipping agents, ship owners and brokers, and survey companies.

Estimated Number of Respondents: 180 per annum.

Estimated Number of Responses per Respondent: 21 per annum.

Estimated Total Annual Burden of Respondents: 38,827 hours.

Copies of this information collection can be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568.

Requests for comments: Send comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Merle Brown, Director, Program Administration Division, FAS, USDA, Stop 1031, Washington, DC 20250, or the Desk Officer for Agriculture, Office of Information and Regulatory Affairs,

Office of Management and Budget, Washington, DC 20503.

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.

Signed at Washington, D.C. on June 2, 2000.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 00–14663 Filed 6–9–00; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent to Extend and Revise a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intent of the National Agricultural Statistics Service (NASS) to extend and revise a currently approved information collection, the Agricultural Surveys Program.

DATES: Comments on this notice must be received by August 16, 2000 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Surveys Program.

OMB Control Number: 0535–0213.

Expiration Date of Approval: November 30, 2000.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The National Agricultural Statistics Service is responsible for collecting and issuing state and national estimates of crop and livestock production, grain stocks, farm numbers, land values, on-farm pesticide usage, and pest crop management practices. The Agricultural Surveys Program contains a series of surveys that obtains basic agricultural data from farmers and ranchers throughout the Nation for preparing agricultural estimates and forecasts of crop acreage, yield, and production; stocks of grains and soybeans; hog and pig numbers; sheep inventory and lamb crop; cattle inventory; and cattle on feed. Grazing fees, land values, pesticide usage, and pest management practices data are also collected.

Uses of the statistical information are extensive and varied. Producers, farm organizations, agribusinesses, state and national farm policy makers, and government agencies are important users of these statistics. Agricultural statistics are used to plan and administer other, related Federal and state programs in such areas as consumer protection, conservation, foreign trade, education, and recreation.

One important modification to the program is the addition of a Monthly Hog Survey. NASS was directed to publish on a monthly basis the Hogs and Pigs Inventory Report with the passage by Congress and signature of the President of H.R. 1906, the FY2000 Department of Agriculture budget. The Monthly Hog Survey will supplement the Hog Survey Program currently conducted as part of the Quarterly Agricultural Surveys. The monthly surveys will use a shorter version of the quarterly questionnaire and will be conducted eight times a year, during the months between the Quarterly Hog Surveys. The sampling frame for the monthly program will be hog owners who reported breeding females on the December Quarterly Hog Survey.

A second revision to the program is the addition of questions regarding damage to crops caused by wildlife, methods being used to reduce these losses, and the cost of preventative measures. These additional questions will be asked only in January 2001. Aggregated totals will be provided to the USDA's Animal and Plant Health Inspection Service action agency, Wildlife Services, to help identify and monitor crop losses caused by wildlife.

The third revision is the discontinuance of the Fall Area Survey. A reduced sample of the 1999 Fall Area Surveys respondents will be selected for an Integrated Pest Management Survey (IPM). This survey will be conducted only in January 2001 to collect information on IPM practices formerly collected as part of the Fall Area Survey. This is the fourth year of the USDA plan to measure the general adoption of IPM practices for the Nation's agricultural production.

The Agricultural Surveys Program has approval from OMB for a 3-year period. NASS intends to request that the program be approved for another 3 years. These data are collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Farms.

Estimated Number of Respondents: 547,000.

Estimated Total Annual Burden on Respondents: 139,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Ginny McBride, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4162 South Building, Washington, D.C. 20250–2000. All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, D.C., June 1, 2000.

Rich Allen,

Associate Administrator.

[FR Doc. 00–14729 Filed 6–9–00; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 24–2000]

Foreign-Trade Zone 9—Honolulu, HI Request for Removal of Board Order Restriction, Pacific Allied Products, Ltd. (Plastic Food/Beverage Containers)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Department of Business, Economic Development & Tourism of the State of Hawaii, grantee of FTZ 9, requesting authority, on behalf of Pacific Allied Products, Ltd. (PAP), to extend its authority to manufacture plastic food/beverage containers under FTZ procedures, subject to restriction. It was formally filed on June 2, 2000.

Board Order 735 (60 FR 26715, 5/18/95) authorized the manufacture of plastic food/beverage containers under zone procedures within FTZ 9 solely for the Hawaiian and export markets for a period ending July 1, 2000. The State of Hawaii is now requesting that the manufacturing authority for PAP be extended on a permanent basis. Foreign-sourced components used in PAP's manufacturing include polyethylene terephthalate and high density polyethylene.

FTZ procedures exempt PAP from Customs duty payments on the foreign components used in export production. On its Hawaiian sales, the company is able to choose the duty rate that applies to the plastic containers (3%) for the foreign components noted above (duty rates 1.2¢/kg. + 7.5% and 8.9%, respectively). The request indicates that the savings from FTZ procedures will continue to help improve the facility's international competitiveness. In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 11, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 28, 2000.

A copy of the application will be available for public inspection at the following location:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 4008, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: June 2, 2000.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–14798 Filed 6–9–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 25–2000]

Foreign-Trade Zone 158 Jackson, MS—Application for Subzone Status: Alliant Aerospace Composite Structures Company Plant (Space Launch Vehicle Composite Structures), Iuka, Mississippi

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Vicksburg/Jackson Foreign Trade Zone, Inc., grantee of FTZ 158, requesting special-purpose subzone status for the space launch vehicle composite structures manufacturing plant of Alliant Aerospace Composite Structures Company (Alliant), located in Iuka, Mississippi. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 2, 2000.

The Alliant plant (20 acres/317,000 sq. ft.) is located at within the Tri State Commerce Park at 751 County Road 989, Iuka (Tishomingo County), Mississippi. The facility (200 employees) is used to produce composite foam structural components (thermal shield, center body, forward skirt, nose cone) for space launch vehicles (*i.e.,* rockets) manufactured by U.S. aerospace firms. The production process involves heat forming polymethacrylimide (''Rohacell'') foam, machining, layering with carbon fiber and adhesives, pressurization/heat curing, and trimming. The only material input purchased from abroad that would be admitted to the proposed subzone in foreign status (19 CFR 146.42(a)) is polymethacrylimide foam—HTSUS# 3921.19.00; duty rate: 6.5% (representing 8% of finished product value).

FTZ procedures would exempt Alliant from Customs duty payments on the foreign polymethacrylimide foam used in export production. On its domestic sales, the company would be able to choose the duty rate that applies to finished composite structures (duty free) for the foreign foam input noted above. The application indicates that subzone status would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 11, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 28, 2000).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce Export Assistance Center, 704 East. Main Street, Raymond, MS 39154.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 4008, 14th Street & Constitution Avenue, NW, Washington, DC 20230–0001.

Dated: June 2, 2000.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–14799 Filed 6–9–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 23–2000]

Foreign-Trade Zone 78, Nashville, Tennessee Application for Expansion and Request for Manufacturing Authority (Personal Computers)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Metropolitan Government of Nashville and Davidson County, grantee of FTZ 78, requesting authority to expand its zone in the Nashville, Tennessee area, and requesting, on behalf of Dell Computer Corporation (Dell), authority to manufacture personal computers under zone procedures within FTZ 78 (Nashville Customs port of entry). The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended, (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 1, 2000.

FTZ 78 was approved on March 2, 1982 (Board Order 190, 47 FR 16191, 4/

15/82) and expanded on February 18, 1999 (Board Order 1024, 64 FR 9472, 2/26/99). The zone currently consists of five sites in the Nashville, Tennessee area:

Site 1—(52,000 square feet) within a 200,000 square foot warehouse located at 750 Cowan Street, Nashville;

Site 2—(63 acres) within the 2,000-acre Cockrill Bend industrial park, Nashville;

Site 3—(275,000 square feet) within a 400,000 square foot warehouse located at 323 Mason Road, La Vergne, Tennessee;

Site 4—(39 acres) Space Park North Industrial Park, 1000 Cartwright Street, Goodlettsville, Tennessee; and

Site 5—(19 acres) Old Stone Bridge Industrial Park, Old Stone Bridge, Goodlettsville.

The applicant is now requesting authority to expand the FTZ to include two additional sites:

Site 6—''Airport Site,'' to include 806 acres located in Nashville at Nashville International Airport, One Terminal Drive, Nashville. The Airport Site involves an industrial-park type of facility that will include manufacturing, distribution, and logistics facilities for Dell and warehousing and logistics facilities for other parties requiring FTZ procedures at the airport, particularly involving air freight; and

Site 7—''Eastgate Site,'' at 3850 Eastgate Boulevard, Lebanon, Tennessee. This site is in the Eastgate Business Park, off Interstate 40, twelve miles east of Nashville International Airport. The site contains 38 acres with one 300,000 square foot building currently occupied by Dell—the remainder of the site will be available for other users.

The application also requests authority on behalf of Dell to manufacture personal computers, including servers and workstations, within FTZ 78 (within the proposed expansion sites). Dell is already authorized to manufacture such computers under zone procedures within Foreign Trade Zone 183 and Subzone 183A. This proposal requests the same scope of manufacturing authority under FTZ procedures in terms of products or components as requested in Dell's previous applications, and involves an increase in the overall level of production under FTZ procedures for Dell.

The specific finished products for which Dell seeks authority to produce under FTZ procedures are various types of computers (desktop and notebook computers, workstations, and network servers) and data storage products. All of these products fall into HTSUS classifications which are duty free. The imported components for which Dell is seeking inverted tariff benefits include: plastic and rubber components; cloth tape; metal screws, clamps, washers, clips, and springs; locks and keys; fans; adapters and battery chargers; magnets; batteries; microphones; speakers; surge protectors; switches; sockets and plugs; cables, connectors, and power cords; ''populated'' printed circuit boards; and leather carrying cases. Duty rates on these items range up to 6.2% *ad valorem*.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 11, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 28, 2000.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 4008, 14th and Pennsylvania Avenue, N.W., Washington, DC 20230.

Nashville Export Assistance Center, 211 Commerce Ave, Suite 100, Nashville, TN 37201.

Dated: June 1, 2000.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–14797 Filed 6–9–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

FEDERAL TRADE COMMISSION

Public Workshop: Alternative Dispute Resolution for Consumer Transactions in the Borderless Online Marketplace

AGENCY: International Trade Administration, Department of Commerce; Federal Trade Commission.

ACTION: Notice Announcing Reopening of Public Comment Period.

SUMMARY: The United States Department of Commerce (the ''Department'') and the Federal Trade Commission (the ''FTC'') have extended the deadline to June 29, 2000, for submitting comments in the public workshop on alternative dispute resolution (''ADR'') for online consumer transactions (announced in 65 FR 7831 (Feb. 16, 2000)).

DATES: Public comments will be accepted until June 29, 2000.

ADDRESSES: Mail written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

Submission of Documents: Comments should be captioned ''Alternative Dispute Resolution for Consumer Transactions in the Borderless Online Marketplace.'' To enable prompt review and public access, paper submissions should include three hard copies and a version on diskette in ASCII, WordPerfect (please specify version), or Microsoft Word (please specify version) format. Diskettes should be labeled with the name of the party and the name and version of the word processing program used to create the document. As an alterntive to paper submissions, email comments to: *adr@ftc.gov*. Messages to that address will receive a reply in acknowledgment. Comments submitted in electronic form should be in ASCII, WordPerfect (plese specify verion), or Microsoft Word (please specify version) format. Written comments will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552 and Commission regulations, 16 CFR Part 4.9 on normal business days between the hours of 8:30 a.m. and 5 p.m. at 600 Pennsylvania Avenue, NW, Washington, DC 20580. The Department and the FTC will make this notice, and, to the extent possible, all papers or comments received in response to this notice available to the public through the Internet at: *http://www.ecommerce.gov/adr*.

FOR FURTHER INFORMATION CONTACT: For questions about the workshop, please contact either Kate Rodriguez, International Trade Administration, phone (202) 482–2145; email: *kate_rodriguez@ita.doc.gov* or Maneesha Mithal, Federal Trade Commission, phone: (202) 326–2771; email: *mmithal@ftc.gov*. All materials relating to the workshop can also be found at http://www.ecommerce.gov/adr.

By direction of the Commission.

Donald S. Clark,

Secretary.

Barbara S. Wellbery,

Counsellor to the Under Secretary for Electronic Commerce, International Trade Administration, Department of Commerce.

[FR Doc. 00–14763 Filed 6–9–00; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF COMMERCE

International Trade Administration

Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)

AGENCY: International Trade Administration, Commerce

ACTION: Notice.

SUMMARY: The APAC will have a closed meeting on June 23, 2000, at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: June 23, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, D.C. 20230, telephone: 202–482–1418.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Public Law 105–261). The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on June 6, 2000, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the June 23 meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: June 6, 2000.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 00–14714 Filed 6–9–00; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Programs

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of Intent to Evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the American Samoa Coastal Management Program.

This evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, and regulations at 15 CFR Part 928. The CZMA requires a continuing review of the performance of states and U.S. territories with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs requires findings concerning the extent to which a state or territory has met the national objectives, adhered to its coastal program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, Territorial, and local agencies and members of the public. A public meeting will be held as part of the site visit. Notice is hereby given of the date of the site visit for the listed evaluation, and the date, local time, and location of the public meeting during the site visit.

The American Samoa Coastal Management Program evaluation site visit will be from July 24–28, 2000. The public meeting will be held on Wednesday, July 26, 2000, at 5:00 p.m., in the Rainmaker Hotel, Pago Pago, American Samoa.

Copies of the Territory's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the Territory, are available upon request from OCRM. Written comments from interested parties regarding this Program are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Margo E. Jackson, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, Silver Spring, Maryland, 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Margo E. Jackson, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 114.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

Dated: June 7, 2000.

CAPT Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 00–14874 Filed 6–8–00; 2:32 pm]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051800G]

Marine Mammals; File No. 675–1563

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Graham A.J. Worthy, (Principal

Investigator), Department of Marine Biology, Texas A&M University, 5001 Avenue U, Suite 105, Galveston, Texas 77551, has been issued a permit to take Northern fur seals (*Callorhinus ursinus*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Simona Roberts, 301/713–2289.

SUPPLEMENTARY INFORMATION: On February 11, 2000, notice was published in the **Federal Register** (65 FR 6997) that a request for a scientific research permit to take fur seals had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Dated: June 6, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–14777 Filed 6–9–00; 8:45 am]

BILLING CODE 3510–22–F

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is schedule for June 15, 2000, at 10 a.m. in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C., 20001–2728. Items of discussion will include designs for projects affecting the appearance of Washington, D.C., including buildings and parks.

Inquiries regarding the agenda and request to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, D.C., May 31, 2000.

Charles H. Atherton,

Secretary.

[FR Doc. 00–14756 Filed 6–9–00; 8:45 am]

BILLING CODE 6330–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Petitions Requesting Standards, Labeling, and Identification Tags for Mattresses

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission has received petitions (FP 00–1, FP 00–2, FP 00–3 and FP 00–4) requesting that the Commission issue performance standards and labeling requirements to address the flammability of mattresses. The petitioner also requests that the Commission require a permanent tag stating the mattress's manufacturer and other identifying information. The Commission solicits written comments concerning the petitions.

DATES: The Office of the Secretary must receive comments on the petitions by August 11, 2000.

ADDRESSES: Comments, preferably in five copies, on the petitions 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 ''Petitions FP 00–1 through FP 00–4, Petitions on Mattress Flammability.'' Copies of the petitions are 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, D.C. 20207; telephone (301) 504–0800, ext. 1232.

SUPPLEMENTARY INFORMATION: The Commission has received correspondence from Whitney A. Davis, director of the Children's Coalition for Fire-Safe Mattresses, requesting that the Commission take various actions concerning mattress flammability. The Commission is docketing as petitions his requests for rules requiring: (1) An open flame standard similar to the full-scale test set forth in California Technical Bulletin 129; (2) an open flame standard similar to the component test set forth in British Standard 5852; (3) a warning label for flammable mattresses; and (4) a permanent mattress identification tag attached to the innerspring of the mattress. The petitioner focuses primarily on the role polyurethane foam plays in mattress fires. He notes that the Commission's existing mattress flammability standard only addresses cigarette ignition; yet childplay with open-flame sources causes nearly two-thirds of mattress fires. He argues that with polyurethane foam mattresses, fires have become increasingly more deadly than with cotton batting mattresses due to increased smoke generation, heat production and flame spread. With regard to labels, he notes that polyurethane foam manufacturers provide warnings to mattress manufacturers, but these warnings are not passed on to the consumer. With regard to an identification tag, the petitioner argues that such a tag would help to identify mattresses involved in fires because often only the innerspring unit remains after a mattress fire. The Commission is docketing these petitions under provisions of the Flammable Fabrics Act, 15 U.S.C. 1191–1204.

Interested parties may obtain copies of the petitions by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800. Copies of the petitions 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: June 6, 2000.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 00–14696 Filed 6–9–00; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

New Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service

ACTION: Notice.

The Corporation for National and Community Service (hereinafter the ''Corporation'') 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 (Public Law 104–13, (44 U.S.C. Chapter 35)). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation, Tracy Stone, Director, AmeriCorps Promise Fellows, (202) 606–5000, extension 173. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National and Community Service, Office of Information and Regultory Affairs (OIRA), Room 10235, Washington, D.C. 20503, (202) 395–6466, 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 Corporation, 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;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Description: The AmeriCorps Promise Fellows program supports a leadership cadre of AmeriCorps members spearheading community efforts to provide young people with five basic promises:

- Caring adults in their lives as parents, mentors, tutors, and coaches;
- Safe places with structured activities in which to learn and grow;
- A healthy start;
- An effective education that equips them with marketable skills; and
- An opportunity to give back to communities through their own service.

The AmeriCorps Promise Fellows Continuation Application Instructions provide the requirements, instructions and forms that current grantees of the program need to complete an application to the Corporation for continued funding.

The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these continuation application instructions.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: AmeriCorps Promise Fellows Continuation Application Instructions.

OMB Number: None.

Agency Number: None.

Affected Public: Entities in their first or second year of operation as grantees of the Corporation's AmeriCorps Promise Fellows program.

Total Respondents: 66.

Frequency: Once per year.

Average Time Per Response: 25 hours.

Estimated Total Burden Hours: 1,650 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: June 6, 2000.

Tracy Stone,

Director, AmeriCorps Promise Fellows.

[FR Doc. 00–14695 Filed 6–9–00; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 11, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 6, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Assessing Literacy Models in the Boston Public Schools.

Frequency: Semi-Annually.

Affected Public: Not-for-profit institutions; Individuals or households.

Reporting and Recordkeeping Hour Burden: Responses: 873; Burden Hours: 2,055.

Abstract: Funding has been granted to carry out an evaluation of four literacy models currently implemented in the Boston Public Schools. The purpose of the evaluation will be to gather information about the strengths and weaknesses of these models across all domains of literacy and for all types of students. The data collected from sixteen schools and approximately 800 students over a two-year period will inform practice in the school district and nationwide through dissemination in professional publications.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or

faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address Jackie_Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–14735 Filed 6–9–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

[Dockets No. EA–181–A and EA–182–A]

Application to Export Electric Energy; H.Q. Energy Services (U.S.) Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Application.

SUMMARY: Under two separate applications, H.Q. Energy Services (U.S.) Inc. (HQUS) has applied for renewal of its authority to transmit electric energy from the United States to Mexico and from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before July 12, 2000.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586-9506 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On July 16, 1998, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized HQUS to transmit electric energy from the United States to Mexico using the international electric transmission facilities of San Diego Gas and Electric Company, El Paso Electric Company, Central Power and Light Company, and Comision Federal de Electricidad, the national utility of Mexico. That two-year authorization (Order EA–181) will expire on July 16, 2000.

On August 21, 1998, FE authorized HQUS to transmit electric energy from the United States to Canada using the international electric transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Fraser Paper Limited, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, Vermont Electric Transmission Company and Washington Water Power. That two-year authorization (Order EA–182) will expire on August 21, 2000.

On May 16, 2000, HQUS filed two applications with FE for renewal of both of the above export authorizations and requested that the authorization for each be issued for a 5-year term.

DOE notes that the circumstances described in these applications are virtually identical to those for which export authority had previously been granted in FE Order EA–181 and FE Order EA–182. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the FE Docket EA–181 and FE Docket EA–182 proceedings.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to these applications should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the HQUS application to export electric energy to Mexico should be clearly marked with Docket EA–181–A. Comments on the HQUS application to export electric energy to Canada should be clearly marked with Docket EA–182–A. Additional copies are to be filed directly with Pierre F. de Ravel d'Esclapon, H. Liza Moses, LeBoeuf, Lamb, Greene & MacRae, L.L.P., 125 West 55th Street, New York, New York 10019–5389.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Electricity'', then ''Pending Proceedings'' from the options menus.

Issued in Washington, D.C., on June 6, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00–14743 Filed 6–9–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2299–000]

Consumers Energy Company; Notice of Issuance of Order

June 6, 2000.

Consumers Energy Company (Consumers Energy) submitted for filing a rate schedule under which Consumers Energy will engage in wholesale electric power and energy transactions as a marketer. Consumers Energy also requested waiver of various Commission regulations. In particular, Consumers Energy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Consumers Energy.

On June 1, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Consumers Energy should file a motion to intervene or protest 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).

Absent a request for hearing within this period, Consumers Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Consumers Energy, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Consumers Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 3, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Lindwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 00–14712 Filed 6–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–314–000]

Discovery Gas Transmission LLC; Notice of Request for Waiver

June 6, 2000.

Take notice that on May 31, 2000, Discovery Gas Transmission LLC (Discovery) filed a Request for Waiver of section 284.12(c)(3) of the Commission's regulations with respect to conducting electronic transactions on the public internet. Discovery states that it is a relatively small company whose customers conduct relatively few transactions. It claims that implementation of the services required under this regulation is not warranted and would not be cost effective under the circumstances.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before June 13, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–14708 Filed 6–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2623–000]

Idaho Power Company; Notice of Filing

June 6, 2000.

Take notice that on May 26, 2000, Idaho Power Company (IPC), tendered Point-to-Point Transmission Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service between Idaho Power Company and Puget Sound Energy.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest 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 motions and protests should be filed on or before June 16, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–14713 Filed 6–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–80–000]

Indeck Maine Energy, LLC v. ISO New England, Inc.; Notice of Complaint

June 6, 2000.

Take notice that on June 2, 2000, Indeck Maine Energy, LLC submitted for filing, pursuant to Section 206 of the Federal Power Act, a Complaint Requesting Fast Track Processing And Request for Immediate Action against the ISO New England, Inc.

Any person desiring to be heard or to protests this filing should file a motion to intervene or protest 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 motions or protests must be filed on or before June 12, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before June 12, 2000.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–14711 Filed 6–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–315–000]

Koch Gateway Pipeline Company; Notice of Cash Out Report

June 6, 2000.

Take notice that on June 1, 2000, Koch Gateway Pipeline Company (Koch) tendered for filing its cash-in/cash-out report for the period April 1, 1999 through March 31, 2000.

Koch states that copies of this filing have been served upon Koch's customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before June 13, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 00–14709 Filed 6–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–014]

PG&E Gas Transmission, Northwest Corporation; Notice of Proposed Change in FERC Gas Tariff

June 6, 2000.

Take notice that on June 1, 2000, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets with an effective date of June 1, 2000:

Tenth Revised Sheet No. 7
First Revised Sheet No. 7.01
First Revised Sheet No. 7C
Original Sheet No. 7D

PG&E GT–NW states that these sheets are being filed to reflect the implementation of four negotiated rate agreements.

PG&E GT–NW further states that a copy of this filing has been served on PG&E GT–NW's jurisdictional customers, and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or 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. Any person wishing to become a party must file a motion intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www/ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–14707 Filed 6–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR00–5–000]

Sinclair Oil Corporation v. Equilon Pipe Line Company LLC; Notice of Complaint

June 6, 2000.

Take notice that on June 2, 2000, Sinclair Oil Corporation (Sinclair) tendered for filing a complaint against Equilon Pipe Line Company LLC (Equilon).

Sinclair states that it is a shipper of crude oil on a pipeline operated by Equilon that originates at South Terminal, Cushing, Lincoln County, Oklahoma and terminates at West Tulsa, Tulsa County, Oklahoma. Sinclair further states that its crude oil shipments on that line constitute transportation in interstate commerce and that Equilon has refused to publish a tariff with the Commission to govern the use of the pipeline.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest 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 motions or protests must be filed on or before June 26, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before June 26, 2000.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–14706 Filed 6–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2348–000]

Wester Generating II, Inc.; Notice of Withdrawal

June 6, 2000.

Take notice that on June 2, 2000, Westar Generating II, Inc. filed a Notice of Withdrawal of its April 28, 2000, application for acceptance of the Purchase Power Agreement between Westar and Western Resources, Inc.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest 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 motions and protests should be filed on or before June 16, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 00–14710 Filed 6–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–156–000, et al.]

CED Operating Company, L.P., et al.; Electric Rate and Corporate Regulation Filings

June 2, 2000.

Take notice that the following filings have been made with the Commission:

1. CED Operating Company, L.P.

[Docket No. EG00–156–000]

Take notice that on May 25, 2000, CED Operating Company, L.P., c/o Consolidated Edison Development, Inc., 111 Broadway, 16th Floor, New York, New York 10006, filed with the Federal Energy Regulatory Commission an application for determination of exempt

wholesale generator status pursuant to Part 365 of the Commission's regulations.

CED Operating Company, L.P. (CED Opco) is a Delaware limited partnership. CED Generation Holding Company, L.P., a Delaware limited liability company, (''Holdco'') owns a 99 percent limited partner's interest in Applicant. Holdco is a direct subsidiary of Consolidated Edison Development (''CED''), a New York corporation, which is a wholly-owned direct subsidiary of Consolidated Edison, Inc. (''Con Ed, Inc.''), also a New York corporation. CED Management Company, Inc., a Delaware corporation, owns a one (1) percent general partner's interest in Applicant, and is a wholly-owned subsidiary of Holdco. CED Opco will operate under an operations and maintenance agreement with the owner, a facility with a maximum capacity of approximately 238 MW located in Lakewood Township, New Jersey.

Comment date: June 23, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Kiowa Power Partners, L.L.C.

[Docket No. EG00–157–000]

Take notice that on May 25, 2000, Kiowa Power Partners, L.LC. (the Applicant) whose address is 359 Lake Park Road, Suite 128, Lewisville, Texas 75057, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning and/or operating an electric generating facility located near Kiowa, Oklahoma and selling electric energy at wholesale. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: June 23, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Servicios Energeticos, S.A.

[Docket No. EG00–158–000]

Take notice that on May 25, 2000, Servicios Energeticos, S.A. (the Applicant) whose address is Servicios Energeticos, S.A., Av. Hernando Siles No. 5635, Obrajes, La Paz, Bolivia, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning and/or operating an electric generating facility located in the Republic of Bolivia and selling electric energy at wholesale. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: June 23, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Cinergy Services, Inc.

[Docket No. ER00–2625–000]

Take notice that on May 30, 2000, Cinergy Services, Inc. (Services), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively Cinergy Operating Companies) a Letter Agreement, dated April 24, 2000, as a supplement to the Service Agreement No. 43, dated January 22, 1997, between Southwestern Electric Cooperative, Inc. (SWEC) and the Cinergy Operating Companies under the COC FERC Electric Market-Based Power Sales Tariff, Volume No. 7.

SWEC and the Cinergy Operating Companies have agreed to procedures for the curtailment of some of SWEC's load.

Copies of the filing were served on SWEC and the State Regulatory Commissions of Illinois, Ohio, Kentucky and Indiana.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–2626–000]

Take notice that on May 30, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Amendment No. 1 to Supplement No. 12 to the Market Rate Tariff to incorporate a Settlement Procedures Agreement with Citizens Power Sales LLC into the tariff provisions.

Allegheny Energy Supply Company requests a waiver of notice requirements to make the Amendment effective as of May 23, 2000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Duquesne Light Company

[Docket No. ER00–2627–000]

Take notice that on May 30, 2000, Duquesne Light Company (DLC) filed a Service Agreement dated May 8, 2000 with Constellation Power Source under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Constellation Power Source as a customer under the Tariff.

DLC requests an effective date of May 8, 2000 for the Service Agreement.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Broad River Energy LLC

[Docket No. ER00–2628–000]

Take notice that on May 30, 2000, Broad River Energy LLC (Broad River) tendered for filing an executed umbrella service agreement under which Broad River will make short-term market-based power sales under its Market-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 1, to Carolina Power & Light Company (CP&L).

Broad River requests an effective date of June 1, 2000, for the umbrella service agreement.

Broad River states that a copy of the filing has been served on CP&L.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. PJM Interconnection, L.L.C.

[Docket No. ER00–2629–000]

Take notice that on May 30, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing two executed umbrella service agreements for network integration transmission service under state retail access programs under the PJM Open Access Transmission Tariff with BGE Home Products & Service, Inc. and ECONnergy PA, Inc. with effective dates of May 23, 2000 and May 1, 2000, respectively.

Copies of this filing were served upon the parties to the service agreements and the state commissions within the PJM control area.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. California Power Exchange Corporation

[Docket No. ER00–2630–000]

Take notice that on May 30, 2000, the California Power Exchange Corporation (CalPX) tendered for filing its Tariff Amendment No. 15, designed to track changes in the Payments Calendar implemented by Tariff Amendment No. 25 of the California Independent System Operator Corporation.

CalPX requests an effective date of July 24, 2000.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. California Power Exchange Corporation

[Docket No. ER00–2631–000]

Take notice that on May 30, 2000, the California Power Exchange Corporation (CalPX) tendered for filing proposed Tariff Amendment No. 16, designed to track certain changes implemented by Tariff Amendment Nos. 25 and 28 of the California Independent System Operator Corporation (CAISO).

CalPX requests an effective date of March 27, 2000 for changes related to charges for cancellation of maintenance outages and June 15, 2000 for payments and charges related to the CAISO's Demand Relief Program.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. California Power Exchange Corporation

[Docket No. ER00–2632–000]

Take notice that on May 30, 2000, the California Power Exchange Corporation (CalPX) tendered for filing its Tariff Amendment No. 17, designed to track the ten-minute market implemented by Tariff Amendment No. 29 of the California Independent System Operator Corporation.

CalPX requests an effective date to coincide with the effective date of CAISO's ten-minute market in its Tariff Amendment No. 29.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Services, Inc.

[Docket No. ER00–2633–000]

Take notice that on May 30, 2000, Entergy Services, Inc., on behalf of Entergy Louisiana, Inc., tendered for filing an Interconnection and Operating Agreement with Cleco Midstream Resources LLC (Cleco), and a Generator Imbalance Agreement with Cleco.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER00–2634–000]

Take notice that on May 30, 2000, Entergy Services, Inc., on behalf of Entergy Mississippi, Inc., tendered for filing an Interconnection and Operating Agreement with Warren Power, LLC (Warren), and a Generator Imbalance Agreement with Warren.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Consumers Energy Company

[Docket No. ER00–2635–000]

Take notice that on May 30, 1999, Consumers Energy Company (Consumers) tendered for filing an executed transmission service agreement with Croswell Light & Power (Customer) pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison).

The agreement has an effective date of May 5, 2000.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and the Customer.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. PJM Interconnection, L.L.C.

[Docket No. ER00–2636–000]

Take notice that on May 30, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing amendments to the service agreement for Network Integration Transmission Service for PP&L Inc. (now PPL Electric Utilities Corporation) (PPL) so as to reflect that, commencing May 1, 2000, the load of the Borough of Lewisberry, Pennsylvania (Lewisberry) will be served by PPL rather than GPU.

Copies of this filing were served upon PPL, GPU, Lewisberry, and the Pennsylvania Public Utility Commission.

PJM requests an effective date of May 1, 2000, for the amendments to the service agreements.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Deseret Generation & Transmission Co-operative

[Docket No. ER00–2637–000]

Take notice that on May 30, 2000, Deseret Generation & Transmission Co-operative tendered an informational filing in compliance with its rate schedules. The filing sets forth the revised approved costs for member-owned generation resources and the revised approved reimbursements under its Resource Integration Agreements with two of its members, Garkane Power Association, Inc., and Moon Lake Electric Association, Inc.

A copy of this filing has been served upon all of Deseret's members.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Broad River Energy LLC

[Docket No. ER00–2638–000]

Take notice that on May 30, 2000, Broad River Energy LLC (Broad River) tendered for filing Amendment Nos. 2 and 3 to the long-term market-based rate power purchase agreement between Broad River and Carolina Power & Light Company (the Agreement), which was accepted for filing by the Commission in an order dated November 23, 1999 in Docket No. ER00–38–000 (89 FERC ¶61,202).

Broad River requests an effective date concurrent with the commencement of service under the Agreement.

Broad River states that a copy of the filing has been served on Carolina Power & Light Company.

Comment date: June 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–14705 Filed 6–9–00; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meetings

June 7, 2000.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: June 14, 2000, 10:00 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*** NOTE:** Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400, For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

743rd—Meeting June 14, 2000, Regular Meeting (10:00 a.m.)

Consent Agenda—Markets, Tariffs and Rates—Electric

CAE–1.
Docket# ER00–2295, 000, Wisconsin Public Service Corporation
CAE–2.
Omitted
CAE–3.
Docket# ER00–2208, 000, California Independent System Operator Corporation
CAE–4.
Docket# ER00–2256, 000, TXU Electric Company
Other#s ER00–2257, 000, TXU Electric Company and TXU Sesco
CAE–5.
Docket# ER00–2268, 000, Pinnacle West Capital Corporation
CAE–6.
Omitted
CAE–7.
Docket# ER00–2274, 000, California Independent System Operator Corporation
CAE–8.
Docket# ER00–2309, 000, Allegheny Energy Supply Company, L.L.C., The Potomac Edison Company and West Penn Power Company
CAE–9.
Docket# ER00–2297, 000, New England Power Pool
CAE–10.
Omitted
CAE–11.
Omitted
CAE–12.
Docket# ER00–2148, 000, New England Power Pool
CAE–13.
Docket# ER00–1655, 000, Southern Company Services, Inc.
Other#s ER00–1655 001 Southern Company Services, Inc.
CAE–14.
Omitted
CAE–15.
Docket# ER00–1711, 000, Public Service Company of New Mexico
Other#s EL00–46, 000, Entergy Power Marketing Corporation v. Southwest Power Pool, Inc.
EL00–53, 000, Texas-New Mexico Power Company v. Public Service Company of New Mexico
ER00–1829, 000, Southwest Power Pool, Inc.
CAE–16.
Docket# ER00–175, 000, Utilicorp United Inc.
Other#s ER00–175 001 Utilicorp United Inc.
CAE–17.
Docket# OA96–194, 000, Niagara Mohawk Power Corporation
CAE–18.
Omitted
CAE–19.
Docket# EC00–66, 000, Consolidated Water Power Company Stora Enso OYJ
CAE–20.
Docket# ER99–2770 001 Florida Power & Light Company
Other#s EL99–69 001 Florida Power & Light Company
CAE–21.
Omitted
CAE–22.
Omitted
CAE–23.
Docket# EF99–3021 001 United States Department of Energy—Southeastern Power Administration
CAE–24.
Docket# OA97–163 009 Mid-Continent Area Power Pool
Other#s OA97–658 009 Mid-Continent Area Power Pool
ER97–1162 008 Mid-Continent Area Power Pool
CAE–25.
Docket# ER00–1598 001 Baltimore Gas & Electric Company, Calvert Cliffs, Inc., Constellation Generation, Inc. and Constellation Power Source, Inc.
CAE–26.
Omitted
CAE–27.
Docket# EL00–12 001 Tennessee Power Company
CAE–28.
Docket# OA00–5, 000, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.
CAE–29.
Docket# NJ00–2, 000, Department of Energy—Bonneville Power Adminstration
CAE–30.
Omitted

Consent Agenda—Markets, Tariffs and Rates—Gas

CAG–1.
Docket# RP00–289, 000, Tennessee Gas Pipeline Company
CAG–2.
Docket# RP96–383 004 Dominion Transmission, Inc. (formerly CNG Transmission Corporation)
CAG–3.
Docket# RP00–284, 000, Southern Natural Gas Company
CAG–4.
Docket# RP00–243, 000, Alliance Pipeline L.P.
CAG–5.
Omitted
CAG–6.
Omitted
CAG–7.
Docket# RP98–249, 000, Columbia Gas Transmission Corporation
Other#s RP98–250, 000, Columbia Gulf Transmission Company
CAG–8.
Docket# TM00–1–22, 001, Dominion Transmission, Inc. (formerly CNG Transmmission Corporation)
CAG–9.
Docket# RP00–24, 005, Transcontinental Gas Pipe Line Corporation
CAG–10.
Docket# RP97–287, 050, El Paso Natural Gas Company
CAG–11.
Docket# PR00–5, 001, Coral Mexico Pipeline, L.L.C.
Other#s PR00–5, 000, Coral Mexico Pipeline, L.L.C.

Consent Agenda—Energy Projects—Hydro

CAH–1.
Omitted
CAH–2.
Docket# P–2588, 005, City of Kaukauna, Wisconsin
CAH–3.
Omitted
CAH–4.
Docket# P–2543, 045, Montana Power Company

Consent Agenda—Energy Projects—Certificates

CAC–1.
Docket# CP00–196, 000, Transcontinental Gas Pipe Line Corporation
CAC–2.
Docket# CP00–36, 000, Guardian Pipeline L.L.C.
Other#s CP00–37, 000, Guardian Pipeline L.L.C.
CP00–38, 000, Guardian Pipeline L.L.C.
CAC–3.
Omitted
CAC–4.
Docket# CP96–684, 001, Interenergy Sheffield Processing Company and Bear Paw Energy, L.L.C.
CAC–5.
Docket# CP00–58, 000, Columbia Gas Transmission Corporation
CAC–6.
Omitted
CAC–7.
Omitted

CAC–8.
Omitted
CAC–9.
Docket# RM98–17, 002, Landowners Notification Expanded Categorical Exclusions and Other Environmental Filing Requirements
CAC–10.
Omitted

Energy Projects—Hydro Agenda

H–1. Reserved

Energy Projects—Certificates Agenda

C–1.
Reserved

Markets, Tariffs and Rates—Electric Agenda

E–1.
Reserved

Markets, Tariffs and Rates—Gas Agenda

G–1.
Reserved

David P. Boergers,

Secretary.

[FR Doc. 00–14836 Filed 6–8–00; 10:59 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6714–9]

Draft Dioxin Reassessment Documents; Toxicity Equivalence Factors (TEFs) for Dioxin and Related Compounds and Integrated Summary and Risk Characterization for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds

AGENCY: Environmental Protection Agency

ACTION: Notice of peer review workshop and public comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing that an EPA contractor will be organizing, convening, and conducting an external peer review workshop to review the external review draft documents entitled, Part II. Chapter 9: Toxicity Equivalence Factors (TEFs) for Dioxin and Related Compounds (hereafter, TEF chapter) and Part III. Integrated Summary and Risk Characterization for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds (hereafter, Integrated Summary and Risk Characterization). The EPA is also announcing an extended public comment period for these two draft documents. The peer review workshop will be organized, convened, and conducted by the Eastern Research Group, Inc. (ERG), an EPA contractor for this external scientific peer review. The documents were prepared by the EPA's Office of Research and Development (ORD) and with the involvement of other federal agencies, in particular the National Institutes of Health's National Institute of Environmental Health Sciences. EPA will consider the peer review advice and public comment submissions in revising these draft dioxin reassessment documents in preparation for an upcoming review by EPA's Science Advisory Board (SAB).

DATES: The two-day peer review workshop will be held on Tuesday, July 25, 2000, 9 a.m. to 5:30 p.m. and Wednesday, July 26, 2000, 8:30 a.m. to 5:00 p.m. Members of the public may attend as observers, and there will be a limited time for comments from the public. The extended public comment period begins June 12, 2000, and concludes two weeks following the SAB's peer review meeting on the dioxin reassessment which is scheduled for October 2000. The specific date of that meeting has not been determined. EPA will announce in a subsequent **Federal Register** (FR) notice the formal closing date of the public comment period.

ADDRESSES: The external peer review workshop will be held at the Holiday Inn Capital, 550 C Street, SW, Washington, DC 20024, Tel: 202–479–4000. The Eastern Research Group, Inc. (ERG), an EPA contractor, is organizing, convening, and conducting the peer review workshop. To attend the workshop as an observer, please register by Monday, July 17, 2000, by calling ERG at Tel: 781–674–7374, or send a facsimile to: 781–674–2906. Space is limited, and registrations to attend will be accepted on a first-come, first-served basis. Time will be set aside each day to hear comments from observers. Individual comments will be limited to no more than 5 minutes per person, and the number of people giving oral comments will be limited by the time available. If you wish to make comments at the workshop, please sign up in advance by contacting ERG. Commenters will be scheduled on a first-come, first-served basis. Please reference the ''EPA Dioxin Workshop'' when contacting ERG or the hotel.

Document Availability: The primary distribution method for the external review drafts of the TEF chapter and Integrated Summary and Risk Characterization to the public will be via the Internet on ORD's National Center for Environmental Assessment (NCEA) website. These external review drafts are available at *http://www.epa.gov/ncea/dioxin.htm.* These documents can be viewed and downloaded from the Internet for review and comment. Background information is also available at the above-mentioned website. This information, provided as background only, consists of other exposure and health sections of the reassessment, specifically Part I: Estimating Exposure to Dioxin-Like Compounds (Volumes 2–4) and Part II: Health Assessment for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds (Chapters 1–8).

In addition, a Compact Disk-Read Only Memory (CD–ROM) containing the external review draft of the TEF chapter and the background information, is available from EPA's National Service Center for Environmental Publications (NSCEP) in Cincinnati, Ohio (telephone: 1–800–490–9198, or 513–489–8190; facsimile 513–489–8695). If you are requesting a copy of the CD–ROM, please provide your name, mailing address, and reference the ''Dioxin CD'' and Document number EPA/600/P–00/001Ab-Ae. The background documents are available only on CD–ROM and the Internet.

Also, a limited number of paper copies of only the draft TEF chapter and the Integrated Summary and Risk Characterization will be available from NSCEP. If you are requesting a paper copy of either the draft TEF chapter or draft Integrated Summary and Risk Characterization, please provide your name, mailing address, and the document title and number, Part II. Chapter 9: Toxicity Equivalence Factors (TEFs) for Dioxin and Related Compounds, Document number NCEA–I–0836; and/or Part III. Integrated Summary and Risk Characterization for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds, Document number EPA/600/P–00/001Ag. Copies of draft documents or background information are not available from ERG.

Comment Submission: Comments may be mailed to the Technical Information Staff (8623D), NCEA–W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Ariel Rios Building, Washington, DC 20460, or delivered to the Technical Information Staff at 808 17th Street, NW., 5th Floor, Washington, DC 20006; telephone: 202–564–3261; facsimile: 202–565–0050. Comments should be in writing. Please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies. Electronic

comments may be emailed to: dioxin.ncea@epa.gov.

Please note that all technical comments received in response to this notice will be placed in a public record. For that reason, commentors should not submit personal information (such as medical data or home address), Confidential Business Information, or information protected by copyright. Due to limited resources, acknowledgments will not be sent.

FOR FURTHER INFORMATION CONTACT: For workshop information, registration, and logistics, contact ERG, 110 Hartwell Avenue, Lexington, Massachusetts, 02421–3136; Tel: 781–674–7374; Fax: 781–674–2906.

For information on the public comment period, contact Linda C. Tuxen, NCEA, telephone: 202–564–3332; facsimile: 202–565–0090; or email: tuxen.linda@epa.gov. This is an extended public comment period that will continue until the SAB meeting in the Fall 2000. It is very important to note that, as the dioxin reassessment process continues, two versions of the draft sections will be put on the dioxin website. The external review drafts, the availability of which are announced in this FR notice, will be replaced by the SAB review drafts in early September. The public is requested to make clear in their submitted comments on which draft document they are commenting.

SUPPLEMENTARY INFORMATION: In April 1991, EPA announced that it would conduct a scientific reassessment of the health risks of exposure to dioxin and dioxin-like compounds. Previous EPA dioxin assessment documents, one final and one draft, were completed in 1985 and 1988, respectively. EPA undertook the 1991 reassessment in light of significant advances in our scientific understanding of mechanisms of dioxin toxicity, significant new studies of dioxin's carcinogenic potential in humans and increased evidence of other adverse health effects. EPA has worked to make each phase of the dioxin reassessment an open and participatory process. These efforts have included the involvement of outside scientists as principal authors of several chapters, frequent public meetings to report progress and take public comment, and publication of early drafts for public comment and peer review. Early in the reassessment process, EPA held public meetings (1991 and 1992) to inform the public of the Agency's plans and activities for the reassessment, to hear and receive public comments and reviews of the proposed plans, and to receive any current, scientifically relevant information. In 1992 and 1993, the Agency convened three peer-review workshops to review early drafts of the reassessment chapters.

In September 1994, EPA released the external review drafts of the health effects and exposure documents which amounted to over 2,200 pages. In late 1994 EPA took public comment and held numerous public meetings across the country on the drafts, followed by SAB review of the draft dioxin reassessment in May 1995. The SAB's report was received in the Fall of that year. In its report to the Agency, the SAB responded favorably to most portions of the reassessment, but recommended substantive revision of two key sections. The SAB recommended the revision of these two sections, Chapter 8: Dose-Response Modeling for 2,3,7,8-TCDD and the Risk Characterization document, and the development of an additional document that would focus on the toxicity equivalent factors (TEFs) for dioxin and dioxin-like compounds. In addition to these substantive recommendations, the SAB suggested that the redrafting process include broader participation of outside scientists from both the public and private sectors. They also requested that the two redrafted chapters and the new TEF chapter be submitted to independent external peer review, before being returned to the SAB for re-review. With respect to Chapters 1–7 of the health document and the full exposure reassessment document, the SAB accepted these sections. They suggested that the sections be updated to address public and SAB comments and to incorporate new scientific data, but the SAB's report stated that substantive further review of these sections by the SAB was not needed.

After receipt of the SAB's report, the Agency worked with over 40 individual stakeholders from the private and public sectors, representing environmental, industry, academic, state, and other public interest and public health communities, on the next steps and to gather input on possible approaches for conducting the revision process. The Agency has tried to keep these individuals apprised of reassessment activities at critical points in the revision process. The Agency expects that these individuals will be important avenues of public comment on the draft documents.

The final dioxin reassessment will consist of three parts. Part I: Estimating Exposure to Dioxin-Like Compounds focuses on sources, levels of dioxin-like compounds in environmental media, and human exposures. Part II: Health Assessment for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds includes information on critical human health end points, mode of action, pharmacokinetics, dose-response, and TEFs. There will be a total of nine chapters in Part II. Part III: Integrated Summary and Risk Characterization for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds is intended to be a stand-alone document. In this part, key findings pertinent to understanding the potential hazards and risks of dioxins are described and integrated, including a discussion of all important assumptions and uncertainties.

The two draft documents that are the subject of the independent scientific peer review meeting announced today are the new TEF chapter and the updated, revised, and reformatted Integrated Summary and Risk Characterization. The TEF chapter was developed as a result of a recommendation from the SAB to gather in one place the discussion and scientific information on the complex issue and use of TEFs for dioxin and dioxin-like compounds. The draft TEF chapter was developed by a team of experts and has undergone internal EPA review. The Integrated Summary and Risk Characterization, formerly identified as Chapter 9: Risk Characterization in the 1994 draft reassessment, was initially revised using a writing team process. The writing team was composed of approximately 12 leading scientific experts in fields related to dioxin exposure and health effects. These experts came from a wide range of public and private organizations, as well as academia. A preliminary revised draft was developed by a writing group and was reviewed by the 40 individual stakeholders. This preliminary draft was used as the framework for an extensively revised document developed by a small internal EPA writing group.

The third section of the reassessment on which the SAB recommended substantive revisions is Chapter 8: Dose-Response Modeling for 2,3,7,8-TCDD. The draft Chapter 8 underwent public comment and external peer review in March 1997. A writing team developed the draft final chapter based on the peer review and public comments and any relevant new scientific data in January 2000. Because this section has already undergone extensive review, we are not soliciting further comments. The next step for Chapter 8 is SAB review in the Fall 2000.

After the July 25 and 26 external peer review workshop, the TEF chapter and Integrated Summary and Risk Characterization will be revised to

reflect the comments of the independent scientific peer reviewers, other Federal agencies, and the public. In the Fall, the SAB will conduct a scientific peer review of the TEF chapter, the dose-response modeling chapter, and the Integrated Summary and Risk Characterization. The SAB review will be anounced in the **Federal Register**. EPA expects to conclude the dioxin reassessment about six months from now, incorporating appropriate changes that have been indicated by the comments of Federal agencies, the public, the external peer reviewers, and the SAB review panel. Final SAB approval is needed to produce a final EPA dioxin reassessment document.

Dated: June 6, 2000.

Norine E. Noonan,

Assistant Administrator for Research and Development.

[FR Doc. 00–14853 Filed 6–9–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6713–8]

Casmalia Disposal Site; Notice of Extension of the Public Comment Period for Proposed CERCLA Administrative De Minimis Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice; extension of public comment period.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), and section 7003(d) of the Resource Conservation and Recovery Act, as amended (''RCRA'') 42 U.S.C. 6973(d), the Environmental Protection Agency (''EPA'') provided notice in the March 15, 2000, **Federal Register**, 65 FR 13967–13969, of a proposed administrative *de minimis* settlement concerning the Casmalia Disposal Site in Santa Barbara County, California (''the Casmalia Disposal Site''). This notice extends the public comment period through June 26, 2000. Section 122(g) of CERCLA, 42 U.S.C. 9622(g), provides EPA with the authority to enter into administrative *de minimis* settlements. This settlement is intended to resolve the liabilities of 433 settling parties for the Casmalia Disposal Site under sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607, and section 7003 of RCRA, 42 U.S.C. 6973. For most of the settling parties, the settlement will also resolve their Casmalia Disposal Site-related liability for the response costs incurred or to be incurred by the federal Natural Resources Trustees' (the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and the United States Department of the Air Force), and potential natural resource damages. The settling parties will pay a total of $27.6 million toward Casmalia Disposal Site response costs.

Through June 26, 2000, EPA will receive written comments relating to the settlement. In addition, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d), EPA will hold a public hearing to receive comments on the proposed settlement, on June 26, 2000, from 7–9 p.m., in the Board of Supervisors' Hearing Room, at the County Administration Building, 511 E. Lakeside Parkway, Santa Maria, California. EPA will consider all comments it receives during this comment period, and may modify or withdraw its consent to the settlement if any comments disclose facts or considerations indicating that the settlement is inappropriate, improper, or inadequate. EPA's written responses to all comments will be made available at the EPA Region IX Superfund Records Center (415–536–2000), 95 Hawthorne Street, Suite 403 S, San Francisco, CA 94105–3901 and at the Santa Maria Library (805–925–0994), 420 South Broadway, Santa Maria, CA 93454.

DATES: Original, signed comments must be received by EPA on or before June 26, 2000.

ADDRESSES: Comments should be addressed to the Regional Hearing Clerk, U.S. EPA Region IX (ORC–1), 75 Hawthorne Street, San Francisco, CA 94105–3901, and should refer to: Casmalia Disposal Site, Santa Barbara County, CA, U.S. EPA Docket No. 99–02(a). The proposed settlement and additional background information relating to the settlement are available for inspection at the EPA Region IX Superfund Records Center (415–536–2000), 95 Hawthorne Street, Suite 403 S, San Francisco, CA 94105–3901 and at the Santa Maria Library (805–925–0994), 420 South Broadway, Santa Maria, CA 93454. A copy of the proposed Administrative Order on Consent may be obtained from the Regional Hearing Clerk at the address provided above.

FOR FURTHER INFORMATION CONTACT: Karen Goldberg, Assistant Regional Counsel, U.S. EPA Region IX (ORC–3), 75 Hawthorne Street, San Francisco, CA 94105–3901; E-Mail: goldberg.karen@epa.gov; Tel: (415) 744–1382.

Keith Takata,

Director, Superfund Division, Region IX.

[FR Doc. 00–14770 Filed 6–9–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6714–1]

Lancaster Plating Site/Lillington, NC; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Lancaster Plating Site (Site) located in Lillington, North Carolina, with Kimrick, Inc. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor at the above address within 30 days of the date of publication.

Dated: May 25, 2000.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 00–14772 Filed 6–9–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

[ET Docket No. 98–237, FCC 00–181]

3650–3700 MHz Government Transfer

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document modifies the freeze imposed on applications for new earth stations and major modifications

in existing earth stations in the 3650–3700 MHz band, which is also referred to as the extended C-band. We are partially lifting the freeze to allow the acceptance of applications for new extended C-band earth station receive sites that are within close proximity (i.e., 10 miles or less) of an existing grandfathered extended C-band earth station receive site. Additionally, we are lifting the freeze with respect to major modifications to existing grandfathered extended C-band earth station receive sites.

DATES: Effective May 22, 2000.

FOR FURTHER INFORMATION CONTACT: Rodney Conway, Office of Engineering and Technology, (202) 418–2904.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket 98–237, FCC 00–181, adopted May 17, 2000, and released May 22, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room Cy–A257, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW Washington, DC 20036.

Summary of the Memorandum Opinion and Order

1. In the Notice of Proposed Rule Making and Order (''Notice and Order''), 64 FR 2462, January 14, 1999, the Commission proposed to allocate the 3650–3700 MHz band to the non-government fixed service on a primary basis. To ensure that adequate opportunities would continue to exist for the provision of fixed services in the 3650–3700 MHz band, the Commission stated that it would no longer accept applications for new earth stations or major modifications in existing earth station facilities for the fixed-satellite service (''FSS'') in the 3650–3700 MHz band. The Notice and Order grandfathered existing extended C-band earth stations.

2. The Commission continues to believe that a freeze limiting the growth of new earth station facilities in the extended C-band is necessary to ensure that adequate opportunities exist for fixed services in the 3650–3700 MHz band. As noted in the Notice and Order a broad range of fixed services could be implemented in the 3650–3700 MHz band which could help to achieve the overarching goals of Section 706 of the Telecommunications Act of 1996 by providing advanced telecommunications capability to all Americans. The proposals submitted by New Skies and the C-Band Coalition to lift the freeze are unacceptable because such action would likely have the effect of significantly limiting or precluding future fixed service operations in this band. However, we find that a limited lifting of the freeze will provide relief for satellite users of the extended C-band without jeopardizing its future availability for terrestrial uses. We will therefore accept applications for new extended C-band earth stations or major modifications of an existing extended C-band earth station if the proposed earth station facilities are located in close proximity (i.e. 10 miles or less) to an existing, grandfathered extended C-band earth station in the 3650–3700 MHz band. We find that this will provide reasonable opportunities to obtain suitable real estate for the placement of new extended C-band earth stations near grandfathered extended C-band earth stations. Below is a list of existing sites. We find that the introduction of new extended C-band earth stations in close proximity to an existing grandfathered extended C-band earth stations will not substantially impede the opportunities for the introduction of fixed services in the 3650–3700 MHz band. Further, we find that this action will provide relief to satellite operators while having a de minimis impact on the opportunities for the provision of fixed services in the 3650–3700 MHz band.

TABLE 1.—AUTHORIZED EXTENDED C-BAND EARTH STATIONS [1]

(Receive at 3625–3700 MHz and Transmit at 5850–5925 MHz) [2]

State/City	North latitude	West longitude
California:		
Carmel Valley	36° 24′10″	121° 38′48″
Culver City	34° 01′ 06″	118° 24′ 13″
Livermore	37° 45′ 39″	121° 47′ 50″
Los Angeles	34° 01′ 53″	118° 27′ 18″
	34° 01′ 54″	118° 27′ 15″
	34° 01′ 54″	118° 27′ 18.3″
	34° 01′ 54″	118° 27′ 21.3″
Malibu	34° 04′ 49.67″	118° 53′ 43.91″
	34° 04′ 50.32″	118° 53′ 46.40″
Mountain House	37° 45′ 01″	121° 35′ 34″
	37° 45′ 02″	121° 35′ 35″
Niles Canyon	37° 35′ 56″	121° 56′ 32″
	37° 36′ 00″	121° 56′ 35″
Salt Creek	38° 56′ 20.2″	122° 08′ 48″
	38° 56′ 21″	122° 08′ 49.2″
	38° 56′ 22.3″	122° 08′ 49.6″
Somis	34° 19′ 31″	118° 59′ 41″
Sylmar	34° 19′ 04″	118° 29′ 00″
Florida:		
Medley	25° 50′ 26″	80° 19′ 03″
	25° 51′ 19″	80° 19′ 52″
Melbourne	28° 02′ 25″	80° 35′ 48″
	28° 05′ 10″	80° 38′ 10″
Miami	25° 48′ 34″	80° 21′ 11″
	25° 48′ 35″	80° 21′ 10″
	25° 48′ 35″	80° 21′ 11″
Miramar [3]	25° 58′ 32″	80° 17′ 00″
Orlando	28° 25′ 29″	81° 07′ 21″

TABLE 1.—AUTHORIZED EXTENDED C-BAND EARTH STATIONS [1]—Continued

(Receive at 3625–3700 MHz and Transmit at 5850–5925 MHz) [2]

State/City	North latitude	West longitude
Palm Bay	28° 02′ 28″	80° 35′ 42″
Guam: Pulantat	13° 25′ 00″	[4] 144° 44′ 57″
Maine: Andover	44° 37′ 57″	70° 42′ 01″
	44° 37′ 58″	70° 41′ 54″
Maryland:		
Etam	39° 16′ 48″	79° 44′ 14″
	39° 16′ 50″	79° 44′ 13″
Clarksburg	39° 13′ 07″	77° 16′ 12″
Massachusetts: Whitinsville	42° 06′ 59″	71° 38′ 08″
New Jersey: Franklin	41° 07′ 04″	74° 34′ 33″
New York: Staten Island	40° 36′ 13″	74° 10′ 39″
North Carolina: West Jefferson	36° 25′ 50″	81° 23′ 45″
Oregon: Moores Valley	45° 20′ 33″	123° 17′ 15″
Pennsylvania: Roaring Creek	40° 53′ 34″	76° 26′ 23″
	40°53′35.9″	76° 26′ 22.6″
	40°53′37″	76° 26′ 22″
	40°53′37.5″	76° 26′ 21.8″
Puerto Rico:		
Carolina	18° 26′ 00″	65° 59′ 35″
Caguas	18° 17′ 53″	66° 03′ 14″
Cayey	18° 08′ 00″	66° 07′ 57″
Humacao	18° 09′ 05″	65° 47′ 20″
Rio Piedras	18° 14′ 30″	66° 01′ 50″
	18° 22′ 59″	66° 04′ 09″
Tennessee: Nashville	36° 14′ 06″	86° 45′ 21″
	36° 14′ 5.7″	86° 45′ 19.4″
	36° 14′ 5.7″	86° 45′ 21.4″
Texas: Woodland Hills	32° 37′ 48″	96° 50′ 33″
Virginia:		
Alexandria	38° 47′ 39″	77° 09′ 51″
Shenandoah Court	38° 43′ 45″	78° 39′ 26″
Washington: Brewster	48° 08′ 49″	119° 41′ 28″
	48° 08′ 51″	119° 41′ 29″
West Virginia:		
Lennox	39° 34′ 07″	79° 34′ 45″
Rowlesburg	39° 16′ 52.1″	79° 44′ 10.7″

[1] In addition, there is an extended C-band earth station on the Midway Atoll.
[2] Most of these earth stations are authorized to make use of both C-band (3700–4200 MHz for downlinks and 5925–6425 MHz band for uplinks) and extended C-band frequencies (3625–3700 MHz for downlinks and 5850–5925 MHz for uplinks).
[3] This is a receive-only station.
[4] Guam's longitude coordinate is East, not West.

TABLE 2.—SITES AUTHORIZED FOR LESS THAN THE FULL EXTENDED C-BAND

Band	City, State	Latitude	Longitude
3685–3700 MHz	Miami, Florida	25°28′48″	80°10′48″
	Atlanta, Georgia	33°52′38.23″	84°27′58.35″
	Marietta, Georgia	33°55′41″	84°29′45″
	Guaynabo, Puerto Rico	18°34′10″	66°23′00″
	San Juan, Puerto Rico	18°22′00″	66°07′00″
3650–3700 MHz	Auburn University, Alabama	32°35′47″	85°29′27″

TABLE 3.—AUTHORIZED TT&C SITES

[Receive at 3698.5–3699.5 MHz and Transmit at 5923.5–5924.5 MHz]

City/State	Latitude	Longitude
Three Peaks, California	38°8′51.9″	122°47′38″
Hawley, Pennsylvania	41°27′51″	75°7′47.9″

3. Pursuant to the authority contained in sections 4(i), 302, 303(e), 303(f), 303(g), 303(r), and 405 of the Communications Act of 1934, as amended, *it is ordered* that the Request For Relief and Modified Request For Emergency Relief and Request For Expedited Action filed by New Skies Satellites N.V., *are hereby granted,* in part, and *denied* in part. The application processing changes are effective May 22, 2000.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–14610 Filed 6–9–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Uniform Retail Credit Classification and Account Management Policy

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Final notice.

SUMMARY: The Federal Financial Institutions Examination Council (FFIEC), on behalf of the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS), collectively referred to as the Agencies, is publishing revisions to the Uniform Retail Credit Classification and Account Management Policy, to clarify certain provisions, especially regarding the re-aging of open-end accounts and extensions, deferrals, renewals, and rewrites of closed-end loans. The National Credit Union Administration (NCUA), also a member of FFIEC, does not plan to adopt the Uniform Policy at this time. This Policy is a supervisory policy used by the Agencies for uniform classification and treatment of retail credit loans in financial institutions.

DATES: Any changes to an institution's policies and procedures as a result of the Uniform Retail Credit Classification and Account Management Policy issued on February 10, 1999, as modified by these revisions, should be implemented for reporting in the December 31, 2000, Call Report or Thrift Financial Report, as appropriate.

FOR FURTHER INFORMATION CONTACT:

FRB: David Adkins, Supervisory Financial Analyst, (202) 452–5259, or Anna Lee Hewko, Financial Analyst, (202) 530–6260, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only,* Telecommunication Device for the Deaf (TDD), Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

OCC: Daniel L. Pearson, National Bank Examiner, (202) 874–5170, Credit Risk Division, or Ron Shimabukuro, Senior Attorney, (202) 874–5090, Legislative and Regulatory Activities Division, Chief Counsel's Office, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

FDIC: James Leitner, Examination Specialist, (202) 898–6790, Division of Supervision, or Michael Phillips, Counsel, (202) 898–3581, Supervision and Legislation Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

OTS: William J. Magrini, Senior Project Manager, (202) 906–5744, Donna M. Deale, Manager, Supervision Policy, (202) 906–7488, Supervision Policy, or Ellen J. Sazzman, Counsel (Banking and Finance), (202) 906–7133, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background Information

On June 30, 1980, the FRB, FDIC, and OCC adopted the Uniform Policy for Classification of Consumer Installment Credit Based on Delinquency Status (1980 policy). The Federal Home Loan Bank Board, the predecessor of the OTS, adopted the 1980 policy in 1987. The 1980 policy established uniform guidelines for the classification of retail installment credit based on delinquency status and provided charge-off time frames for open-end and closed-end credit.

The Agencies undertook a review of the 1980 policy as part of their review of all written policies mandated by Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994. As a result of this review, on February 10, 1999 (64 FR 6655), the Agencies issued the Uniform Retail Credit Classification and Account Management Policy (Uniform Policy). In general, the Uniform Policy:

- Established a charge-off policy for open-end credit at 180 days delinquency and closed-end credit at 120 days delinquency.
- Provided guidance for loans affected by bankruptcy, fraud, and death.
- Established guidelines for re-aging, extending, deferring, or rewriting past due accounts.
- Provided for classification of certain delinquent residential mortgage and home equity loans.
- Provided an alternative method of recognizing partial payments.

As issued on February 10, 1999, the Uniform Policy was effective for manual adjustments to an institution's policies and procedures as of the June 30, 1999, Call Report or Thrift Financial Report, as appropriate. In addition, the Uniform Policy allowed institutions until the December 31, 2000, Reports to make changes involving computer programming resources. In a modification issued on November 23, 1999 (64 FR 65712), the implementation date for manual changes was extended to the December 31, 2000, Reports.

Following the issuance of the Uniform Policy, the Agencies received numerous inquiries for clarifications of the standards contained in the Policy, especially with respect to the re-aging of open-end accounts and extensions, deferrals, renewals, or rewrites of closed-end loans. In response to these inquiries for clarification, the Agencies have decided to publish this revised Uniform Policy. In addition to various editorial changes, the Agencies have changed the Uniform Policy to clarify various items in the Uniform Policy with respect to (1) the re-aging of open-end accounts; (2) extensions, deferrals, renewals, and rewrites of closed-end loans; (3) examiner considerations; and (4) the treatment of specific categories of retail loans.

1. *Re-aging of open-end accounts.* The Uniform Policy provided that open-end accounts should not be re-aged more than once within any twelve-month period and no more than twice within any five-year period. The Agencies have decided to clarify the Uniform Policy by stating that institutions may adopt a more conservative re-aging standard (e.g., some institutions allow only one re-aging in the lifetime of an open-end account). In addition, this modification of the Uniform Policy recognizes the importance of formal workout programs and provides guidance on the handling of open-end accounts that enter into this type of program.

Specifically, the Agencies have modified the Uniform Policy to provide that institutions may re-age an account after it enters a workout program, including internal and third-party debt counseling services, but only after receipt of at least three consecutive minimum monthly payments or the equivalent cumulative amount. Re-aging for workout program purposes is limited to once in a five-year period and is in addition to the once-in-twelve-months/twice-in-five-years limitation. The term ''re-age'' is defined in the document (in footnote 3) to mean ''returning a delinquent, open-end account to current status without collecting the total amount of principal, interest, and fees that are contractually due.'' In the Agencies' view, management information systems should track the principal reductions and charge-off history of loans in workout programs by type of program.

2. *Extensions, deferrals, renewals, and rewrites of closed-end loans.* The Agencies have modified the Uniform Policy to provide that institutions should adopt and adhere to explicit standards that control the use of extensions, deferrals, renewals, and rewrites of closed-end loans. Such standards would be based on the borrower's willingness and ability to repay the loan and would limit number and frequency of such treatment of closed-end loans. The Agencies have also defined the terms ''extension,'' ''deferral,'' ''renewal,'' and ''rewrite.''

This modification of the Uniform Policy states that institutions should adopt standards that prohibit additional advances that finance the unpaid interest and fees. The Agencies have added guidance that comprehensive and effective risk management, reporting, and internal controls be established and maintained to support the collection process and to ensure timely recognition of losses.

3. *Examination considerations.* The Agencies have added guidance that an examiner may classify retail portfolios, or segments thereof, where underwriting standards are weak and present unreasonable credit risk and may criticize account management practices that are deficient.

Adoption of the Uniform Policy may affect an institution's timing and measurement of probable loan losses that have been incurred. As a result of changes the Uniform Policy made to the 1980 policy, an institution may need to adjust its loan loss allowance to reflect any shortening in its time frame for recording charge-offs. Moreover, a larger allowance may be necessary if an institution's charge-off practices are different than the new guidelines for accounts of deceased persons and accounts of borrowers in bankruptcy.

4. *Treatment of specific categories of retail loans.* These modifications to the Uniform Policy clarified the Policy's treatment of various categories of retail loans:

- Regarding retail loans that are due to be charged off, in lieu of charging off the entire loan balance, loans with non-real estate collateral may be written down to the value of the collateral, less cost to sell, if repossession of collateral is assured and in process.
- For open- and closed-end loans secured by one-to four-family residential real estate, a current assessment of value should be made no later than 180 days past due, and any outstanding loan balance in excess of the value of the property, less cost to sell, should be charged off. The Agencies removed the condition in the Uniform Policy that such assessment would be required when a residential or home equity loan is 120 days past due.
- Loans in bankruptcy with collateral may be written down to the value of the collateral, less cost to sell.

As modified, the Uniform Policy now reads as follows:

Uniform Retail Credit Classification and Account Management Policy [1]

The Uniform Retail Credit Classification and Account Management Policy establishes standards for the classification and treatment of retail credit in financial institutions. Retail credit consists of open- and closed-end credit extended to individuals for household, family, and other personal expenditures, and includes consumer loans and credit cards. For purposes of this policy, retail credit also includes loans to individuals secured by their personal residence, including first mortgage, home equity, and home improvement loans. Because a retail credit portfolio generally consists of a large number of relatively small-balance loans, evaluating the quality of the retail credit portfolio on a loan-by-loan basis is inefficient and burdensome for the institution being examined and for examiners.

Actual credit losses on individual retail credits should be recorded when the institution becomes aware of the loss, but in no case should the charge-off exceed the time frames stated in this policy. This policy does not preclude an institution from adopting a more conservative internal policy. Based on collection experience, when a portfolio's history reflects high losses and low recoveries, more conservative standards are appropriate and necessary.

The quality of retail credit is best indicated by the repayment performance of individual borrowers. Therefore, in general, retail credit should be classified based on the following criteria:

- Open- and closed-end retail loans past due 90 cumulative days from the contractual due date should be classified Substandard.
- Closed-end retail loans that become past due 120 cumulative days and open-end retail loans that become past due 180 cumulative days from the contractual due date should be classified Loss and charged off.[2] In lieu of charging off the entire loan balance, loans with non-real estate collateral may be written down to the value of the collateral, less cost to sell, if repossession of collateral is assured and in process.
- One- to four-family residential real estate loans and home equity loans that are past due 90 days or more with loan-to-value ratios greater than 60 percent should be classified Substandard. Properly secured residential real estate loans with loan-to-value ratios equal to or less than 60 percent are generally not classified based solely on delinquency status. Home equity loans to the same borrower at the same institution as the senior mortgage loan with a combined loan-to-value ratio equal to or less than 60 percent need not be classified. However, home equity loans where the institution does not hold the senior mortgage, that are past due 90 days or more should be classified Substandard, even if the loan-to-value ratio is equal to, or less than, 60 percent.

For open- and closed-end loans secured by residential real estate, a current assessment of value should be made no later than 180 days past due. Any outstanding loan balance in excess of the value of the property, less cost to sell, should be classified Loss and charged off.

- Loans in bankruptcy should be classified Loss and charged off within

[1] The agencies' classifications used for retail credit are Substandard, Doubtful, and Loss. These are defined as follows: Substandard: An asset classified Substandard is protected inadequately by the current net worth and paying capacity of the obligor, or by the collateral pledged, if any. Assets so classified must have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the institution will sustain some loss if the deficiencies are not corrected. Doubtful: An asset classified Doubtful has all the weaknesses inherent in one classified Substandard with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions, and values, highly questionable and improbable. Loss: An asset, or portion thereof, classified Loss is considered uncollectible, and of such little value that its continuance on the books is not warranted. This classification does not mean that the asset has absolutely no recovery or salvage value; rather, it is not practical or desirable to defer writing off an essentially worthless asset (or portion thereof), even though partial recovery may occur in the future.

Although the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and Office of Thrift Supervision do not require institutions to adopt identical classification definitions, institutions should classify their assets using a system that can be easily reconciled with the regulatory classification system.

[2] For operational purposes, whenever a charge-off is necessary under this policy, it should be taken no later than the end of the month in which the applicable time period elapses. Any full payment received after the 120- or 180-day charge-off threshold, but before month-end charge-off, may be considered in determining whether the charge-off remains appropriate.

OTS regulation 12 CFR 560.160(b) allows savings institutions to establish adequate (specific) valuation allowances for assets classified Loss in lieu of charge-offs.

Open-end retail accounts that are placed on a fixed repayment schedule should follow the charge-off time frame for closed-end loans.

60 days of receipt of notification of filing from the bankruptcy court or within the time frames specified in this classification policy, whichever is shorter, unless the institution can clearly demonstrate and document that repayment is likely to occur. Loans with collateral may be written down to the value of the collateral, less cost to sell. Any loan balance not charged off should be classified Substandard until the borrower re-establishes the ability and willingness to repay for a period of at least six months.

- Fraudulent loans should be classified Loss and charged off no later than 90 days of discovery or within the time frames adopted in this classification policy, whichever is shorter.
- Loans of deceased persons should be classified Loss and charged off when the loss is determined or within the time frames adopted in this classification policy, whichever is shorter.

Other Considerations for Classification

If an institution can clearly document that a past due loan is well secured and in the process of collection, such that collection will occur regardless of delinquency status, then the loan need not be classified. A well-secured loan is collateralized by a perfected security interest in, or pledges of, real or personal property, including securities with an estimable value, less cost to sell, sufficient to recover the recorded investment in the loan, as well as a reasonable return on that amount. In the process of collection means that either a collection effort or legal action is proceeding and is reasonably expected to result in recovery of the loan balance or its restoration to a current status, generally within the next 90 days.

Partial Payments on Open-and Closed-End Credit

Institutions should use one of two methods to recognize partial payments. A payment equivalent to 90 percent or more of the contractual payment may be considered a full payment in computing past due status. Alternatively, the institution may aggregate payments and give credit for any partial payment received. For example, if a regular installment payment is $300 and the borrower makes payments of only $150 per month for a six-month period, the loan would be $900 ($150 shortage times six payments), or three full months past due. An institution may use either or both methods in its portfolio, but may not use both methods simultaneously with a single loan.

Re-Aging, Extensions, Deferrals, Renewals, and Rewrites [3]

Re-aging of open-end accounts, and extensions, deferrals, renewals, and rewrites of closed-end loans can be used to help borrowers overcome temporary financial difficulties, such as loss of job, medical emergency, or change in family circumstances like loss of a family member. A permissive policy on re-agings, extensions, deferrals, renewals, or rewrites can cloud the true performance and delinquency status of the portfolio. However, prudent use is acceptable when it is based on a renewed willingness and ability to repay the loan, and when it is structured and controlled in accordance with sound internal policies.

Management should ensure that comprehensive and effective risk management and internal controls are established and maintained so that re-ages, extensions, deferrals, renewals, and rewrites can be adequately controlled and monitored by management and verified by examiners. The decision to re-age, extend, defer, renew, or rewrite a loan, like any other modification of contractual terms, should be supported in the institution's management information systems. Adequate management information systems usually identify and document any loan that is re-aged, extended, deferred, renewed, or rewritten, including the number of times such action has been taken. Documentation normally shows that the institution's personnel communicated with the borrower, the borrower agreed to pay the loan in full, and the borrower has the ability to repay the loan. To be effective, management information systems should also monitor and track the volume and performance of loans that have been re-aged, extended, deferred, renewed, or rewritten and/or placed in a workout program.

[3] These terms are defined as follows. Reage: Returning a delinquent, open-end account to current status without collecting the total amount of principal, interest, and fees that are contractually due. Extension: Extending monthly payments on a closed-end loan and rolling back the maturity by the number of months extended. The account is shown current upon granting the extension. If extension fees are assessed, they should be collected at the time of the extension and not added to the balance of the loan. Deferral: Deferring a contractually due payment on a closed-end loan without affecting the other terms, including maturity, of the loan. The account is shown current upon granting the deferral. Renewal: Underwriting a matured, closed-end loan generally at its outstanding principal amount and on similar terms. Rewrite: Underwriting an existing loan by significantly changing its terms, including payment amounts, interest rates, amortization schedules, or its final maturity.

Open-End Accounts

Institutions that re-age open-end accounts should establish a reasonable written policy and adhere to it. To be considered for re-aging, an account should exhibit the following:

- The borrower has demonstrated a renewed willingness and ability to repay the loan.
- The account has existed for at least nine months.
- The borrower has made at least three consecutive minimum monthly payments or the equivalent cumulative amount. Funds may not be advanced by the institution for this purpose.

Open-end accounts should not be re-aged more than once within any twelve-month period and no more than twice within any five-year period. Institutions may adopt a more conservative re-aging standard; for example, some institutions allow only one re-aging in the lifetime of an open-end account. Additionally, an over-limit account may be re-aged at its outstanding balance (including the over-limit balance, interest, and fees), provided that no new credit is extended to the borrower until the balance falls below the predelinquency credit limit.

Institutions may re-age an account after it enters a workout program, including internal and third-party debt counseling services, but only after receipt of at least three consecutive minimum monthly payments or the equivalent cumulative amount, as agreed upon under the workout or debt management program. Re-aging for workout purposes is limited to once in a five-year period and is in addition to the once in twelve-months/twice in five-year limitation described above. To be effective, management information systems should track the principal reductions and charge-off history of loans in workout programs by type of program.

Closed-End Loans

Institutions should adopt and adhere to explicit standards that control the use of extensions, deferrals, renewals, and rewrites of closed-end loans. The standards should exhibit the following:

- The borrower should show a renewed willingness and ability to repay the loan.
- The standards should limit the number and frequency of extensions, deferrals, renewals, and rewrites.
- Additional advances to finance unpaid interest and fees should be prohibited.

Management should ensure that comprehensive and effective risk management, reporting, and internal controls are established and maintained

to support the collection process and to ensure timely recognition of losses. To be effective, management information systems should track the subsequent principal reductions and charge-off history of loans that have been granted an extension, deferral, renewal, or rewrite.

Examination Considerations

Examiners should ensure that institutions adhere to this policy. Nevertheless, there may be instances that warrant exceptions to the general classification policy. Loans need not be classified if the institution can document clearly that repayment will occur irrespective of delinquency status. Examples might include loans well secured by marketable collateral and in the process of collection, loans for which claims are filed against solvent estates, and loans supported by valid insurance claims.

The Uniform Classification and Account Management policy does not preclude examiners from classifying individual retail credit loans that exhibit signs of credit weakness regardless of delinquency status. Similarly, an examiner may also classify retail portfolios, or segments thereof, where underwriting standards are weak and present unreasonable credit risk, and may criticize account management practices that are deficient.

In addition to reviewing loan classifications, the examiner should ensure that the institution's allowance for loan and lease losses provides adequate coverage for probable losses inherent in the portfolio. Sound risk and account management systems, including a prudent retail credit lending policy, measures to ensure and monitor adherence to stated policy, and detailed operating procedures, should also be implemented. Internal controls should be in place to ensure that the policy is followed. Institutions that lack sound policies or fail to implement or effectively adhere to established policies will be subject to criticism.

Implementation

This policy should be fully implemented for reporting in the December 31, 2000 Call Report or Thrift Financial Report, as appropriate.

Dated: June 6, 2000.

Keith J. Todd,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 00–14704 Filed 6–9–00; 8:45 am]

BILLING CODE 6210–01–P (25%) 6714–01–P (25%) 6720–01–P (25%) 4810–33–P (25%)

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 June 26, 2000.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Robert M. Alexander, Calhan, Colorado; Sean A. Gooding, Cherry Hills Village, Colorado; Alexander R. Gooding, Cherry Hills Village, Colorado; Leslie A. Melzer, Denver, Colorado; Robert J. Breidenthal, Bonner Springs, Kansas; Arcadia Partners, Ltd.(Dan & Patricia League), Colorado Springs, Colorado; Michael S. League, Colorado Springs, Colorado; and Joe F. Jenkins, Tonganoxie, Kansas; to acquire voting shares of Financial Services of the Rockies, Inc., Colorado Springs, Colorado, and thereby indirectly acquire voting shares of First National Bank of Colorado Springs, Colorado.

Board of Governors of the Federal Reserve System, June 6, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–14733 Filed 6–9–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting:

NAME: Employee Thrift Advisory Council.

TIME: 10 a.m.

DATE: June 27, 2000.

PLACE: 4th Floor, Conference Room, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approve minutes of the May 19, 1999, meeting.
2. Report of the Executive Director on Thrift Savings Plan status.
3. November 15, 1999–January 31, 2000, Thrift Savings Plan Open Season.
4. Legislation.
5. New TSP record keeping system/investment funds.
6. New Business.

Any interested person may attend, appear before, or file statements with the Council. For further information contact Elizabeth S. Woodruff, Committee Management Officer, on (202) 942–1660.

Dated: June 6, 2000.

Elizabeth S. Woodruff,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 00–14739 Filed 6–9–00; 8:45 am]

BILLING CODE 6760–01–M

Federal Register

Monday,
June 12, 2000

Part II

Department of the Treasury

Internal Revenue Service

26 CFR Part 1 et al.

Use of Actuarial in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25

[TD 8886]

RIN 1545–AX07

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests. These regulations will effect the valuation of inter vivos and testamentary transfers of interests dependent on one or more measuring lives. Section 7520 of the Internal Revenue Code of 1986 (Code) was enacted by section 5031 of the Technical and Miscellaneous Revenue Act of 1988 and was effective on May 1, 1989. These regulations are necessary because section 7520(c)(3) directs the Secretary to revise the actuarial tables used in valuing interests dependent on mortality experience not less frequently than once each 10 years to take into account the most recent mortality experience available as of the time of the revision. This document contains amendments to the regulations revising certain tables used for the valuation of partial interests in property under section 7520 to reflect the most recent mortality experience available.

DATES: These regulations are effective June 12, 2000.

FOR FURTHER INFORMATION CONTACT: William L. Blodgett, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On April 30, 1999, the IRS published in the **Federal Register** (64 FR 23187 and 64 FR 23245) temporary regulations and a notice of proposed rulemaking by cross reference to temporary regulations (REG–103851–99) under sections 642, 664, 2031, 2512, and 7520 relating to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests. No written comments responding to the notice of proposed rulemaking by cross reference to temporary regulations were received and, thus, no hearing was held. This document adopts, with no substantive changes, final regulations with respect to this notice of proposed rulemaking by cross reference to temporary regulations.

The following chart summarizes the applicable interest rates and the citations to textual materials and tables for the various periods covered under the regulations:

CROSS REFERENCE TO REGULATION SECTIONS

Valuation period	Interest rate	Regulation section	Table
Section 642			
Valuation, in general		1.642(c)–6	
Before 01/01/52	4%	1.642(c)–6A(a)	
01/01/52–12/31/70	3.5%	1.642(c)–6A(b)	
01/01/71–11/30/83	6%	1.642(c)–6A(c)	
12/01/83–04/30/89	10%	1.642(c)–6A(d)	Table G.
05/01/89–04/30/99	§ 7520	1.642(c)–6A(e)	Table S (05/01/89–4/30/99).
After 04/30/99	§ 7520	1.642(c)–6(e)	Table S (after 04/30/99).
Section 664			
Valuation, in general		1.664–4	
Before 01/01/52	4%	1.664–4A(a)	
01/01/52–12/31/70	3.5%	1.664–4A(b)	
01/01/71–11/30/83	6%	1.664–4A(c)	
12/01/83–04/30/89	10%	1.664–4A(d)	Table E, Table F(1).
05/01/89–04/30/99	§ 7520	1.664–4A(e)	Table U(1) (05/01/89–4/30/99).
After 04/30/99	§ 7520	1.664–4(e)(6)	Table D and Tables F(4.2)–F(14.0)
		1.664–4(e)(7)	Table U(1) (after 04/30/99).
Section 2031			
Valuation, in general		20.2031–7	
Before 01/01/52	4%	20.2031–7A(a)	
01/01/52–12/31/70	3.5%	20.2031–7A(b)	
01/01/71–11/30/83	6%	20.2031–7A(c)	
12/01/83–04/30/89	10%	20.2031–7A(d)	Table A, Table B, Table LN.
05/01/89–04/30/99	§ 7520	20.2031–7A(e)	Table S (05/01/89–4/30/99) Life Table 80CNSMT.
After 04/30/99	§ 7520	20.2031–7(d)(6)	Table B, Table J, Table K
		20.2031–7(d)(7)	Table S (after 04/30/99) and Life Table 90CM.
Section 2512			
Valuation, in general		25.2512–5	
Before 01/01/52	4%	25.2512–5A(a)	
01/01/52–12/31/70	3.5%	25.2512–5A(b)	
01/01/71–11/30/83	6%	25.2512–5A(c)	
12/01/83–04/30/89	10%	25.2512–5A(d)	

CROSS REFERENCE TO REGULATION SECTIONS—Continued

Valuation period	Interest rate	Regulation section	Table
05/01/89–04/30/99	§ 7520	25.2512–5A(e)	
After 04/30/99	§ 7520	25.2512–5(d)	

Effective Dates

These regulations are applicable in the case of annuities, interests for life or terms of years, and remainder or reversionary interests created after April 30, 1999.

Special Analysis

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

Drafting Information

The principal author of these regulations is William L. Blodgett, Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, and 25 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entries for 1.642(c)–6T, 1.664–4T and 1.7520–1T to read in part as follows:

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

Par. 2. Section 1.170A–12 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 1.170A–12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

* * * * *

(b) * * *

(2) *Computation of depreciation factor.* If the valuation of the remainder interest in depreciable property is dependent upon the continuation of one life, a special factor must be used. The factor determined under this paragraph (b)(2) is carried to the fifth decimal place. The special factor is to be computed on the basis of the interest rate and life contingencies prescribed in § 20.2031–7 of this chapter (or for periods before May 1, 1999, § 20.2031–7A) and on the assumption that the property depreciates on a straight-line basis over its estimated useful life. For transfers for which the valuation date is after April 30, 1999, special factors for determining the present value of a remainder interest following one life and an example describing the computation is contained in Internal Revenue Service Publication 1459, ''Actuarial Values, Book Gimel,'' (7–1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. For transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, special factors for determining the present value of a remainder interest following one life and an example describing the computation is contained in Internal Revenue Service Publication 1459, ''Actuarial Values, Gamma Volume,'' (8–89). This publication is no longer available for purchase from the Superintendent of Documents. However, it may be obtained by requesting a copy from: CC:DOM:CORP:R (IRS Publication 1459), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Otherwise, in the case of the valuation of a remainder interest following one life, the special factor may be obtained through use of the following formula:

$$\left(1+\frac{i}{2}\right)\sum_{t=0}^{n-1} v^{(t+1)}\left[\left(1-\frac{l_{x+t+1}}{l_x}\right)-\left(1-\frac{l_{x+t}}{l_x}\right)\right]\left(1-\frac{1}{2n}-\frac{t}{n}\right)$$

Where:

n=the estimated number of years of useful life,

i=the applicable interest rate under section 7520 of the Internal Revenue Code,

v=1 divided by the sum of 1 plus the applicable interest rate under section 7520 of the Internal Revenue Code,

x=the age of the life tenant, and

lx=number of persons living at age x as set forth in Table 90CM of § 20.2031–7 (or, for periods before May 1, 1999, the tables set forth under § 20.2031–7A) of this chapter.

(3) *Example.* The following example illustrates the provisions of this paragraph (b):

Example. A, who is 62, donates to Y University a remainder interest in a personal residence, consisting of a house and land, subject to a reserved life estate in A. At the time of the gift, the land has a value of $30,000 and the house has a value of

$100,000 with an estimated useful life of 45 years, at the end of which the value of the house is expected to be $20,000. The portion of the property considered to be depreciable is $80,000 (the value of the house ($100,000) less its expected value at the end of 45 years ($20,000)). The portion of the property considered to be nondepreciable is $50,000 (the value of the land at the time of the gift ($30,000) plus the expected value of the house at the end of 45 years ($20,000)). At the time of the gift, the interest rate prescribed under section 7520 is 8.4 percent. Based on an interest rate of 8.4 percent, the remainder factor for $1.00 prescribed in § 20.2031–7(d) of this chapter for a person age 62 is 0.27925. The value of the nondepreciable remainder interest is $13,962.50 (0.27925 times $50,000). The value of the depreciable remainder interest is $16,148.80 (0.20186, computed under the formula described in paragraph (b)(2) of this section, times $80,000). Therefore, the value of the remainder interest is $30,111.30.

* * * * *

§ 1.170A–12T [Removed]

Par. 3. Section 1.170A–12T is removed.

Par. 4–5. Section 1.642(c)–6 is amended by revising paragraphs (d), (e) and (f) to read as follows:

§ 1.642(c)–6 Valuation of a remainder interest in property transferred to a pooled income fund.

* * * * *

(d) *Valuation.* The present value of the remainder interest in property transferred to a pooled income fund after April 30, 1999, is determined under paragraph (e) of this section. The present value of the remainder interest in property transferred to a pooled income fund for which the valuation date is before May 1, 1999, is determined under the following sections:

Valuation Dates		Applicable regulations
After	Before	
	01–01–52	1.642(c)–6A(a)
12–31–51	01–01–71	1.642(c)–6A(b)
12–31–70	12–01–83	1.642(c)–6A(c)
11–30–83	05–01–89	1.642(c)–6A(d)
04–30–89	05–01–99	1.642(c)–6A(e)

(e) *Present value of the remainder interest in the case of transfers to pooled income funds for which the valuation date is after April 30, 1999*—(1) *In general.* In the case of transfers to pooled income funds for which the valuation date is after April 30, 1999, the present value of a remainder interest is determined under this section. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). The present value of a remainder interest that is dependent on the termination of the life of one individual is computed by the use of Table S in paragraph (e)(6) of this section. For purposes of the computations under this section, the age of an individual is the age at the individual's nearest birthday.

(2) *Transitional rules for valuation of transfers to pooled income funds.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after April 30, 1999, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency after April 30, 1999, the present value of a remainder interest is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 1999, or after April 30, 1999, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a pooled income fund for which the valuation date is after April 30, 1999, and before July 1, 1999, the present value of the remainder interest under this section is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(6) of this section or § 1.642(c)–6A(e)(5), at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (e)(2)(i) and (ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(6) of this section or § 1.642(c)–6A(e)(5), the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Present value of a remainder interest.* The present value of a remainder interest in property transferred to a pooled income fund is computed on the basis of—

(i) Life contingencies determined from the values of *lx* that are set forth in Table 90CM in § 20.2031–7(d)(7) of this chapter (see § 20.2031–7A of this chapter for certain prior periods); and

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. For purposes of this paragraph (e), the yearly rate of return of a pooled income fund is determined as provided in paragraph (c) of this section unless the highest rate of return is deemed to be the rate described in paragraph (e)(4) of this section for funds in existence less than 3 taxable years. For purposes of this paragraph (e)(3)(ii), the first taxable year of a pooled income fund is considered a taxable year even though the taxable year consists of less than 12 months. However, appropriate adjustments must be made to annualize the rate of return earned by the fund for that period. Where it appears from the facts and circumstances that the highest yearly rate of return of the fund for the 3 taxable years immediately preceding the taxable year in which the transfer of property is made has been purposely manipulated to be substantially less than the rate of return that would otherwise be reasonably anticipated with the purpose of obtaining an excessive charitable deduction, that rate of return may not be used. In that case, the highest yearly rate of return of the fund is determined by treating the fund as a pooled income fund that has been in existence for less than 3 preceding taxable years.

(4) *Pooled income funds in existence less than 3 taxable years.* If a pooled income fund has been in existence less than 3 taxable years immediately preceding the taxable year in which the transfer is made to the fund and the transfer to the fund is made after April 30, 1989, the highest rate of return is deemed to be the interest rate (rounded to the nearest two-tenths of one percent) that is 1 percent less than the highest annual average of the monthly section 7520 rates for the 3 calendar years immediately preceding the calendar year in which the transfer to the pooled income fund is made. The deemed rate of return for transfers to new pooled income funds is recomputed each calendar year using the monthly section 7520 rates for the 3-year period immediately preceding the calendar year in which each transfer to the fund is made until the fund has been in existence for 3 taxable years and can compute its highest rate of return for the 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made in accordance with the rules set forth in

the first sentence of paragraph (e)(3)(ii) of this section.

(5) *Computation of value of remainder interest.* The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor from Table S in paragraph (e)(6) of this section under the appropriate yearly rate of return opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based (see § 1.642(c)–6A for certain prior periods). The tables in paragraph (e)(6) of this section include factors for yearly rates of return from 4.2 to 14 percent. Many actuarial factors not contained in the tables in paragraph (e)(6) of this section are contained in Table S in Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (7–1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. For other situations, see paragraph (b) of this section. If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the fair market value of the property on the valuation date by the appropriate remainder factor. This paragraph (e)(5) may be illustrated by the following example:

Example. A, who is 54 years and 8 months, transfers $100,000 to a pooled income fund, and retains a life income interest in the property. The highest yearly rate of return earned by the fund for its 3 preceding taxable years is 9.47 percent. In Table S, the remainder factor opposite 55 years under 9.4 percent is .17449 and under 9.6 percent is .17001. The present value of the remainder interest is $17,292.00, computed as follows:

Factor at 9.4 percent for age 55	.17449
Factor at 9.6 percent for age 55	.17001
Difference	.00448

Interpolation adjustment:

$$\frac{9.47\% - 9.4\%}{0.2\%} = \frac{x}{.00448}$$

$$x = .00157$$

Factor at 9.4 percent for age 55	.17449
Less: Interpolation adjustment	.00157
Interpolated factor	.17292

Present value of remainder interest:

($100,000 × .17292) $17,292.00

(6) *Actuarial tables.* In the case of transfers for which the valuation date is after April 30, 1999, the present value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is determined by use of the following Table S:

TABLE S.—BASED ON LIFE TABLE 90CM SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1999

[Interest rate]

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06752	.06130	.05586	.05109	.04691	.04322	.03998	.03711	.03458	.03233
1	.06137	.05495	.04932	.04438	.04003	.03620	.03283	.02985	.02721	.02487
2	.06325	.05667	.05088	.04580	.04132	.03737	.03388	.03079	.02806	.02563
3	.06545	.05869	.05275	.04752	.04291	.03883	.03523	.03203	.02920	.02668
4	.06784	.06092	.05482	.04944	.04469	.04048	.03676	.03346	.03052	.02791
5	.07040	.06331	.05705	.05152	.04662	.04229	.03845	.03503	.03199	.02928
6	.07310	.06583	.05941	.05372	.04869	.04422	.04025	.03672	.03357	.03076
7	.07594	.06849	.06191	.05607	.05089	.04628	.04219	.03854	.03528	.03236
8	.07891	.07129	.06453	.05853	.05321	.04846	.04424	.04046	.03709	.03407
9	.08203	.07423	.06731	.06115	.05567	.05079	.04643	.04253	.03904	.03592
10	.08532	.07734	.07024	.06392	.05829	.05326	.04877	.04474	.04114	.03790
11	.08875	.08059	.07331	.06683	.06104	.05587	.05124	.04709	.04336	.04002
12	.09233	.08398	.07653	.06989	.06394	.05862	.05385	.04957	.04572	.04226
13	.09601	.08748	.07985	.07304	.06693	.06146	.05655	.05214	.04816	.04458
14	.09974	.09102	.08322	.07624	.06997	.06435	.05929	.05474	.05064	.04694
15	.10350	.09460	.08661	.07946	.07303	.06725	.06204	.05735	.05312	.04930
16	.10728	.09818	.09001	.08268	.07608	.07014	.06479	.05996	.05559	.05164
17	.11108	.10179	.09344	.08592	.07916	.07306	.06755	.06257	.05807	.05399
18	.11494	.10545	.09691	.08921	.08227	.07601	.07034	.06521	.06057	.05636
19	.11889	.10921	.10047	.09259	.08548	.07904	.07322	.06794	.06315	.05880
20	.12298	.11310	.10417	.09610	.08881	.08220	.07622	.07078	.06584	.06135
21	.12722	.11713	.10801	.09976	.09228	.08550	.07935	.07375	.06866	.06403
22	.13159	.12130	.11199	.10354	.09588	.08893	.08260	.07685	.07160	.06682
23	.13613	.12563	.11612	.10748	.09964	.09250	.08601	.08009	.07468	.06975
24	.14084	.13014	.12043	.11160	.10357	.09625	.08958	.08349	.07793	.07284
25	.14574	.13484	.12493	.11591	.10768	.10018	.09334	.08708	.08135	.07611
26	.15084	.13974	.12963	.12041	.11199	.10431	.09728	.09085	.08496	.07956
27	.15615	.14485	.13454	.12513	.11652	.10865	.10144	.09484	.08878	.08322
28	.16166	.15016	.13965	.13004	.12124	.11319	.10580	.09901	.09279	.08706
29	.16737	.15567	.14497	.13516	.12617	.11792	.11035	.10339	.09699	.09109
30	.17328	.16138	.15048	.14047	.13129	.12286	.11510	.10796	.10138	.09532
31	.17938	.16728	.15618	.14599	.13661	.12799	.12004	.11272	.10597	.09974
32	.18568	.17339	.16210	.15171	.14214	.13333	.12520	.11769	.11076	.10435
33	.19220	.17972	.16824	.15766	.14790	.13889	.13058	.12289	.11578	.10920
34	.19894	.18627	.17460	.16383	.15388	.14468	.13618	.12831	.12102	.11426
35	.20592	.19307	.18121	.17025	.16011	.15073	.14204	.13399	.12652	.11958
36	.21312	.20010	.18805	.17691	.16658	.15701	.14814	.13990	.13225	.12514
37	.22057	.20737	.19514	.18382	.17331	.16356	.15450	.14608	.13825	.13096
38	.22827	.21490	.20251	.19100	.18031	.17038	.16113	.15253	.14452	.13705
39	.23623	.22270	.21013	.19845	.18759	.17747	.16805	.15927	.15108	.14344
40	.24446	.23078	.21805	.20620	.19516	.18487	.17527	.16631	.15795	.15013

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
41	.25298	.23915	.22626	.21425	.20305	.19259	.18282	.17368	.16514	.15715
42	.26178	.24782	.23478	.22262	.21125	.20062	.19069	.18138	.17267	.16450
43	.27087	.25678	.24360	.23129	.21977	.20898	.19888	.18941	.18053	.17220
44	.28025	.26603	.25273	.24027	.22860	.21766	.20740	.19777	.18873	.18023
45	.28987	.27555	.26212	.24953	.23772	.22664	.21622	.20644	.19724	.18858
46	.29976	.28533	.27179	.25908	.24714	.23591	.22536	.21542	.20606	.19725
47	.30987	.29535	.28171	.26889	.25682	.24546	.23476	.22468	.21518	.20621
48	.32023	.30563	.29190	.27897	.26678	.25530	.24447	.23425	.22460	.21549
49	.33082	.31615	.30234	.28931	.27702	.26543	.25447	.24412	.23434	.22509
50	.34166	.32694	.31306	.29995	.28756	.27586	.26479	.25432	.24441	.23502
51	.35274	.33798	.32404	.31085	.29838	.28658	.27541	.26482	.25479	.24528
52	.36402	.34924	.33525	.32200	.30946	.29757	.28630	.27561	.26547	.25584
53	.37550	.36070	.34668	.33339	.32078	.30882	.29746	.28667	.27643	.26669
54	.38717	.37237	.35833	.34500	.33234	.32031	.30888	.29801	.28766	.27782
55	.39903	.38424	.37019	.35683	.34413	.33205	.32056	.30961	.29918	.28925
56	.41108	.39631	.38227	.36890	.35617	.34405	.33250	.32149	.31099	.30097
57	.42330	.40857	.39455	.38118	.36844	.35629	.34469	.33363	.32306	.31297
58	.43566	.42098	.40699	.39364	.38089	.36873	.35710	.34600	.33538	.32522
59	.44811	.43351	.41956	.40623	.39350	.38133	.36968	.35855	.34789	.33768
60	.46066	.44613	.43224	.41896	.40624	.39408	.38243	.37127	.36058	.35033
61	.47330	.45887	.44505	.43182	.41914	.40699	.39535	.38418	.37347	.36318
62	.48608	.47175	.45802	.44485	.43223	.42011	.40848	.39732	.38660	.37629
63	.49898	.48478	.47115	.45807	.44550	.43343	.42184	.41069	.39997	.38966
64	.51200	.49793	.48442	.47143	.45895	.44694	.43539	.42427	.41357	.40326
65	.52512	.51121	.49782	.48495	.47255	.46062	.44912	.43805	.42738	.41709
66	.53835	.52461	.51137	.49862	.48634	.47449	.46307	.45206	.44143	.43118
67	.55174	.53818	.52511	.51250	.50034	.48860	.47727	.46633	.45576	.44556
68	.56524	.55188	.53899	.52654	.51452	.50291	.49168	.48083	.47034	.46020
69	.57882	.56568	.55299	.54071	.52885	.51737	.50627	.49552	.48513	.47506
70	.59242	.57951	.56703	.55495	.54325	.53193	.52096	.51034	.50004	.49007
71	.60598	.59332	.58106	.56918	.55767	.54651	.53569	.52520	.51503	.50516
72	.61948	.60707	.59504	.58338	.57206	.56108	.55043	.54009	.53004	.52029
73	.63287	.62073	.60895	.59751	.58640	.57561	.56513	.55495	.54505	.53543
74	.64621	.63435	.62282	.61162	.60073	.59015	.57985	.56984	.56009	.55061
75	.65953	.64796	.63671	.62575	.61510	.60473	.59463	.58480	.57523	.56591
76	.67287	.66160	.65063	.63995	.62954	.61940	.60952	.59989	.59050	.58135
77	.68622	.67526	.66459	.65419	.64404	.63415	.62450	.61509	.60590	.59694
78	.69954	.68892	.67856	.66845	.65858	.64895	.63955	.63036	.62140	.61264
79	.71278	.70250	.69246	.68265	.67308	.66372	.65457	.64563	.63690	.62836
80	.72581	.71588	.70618	.69668	.68740	.67833	.66945	.66077	.65227	.64396
81	.73857	.72899	.71962	.71045	.70147	.69268	.68408	.67566	.66741	.65933
82	.75101	.74178	.73274	.72389	.71522	.70672	.69840	.69024	.68225	.67441
83	.76311	.75423	.74553	.73700	.72864	.72044	.71240	.70451	.69678	.68919
84	.77497	.76645	.75809	.74988	.74183	.73393	.72618	.71857	.71110	.70377
85	.78665	.77848	.77047	.76260	.75487	.74728	.73982	.73250	.72530	.71823
86	.79805	.79025	.78258	.77504	.76764	.76036	.75320	.74617	.73925	.73245
87	.80904	.80159	.79427	.78706	.77998	.77301	.76615	.75940	.75277	.74624
88	.81962	.81251	.80552	.79865	.79188	.78521	.77865	.77220	.76584	.75958
89	.82978	.82302	.81636	.80980	.80335	.79699	.79072	.78455	.77847	.77248
90	.83952	.83309	.82676	.82052	.81437	.80831	.80234	.79645	.79064	.78492
91	.84870	.84260	.83658	.83064	.82479	.81902	.81332	.80771	.80217	.79671
92	.85716	.85136	.84563	.83998	.83441	.82891	.82348	.81812	.81283	.80761
93	.86494	.85942	.85396	.84858	.84326	.83801	.83283	.82771	.82266	.81767
94	.87216	.86690	.86170	.85657	.85149	.84648	.84153	.83664	.83181	.82704
95	.87898	.87397	.86902	.86412	.85928	.85450	.84977	.84510	.84049	.83592
96	.88537	.88060	.87587	.87121	.86659	.86203	.85751	.85305	.84864	.84427
97	.89127	.88672	.88221	.87775	.87335	.86898	.86467	.86040	.85618	.85200
98	.89680	.89245	.88815	.88389	.87968	.87551	.87138	.86730	.86326	.85926
99	.90217	.89803	.89393	.88987	.88585	.88187	.87793	.87402	.87016	.86633
100	.90738	.90344	.89953	.89567	.89183	.88804	.88428	.88056	.87687	.87322
101	.91250	.90876	.90504	.90137	.89772	.89412	.89054	.88699	.88348	.88000
102	.91751	.91396	.91045	.90696	.90350	.90007	.89668	.89331	.88997	.88666
103	.92247	.91912	.91579	.91249	.90922	.90598	.90276	.89957	.89640	.89326
104	.92775	.92460	.92148	.91839	.91532	.91227	.90924	.90624	.90326	.90031
105	.93290	.92996	.92704	.92415	.92127	.91841	.91558	.91276	.90997	.90719
106	.93948	.93680	.93415	.93151	.92889	.92628	.92370	.92113	.91857	.91604
107	.94739	.94504	.94271	.94039	.93808	.93579	.93351	.93124	.92899	.92675
108	.95950	.95767	.95585	.95404	.95224	.95045	.94867	.94689	.94512	.94336
109	.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.03034	.02857	.02700	.02559	.02433	.02321	.02220	.02129	.02047	.01973
1	.02279	.02094	.01929	.01782	.01650	.01533	.01427	.01331	.01246	.01168

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
2	.02347	.02155	.01983	.01829	.01692	.01569	.01458	.01358	.01268	.01187
3	.02444	.02243	.02065	.01905	.01761	.01632	.01516	.01412	.01317	.01232
4	.02558	.02349	.02163	.01996	.01846	.01712	.01590	.01481	.01382	.01292
5	.02686	.02469	.02275	.02101	.01945	.01804	.01677	.01562	.01458	.01364
6	.02825	.02600	.02398	.02217	.02053	.01906	.01773	.01653	.01544	.01445
7	.02976	.02742	.02532	.02343	.02172	.02019	.01880	.01754	.01640	.01536
8	.03137	.02894	.02675	.02479	.02301	.02140	.01995	.01864	.01744	.01635
9	.03311	.03059	.02832	.02627	.02442	.02274	.02122	.01985	.01859	.01745
10	.03499	.03237	.03001	.02788	.02595	.02420	.02262	.02118	.01987	.01867
11	.03700	.03428	.03183	.02961	.02760	.02578	.02413	.02262	.02125	.02000
12	.03913	.03632	.03377	.03146	.02937	.02748	.02575	.02418	.02275	.02144
13	.04135	.03843	.03579	.03339	.03122	.02924	.02744	.02580	.02431	.02294
14	.04359	.04057	.03783	.03534	.03308	.03102	.02915	.02744	.02587	.02444
15	.04584	.04270	.03986	.03728	.03493	.03279	.03083	.02905	.02742	.02593
16	.04806	.04482	.04187	.03919	.03674	.03452	.03248	.03063	.02892	.02736
17	.05029	.04692	.04387	.04108	.03855	.03623	.03411	.03218	.03040	.02877
18	.05253	.04905	.04588	.04299	.04036	.03795	.03574	.03373	.03187	.03017
19	.05484	.05124	.04796	.04496	.04222	.03972	.03742	.03532	.03339	.03161
20	.05726	.05354	.05013	.04702	.04418	.04158	.03919	.03700	.03498	.03313
21	.05980	.05595	.05242	.04920	.04625	.04354	.04105	.03877	.03667	.03473
22	.06246	.05847	.05482	.05147	.04841	.04559	.04301	.04063	.03844	.03642
23	.06524	.06112	.05734	.05387	.05069	.04777	.04508	.04260	.04032	.03821
24	.06819	.06392	.06001	.05642	.05312	.05008	.04728	.04470	.04232	.04012
25	.07131	.06690	.06285	.05913	.05570	.05255	.04964	.04695	.04447	.04218
26	.07460	.07005	.06586	.06200	.05845	.05518	.05215	.04936	.04677	.04438
27	.07810	.07340	.06907	.06508	.06140	.05800	.05485	.05195	.04925	.04676
28	.08179	.07693	.07246	.06833	.06451	.06098	.05772	.05469	.05189	.04929
29	.08566	.08065	.07603	.07176	.06780	.06414	.06075	.05761	.05469	.05198
30	.08973	.08456	.07978	.07536	.07127	.06748	.06396	.06069	.05766	.05483
31	.09398	.08865	.08372	.07915	.07491	.07098	.06733	.06394	.06078	.05785
32	.09843	.09294	.08785	.08313	.07875	.07468	.07089	.06737	.06409	.06103
33	.10310	.09745	.09220	.08732	.08279	.07858	.07466	.07100	.06759	.06441
34	.10799	.10217	.09676	.09173	.08705	.08269	.07862	.07483	.07129	.06798
35	.11314	.10715	.10157	.09638	.09155	.08704	.08283	.07890	.07522	.07179
36	.11852	.11236	.10662	.10127	.09628	.09162	.08726	.08319	.07938	.07581
37	.12416	.11783	.11193	.10641	.10126	.09645	.09194	.08772	.08377	.08006
38	.13009	.12359	.11751	.11183	.10652	.10155	.09689	.09253	.08843	.08459
39	.13629	.12962	.12338	.11753	.11206	.10693	.10212	.09761	.09337	.08938
40	.14281	.13597	.12955	.12355	.11791	.11262	.10766	.10299	.09860	.09447
41	.14966	.14264	.13606	.12989	.12409	.11864	.11352	.10870	.10417	.09989
42	.15685	.14966	.14291	.13657	.13061	.12500	.11972	.11475	.11006	.10564
43	.16437	.15702	.15010	.14360	.13747	.13171	.12627	.12115	.11631	.11174
44	.17224	.16472	.15764	.15098	.14469	.13876	.13317	.12789	.12290	.11819
45	.18042	.17274	.16550	.15867	.15223	.14615	.14040	.13496	.12982	.12496
46	.18893	.18110	.17370	.16671	.16011	.15387	.14796	.14238	.13708	.13207
47	.19775	.18975	.18220	.17505	.16830	.16190	.15584	.15010	.14466	.13950
48	.20688	.19873	.19102	.18373	.17682	.17027	.16406	.15817	.15258	.14727
49	.21633	.20804	.20018	.19274	.18568	.17898	.17262	.16658	.16084	.15539
50	.22612	.21769	.20969	.20210	.19490	.18805	.18155	.17536	.16948	.16388
51	.23625	.22769	.21955	.21182	.20448	.19749	.19084	.18452	.17849	.17275
52	.24669	.23799	.22973	.22186	.21438	.20726	.20047	.19400	.18784	.18196
53	.25742	.24861	.24022	.23222	.22461	.21735	.21043	.20383	.19753	.19151
54	.26845	.25952	.25101	.24290	.23516	.22777	.22072	.21399	.20756	.20140
55	.27978	.27074	.26212	.25389	.24604	.23853	.23136	.22450	.21793	.21166
56	.29140	.28227	.27355	.26522	.25725	.24963	.24233	.23535	.22867	.22227
57	.30333	.29411	.28529	.27686	.26879	.26106	.25365	.24656	.23976	.23324
58	.31551	.30621	.29731	.28878	.28061	.27278	.26528	.25807	.25116	.24453
59	.32790	.31854	.30956	.30095	.29269	.28477	.27716	.26986	.26284	.25610
60	.34050	.33107	.32202	.31334	.30500	.29699	.28929	.28190	.27478	.26794
61	.35331	.34384	.33473	.32598	.31757	.30948	.30170	.29422	.28701	.28007
62	.36639	.35688	.34772	.33892	.33044	.32229	.31443	.30687	.29958	.29255
63	.37974	.37020	.36101	.35216	.34363	.33542	.32750	.31986	.31250	.30539
64	.39334	.38378	.37456	.36568	.35711	.34884	.34087	.33317	.32574	.31857
65	.40718	.39761	.38838	.37947	.37087	.36257	.35455	.34681	.33932	.33208
66	.42128	.41172	.40249	.39357	.38496	.37663	.36858	.36079	.35326	.34597
67	.43569	.42616	.41694	.40803	.39941	.39107	.38299	.37518	.36761	.36028
68	.45038	.44089	.43170	.42281	.41419	.40585	.39777	.38994	.38235	.37499
69	.46531	.45587	.44672	.43786	.42927	.42094	.41286	.40503	.39743	.39006
70	.48040	.47103	.46194	.45312	.44456	.43626	.42820	.42038	.41278	.40540
71	.49558	.48629	.47727	.46851	.46000	.45174	.44371	.43591	.42832	.42095
72	.51082	.50162	.49268	.48399	.47554	.46733	.45934	.45157	.44401	.43666
73	.52607	.51697	.50813	.49952	.49114	.48299	.47506	.46733	.45981	.45249
74	.54139	.53241	.52367	.51515	.50686	.49879	.49092	.48325	.47578	.46849
75	.55683	.54798	.53936	.53095	.52276	.51477	.50698	.49938	.49197	.48474

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
76	.57243	.56373	.55524	.54696	.53888	.53100	.52330	.51579	.50846	.50130
77	.58819	.57965	.57132	.56318	.55523	.54747	.53988	.53247	.52523	.51815
78	.60408	.59572	.58755	.57957	.57177	.56414	.55668	.54939	.54225	.53527
79	.62001	.61184	.60385	.59604	.58840	.58092	.57360	.56644	.55943	.55256
80	.63582	.62786	.62007	.61244	.60497	.59765	.59048	.58347	.57659	.56985
81	.65142	.64367	.63608	.62864	.62135	.61421	.60721	.60034	.59361	.58701
82	.66673	.65920	.65182	.64458	.63748	.63052	.62368	.61698	.61041	.60395
83	.68175	.67444	.66728	.66024	.65334	.64656	.63991	.63338	.62696	.62066
84	.69657	.68950	.68256	.67574	.66904	.66246	.65599	.64964	.64340	.63727
85	.71128	.70446	.69775	.69116	.68467	.67830	.67204	.66587	.65982	.65386
86	.72576	.71919	.71272	.70636	.70010	.69394	.68789	.68193	.67606	.67029
87	.73981	.73349	.72726	.72114	.71511	.70917	.70333	.69757	.69190	.68632
88	.75342	.74735	.74137	.73548	.72968	.72396	.71833	.71279	.70732	.70194
89	.76658	.76076	.75503	.74938	.74381	.73832	.73290	.72757	.72231	.71712
90	.77928	.77371	.76823	.76281	.75748	.75221	.74702	.74190	.73684	.73186
91	.79131	.78600	.78075	.77557	.77046	.76542	.76044	.75553	.75068	.74589
92	.80246	.79737	.79235	.78740	.78250	.77767	.77290	.76818	.76353	.75893
93	.81274	.80788	.80307	.79832	.79363	.78899	.78441	.77989	.77542	.77100
94	.82232	.81766	.81306	.80850	.80401	.79956	.79517	.79082	.78653	.78228
95	.83141	.82695	.82254	.81818	.81387	.80961	.80539	.80122	.79710	.79302
96	.83996	.83569	.83147	.82729	.82316	.81907	.81503	.81103	.80707	.80315
97	.84787	.84378	.83973	.83573	.83176	.82784	.82396	.82012	.81632	.81255
98	.85530	.85138	.84750	.84366	.83985	.83609	.83236	.82867	.82502	.82140
99	.86255	.85880	.85508	.85140	.84776	.84415	.84057	.83703	.83353	.83005
100	.86960	.86601	.86246	.85894	.85546	.85200	.84858	.84519	.84183	.83849
101	.87655	.87313	.86974	.86638	.86305	.85975	.85648	.85324	.85003	.84684
102	.88338	.88012	.87689	.87369	.87052	.86738	.86426	.86116	.85809	.85505
103	.89015	.88706	.88399	.88095	.87793	.87494	.87197	.86903	.86611	.86321
104	.89737	.89446	.89157	.88871	.88586	.88304	.88024	.87745	.87469	.87195
105	.90443	.90170	.89898	.89628	.89360	.89094	.88830	.88568	.88307	.88049
106	.91351	.91101	.90852	.90605	.90359	.90115	.89873	.89632	.89392	.89154
107	.92452	.92230	.92010	.91791	.91573	.91356	.91141	.90927	.90714	.90502
108	.94161	.93987	.93814	.93641	.93469	.93298	.93128	.92958	.92790	.92622
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01906	.01845	.01790	.01740	.01694	.01652	.01613	.01578	.01546	.01516
1	.01098	.01034	.00977	.00924	.00876	.00833	.00793	.00756	.00722	.00691
2	.01113	.01046	.00986	.00930	.00880	.00834	.00791	.00753	.00717	.00684
3	.01155	.01084	.01020	.00962	.00909	.00860	.00816	.00775	.00737	.00702
4	.01211	.01137	.01069	.01008	.00952	.00900	.00853	.00810	.00770	.00733
5	.01279	.01201	.01130	.01065	.01006	.00952	.00902	.00856	.00814	.00775
6	.01356	.01274	.01199	.01131	.01068	.01011	.00959	.00910	.00865	.00824
7	.01442	.01356	.01277	.01205	.01140	.01079	.01023	.00972	.00925	.00881
8	.01536	.01446	.01363	.01287	.01218	.01154	.01096	.01041	.00991	.00945
9	.01641	.01546	.01460	.01380	.01307	.01240	.01178	.01120	.01068	.01019
10	.01758	.01659	.01567	.01484	.01407	.01336	.01270	.01210	.01154	.01103
11	.01886	.01781	.01686	.01598	.01517	.01442	.01373	.01310	.01251	.01196
12	.02024	.01915	.01814	.01721	.01636	.01558	.01485	.01419	.01357	.01299
13	.02168	.02054	.01948	.01851	.01762	.01679	.01603	.01533	.01467	.01407
14	.02313	.02193	.02083	.01981	.01887	.01801	.01721	.01646	.01578	.01514
15	.02456	.02330	.02214	.02107	.02009	.01918	.01834	.01756	.01684	.01617
16	.02593	.02462	.02340	.02229	.02126	.02030	.01942	.01860	.01785	.01714
17	.02728	.02590	.02463	.02346	.02238	.02138	.02046	.01960	.01880	.01806
18	.02861	.02717	.02584	.02462	.02348	.02243	.02146	.02056	.01972	.01894
19	.02998	.02847	.02708	.02580	.02461	.02351	.02249	.02154	.02066	.01984
20	.03142	.02984	.02839	.02704	.02580	.02465	.02357	.02258	.02165	.02079
21	.03295	.03130	.02978	.02837	.02706	.02585	.02473	.02368	.02271	.02180
22	.03455	.03283	.03124	.02976	.02839	.02712	.02594	.02484	.02382	.02286
23	.03626	.03446	.03279	.03124	.02981	.02847	.02723	.02608	.02500	.02400
24	.03809	.03620	.03446	.03283	.03133	.02993	.02863	.02741	.02628	.02522
25	.04005	.03808	.03625	.03456	.03298	.03151	.03014	.02887	.02768	.02656
26	.04216	.04010	.03819	.03641	.03476	.03322	.03178	.03044	.02919	.02802
27	.04444	.04229	.04029	.03843	.03670	.03508	.03357	.03217	.03085	.02962
28	.04687	.04463	.04254	.04059	.03877	.03708	.03550	.03402	.03263	.03133
29	.04946	.04712	.04493	.04289	.04099	.03922	.03756	.03600	.03455	.03318
30	.05221	.04976	.04748	.04534	.04335	.04149	.03975	.03812	.03659	.03515
31	.05511	.05255	.05017	.04794	.04585	.04390	.04208	.04037	.03876	.03725
32	.05818	.05551	.05302	.05069	.04851	.04647	.04455	.04276	.04107	.03948
33	.06144	.05866	.05606	.05363	.05135	.04921	.04720	.04532	.04355	.04188
34	.06489	.06200	.05928	.05674	.05436	.05212	.05002	.04805	.04619	.04444
35	.06857	.06555	.06273	.06007	.05758	.05524	.05304	.05097	.04902	.04718
36	.07246	.06932	.06638	.06361	.06101	.05856	.05626	.05409	.05205	.05012

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
37	.07659	.07332	.07025	.06737	.06466	.06210	.05969	.05742	.05528	.05325
38	.08098	.07758	.07439	.07138	.06855	.06588	.06336	.06099	.05874	.05662
39	.08563	.08210	.07878	.07565	.07270	.06992	.06729	.06480	.06245	.06023
40	.09059	.08692	.08347	.08021	.07714	.07423	.07149	.06889	.06643	.06411
41	.09586	.09206	.08848	.08509	.08189	.07886	.07600	.07329	.07072	.06828
42	.10147	.09753	.09381	.09029	.08696	.08381	.08083	.07800	.07531	.07277
43	.10742	.10334	.09948	.09583	.09237	.08909	.08598	.08304	.08024	.07758
44	.11373	.10950	.10551	.10172	.09813	.09472	.09148	.08841	.08549	.08272
45	.12035	.11599	.11185	.10792	.10420	.10066	.09730	.09410	.09106	.08817
46	.12732	.12281	.11853	.11447	.11061	.10694	.10345	.10013	.09696	.09395
47	.13460	.12995	.12553	.12133	.11733	.11353	.10991	.10646	.10317	.10004
48	.14223	.13743	.13287	.12853	.12439	.12046	.11671	.11313	.10972	.10646
49	.15020	.14526	.14056	.13608	.13181	.12774	.12385	.12015	.11661	.11322
50	.15855	.15347	.14862	.14401	.13960	.13540	.13138	.12754	.12388	.12037
51	.16727	.16205	.15707	.15232	.14777	.14344	.13929	.13532	.13153	.12789
52	.17634	.17098	.16587	.16097	.15630	.15183	.14755	.14345	.13953	.13577
53	.18576	.18027	.17501	.16999	.16518	.16057	.15616	.15194	.14789	.14400
54	.19552	.18990	.18451	.17935	.17441	.16968	.16514	.16078	.15661	.15260
55	.20564	.19989	.19437	.18908	.18402	.17915	.17449	.17001	.16571	.16157
56	.21613	.21025	.20461	.19919	.19400	.18901	.18422	.17962	.17519	.17093
57	.22698	.22098	.21522	.20968	.20436	.19925	.19434	.18961	.18507	.18069
58	.23816	.23204	.22616	.22051	.21507	.20984	.20481	.19996	.19530	.19080
59	.24962	.24339	.23740	.23163	.22608	.22073	.21558	.21062	.20584	.20123
60	.26136	.25502	.24892	.24304	.23738	.23192	.22666	.22158	.21669	.21196
61	.27339	.26695	.26075	.25477	.24900	.24343	.23806	.23288	.22787	.22304
62	.28578	.27925	.27295	.26687	.26100	.25533	.24985	.24456	.23945	.23451
63	.29854	.29192	.28553	.27935	.27339	.26762	.26205	.25666	.25145	.24641
64	.31164	.30494	.29846	.29221	.28615	.28030	.27463	.26915	.26384	.25870
65	.32508	.31831	.31177	.30543	.29930	.29336	.28761	.28203	.27663	.27140
66	.33891	.33208	.32547	.31906	.31285	.30684	.30101	.29536	.28987	.28456
67	.35318	.34630	.33963	.33316	.32689	.32081	.31491	.30918	.30363	.29823
68	.36785	.36093	.35422	.34770	.34138	.33524	.32928	.32349	.31787	.31240
69	.38290	.37595	.36920	.36265	.35628	.35009	.34408	.33824	.33256	.32703
70	.39823	.39127	.38450	.37791	.37151	.36529	.35924	.35335	.34762	.34204
71	.41378	.40681	.40003	.39343	.38701	.38076	.37467	.36875	.36298	.35736
72	.42950	.42253	.41575	.40914	.40271	.39644	.39034	.38438	.37858	.37293
73	.44535	.43840	.43162	.42502	.41858	.41231	.40619	.40022	.39440	.38872
74	.46139	.45446	.44771	.44112	.43469	.42842	.42230	.41632	.41049	.40479
75	.47769	.47080	.46408	.45752	.45111	.44485	.43874	.43277	.42693	.42123
76	.49430	.48747	.48079	.47427	.46790	.46167	.45558	.44963	.44380	.43811
77	.51123	.50447	.49786	.49139	.48506	.47888	.47282	.46690	.46111	.45543
78	.52845	.52177	.51523	.50884	.50257	.49645	.49044	.48457	.47881	.47317
79	.54584	.53926	.53282	.52650	.52032	.51426	.50833	.50251	.49681	.49122
80	.56325	.55678	.55044	.54423	.53813	.53216	.52630	.52056	.51492	.50939
81	.58054	.57419	.56797	.56186	.55587	.54999	.54422	.53856	.53300	.52754
82	.59762	.59140	.58530	.57931	.57343	.56766	.56198	.55641	.55094	.54557
83	.61448	.60840	.60243	.59657	.59081	.58515	.57958	.57411	.56874	.56346
84	.63124	.62531	.61949	.61376	.60813	.60259	.59715	.59179	.58652	.58134
85	.64800	.64224	.63657	.63099	.62550	.62010	.61478	.60955	.60441	.59934
86	.66461	.65902	.65351	.64810	.64276	.63751	.63233	.62724	.62222	.61728
87	.68083	.67541	.67008	.66483	.65965	.65455	.64953	.64458	.63970	.63489
88	.69663	.69140	.68624	.68116	.67615	.67121	.66634	.66154	.65680	.65213
89	.71201	.70696	.70199	.69708	.69224	.68747	.68276	.67811	.67353	.66900
90	.72694	.72209	.71730	.71257	.70791	.70330	.69876	.69427	.68984	.68547
91	.74117	.73650	.73190	.72735	.72286	.71842	.71404	.70972	.70545	.70123
92	.75439	.74991	.74548	.74110	.73678	.73251	.72829	.72412	.72000	.71593
93	.76664	.76233	.75806	.75385	.74969	.74557	.74150	.73748	.73350	.72957
94	.77809	.77394	.76983	.76578	.76177	.75780	.75388	.75000	.74616	.74237
95	.78899	.78500	.78106	.77715	.77329	.76947	.76569	.76195	.75826	.75460
96	.79928	.79544	.79165	.78790	.78418	.78050	.77686	.77326	.76970	.76617
97	.80883	.80514	.80149	.79787	.79430	.79075	.78725	.78377	.78033	.77693
98	.81781	.81427	.81075	.80727	.80382	.80041	.79703	.79368	.79036	.78708
99	.82661	.82320	.81982	.81648	.81316	.80988	.80662	.80340	.80020	.79704
100	.83519	.83192	.82868	.82547	.82228	.81913	.81600	.81290	.80982	.80678
101	.84368	.84055	.83744	.83437	.83131	.82829	.82529	.82231	.81936	.81643
102	.85203	.84904	.84607	.84313	.84021	.83731	.83444	.83159	.82876	.82596
103	.86034	.85748	.85465	.85184	.84906	.84629	.84355	.84082	.83812	.83544
104	.86923	.86653	.86385	.86119	.85855	.85593	.85333	.85074	.84818	.84563
105	.87792	.87537	.87283	.87032	.86782	.86534	.86287	.86042	.85799	.85557
106	.88918	.88683	.88450	.88218	.87987	.87758	.87530	.87304	.87079	.86855
107	.90291	.90082	.89873	.89666	.89460	.89255	.89051	.88849	.88647	.88447
108	.92455	.92288	.92123	.91958	.91794	.91630	.91468	.91306	.91145	.90984
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01488	.01463	.01439	.01417	.01396	.01377	.01359	.01343	.01327	.01312
1	.00662	.00636	.00612	.00589	.00568	.00548	.00530	.00513	.00497	.00482
2	.00654	.00626	.00600	.00576	.00554	.00533	.00514	.00496	.00479	.00463
3	.00670	.00641	.00613	.00588	.00564	.00542	.00522	.00502	.00484	.00468
4	.00699	.00668	.00639	.00612	.00587	.00563	.00542	.00521	.00502	.00484
5	.00739	.00706	.00675	.00646	.00620	.00595	.00571	.00550	.00529	.00510
6	.00786	.00751	.00718	.00687	.00659	.00633	.00608	.00585	.00563	.00543
7	.00841	.00803	.00769	.00736	.00706	.00678	.00652	.00627	.00604	.00582
8	.00902	.00863	.00826	.00791	.00759	.00730	.00702	.00675	.00651	.00628
9	.00973	.00931	.00892	.00856	.00822	.00790	.00760	.00733	.00706	.00682
10	.01055	.01010	.00969	.00930	.00894	.00861	.00829	.00799	.00772	.00746
11	.01146	.01099	.01055	.01014	.00976	.00940	.00907	.00875	.00846	.00818
12	.01246	.01196	.01150	.01106	.01066	.01028	.00993	.00960	.00928	.00899
13	.01351	.01298	.01249	.01204	.01161	.01121	.01084	.01049	.01016	.00985
14	.01455	.01400	.01348	.01300	.01255	.01213	.01173	.01136	.01102	.01069
15	.01555	.01497	.01443	.01392	.01345	.01300	.01259	.01220	.01183	.01148
16	.01648	.01587	.01530	.01477	.01427	.01380	.01336	.01295	.01257	.01220
17	.01737	.01673	.01612	.01556	.01504	.01455	.01408	.01365	.01324	.01286
18	.01822	.01754	.01691	.01632	.01576	.01525	.01476	.01430	.01387	.01347
19	.01908	.01837	.01770	.01708	.01650	.01595	.01544	.01495	.01450	.01407
20	.01999	.01924	.01854	.01788	.01726	.01669	.01615	.01564	.01516	.01471
21	.02096	.02017	.01943	.01874	.01809	.01748	.01691	.01637	.01586	.01539
22	.02197	.02114	.02036	.01963	.01895	.01830	.01770	.01713	.01660	.01610
23	.02306	.02218	.02136	.02059	.01987	.01919	.01855	.01795	.01739	.01686
24	.02424	.02331	.02245	.02163	.02087	.02016	.01948	.01885	.01825	.01769
25	.02552	.02455	.02364	.02278	.02197	.02122	.02051	.01984	.01920	.01861
26	.02692	.02589	.02493	.02403	.02318	.02238	.02162	.02091	.02025	.01961
27	.02846	.02738	.02636	.02541	.02451	.02367	.02287	.02212	.02141	.02074
28	.03012	.02898	.02791	.02690	.02595	.02506	.02422	.02342	.02267	.02196
29	.03190	.03070	.02957	.02851	.02751	.02656	.02567	.02483	.02404	.02329
30	.03381	.03254	.03135	.03023	.02917	.02817	.02723	.02634	.02551	.02471
31	.03583	.03450	.03324	.03206	.03094	.02989	.02890	.02796	.02707	.02623
32	.03799	.03659	.03527	.03402	.03284	.03173	.03068	.02968	.02874	.02785
33	.04031	.03883	.03744	.03612	.03488	.03371	.03260	.03155	.03055	.02961
34	.04279	.04123	.03976	.03838	.03707	.03583	.03465	.03354	.03249	.03149
35	.04545	.04382	.04227	.04081	.03943	.03812	.03688	.03571	.03459	.03354
36	.04830	.04658	.04495	.04341	.04196	.04058	.03927	.03803	.03685	.03573
37	.05134	.04953	.04782	.04620	.04467	.04321	.04183	.04052	.03928	.03809
38	.05462	.05272	.05092	.04921	.04760	.04606	.04461	.04322	.04191	.04066
39	.05812	.05613	.05424	.05245	.05075	.04913	.04760	.04614	.04475	.04343
40	.06190	.05981	.05782	.05594	.05415	.05245	.05083	.04929	.04783	.04643
41	.06597	.06378	.06170	.05972	.05784	.05605	.05435	.05272	.05118	.04970
42	.07035	.06806	.06587	.06380	.06182	.05994	.05815	.05644	.05481	.05326
43	.07505	.07265	.07036	.06818	.06611	.06414	.06225	.06045	.05874	.05710
44	.08008	.07757	.07518	.07290	.07072	.06865	.06667	.06478	.06298	.06125
45	.08542	.08279	.08029	.07791	.07563	.07346	.07138	.06940	.06750	.06569
46	.09108	.08834	.08573	.08324	.08085	.07858	.07640	.07432	.07233	.07043
47	.09705	.09419	.09147	.08886	.08637	.08399	.08172	.07954	.07745	.07545
48	.10335	.10038	.09754	.09482	.09222	.08973	.08735	.08507	.08288	.08078
49	.10999	.10690	.10394	.10111	.09840	.09581	.09332	.09093	.08864	.08644
50	.11701	.11380	.11073	.10778	.10496	.10225	.09965	.09716	.09477	.09247
51	.12441	.12108	.11789	.11482	.11189	.10907	.10636	.10376	.10126	.09886
52	.13217	.12871	.12540	.12222	.11916	.11623	.11341	.11071	.10810	.10560
53	.14028	.13670	.13327	.12997	.12680	.12375	.12082	.11801	.11529	.11268
54	.14875	.14505	.14150	.13808	.13480	.13163	.12859	.12566	.12284	.12012
55	.15760	.15378	.15011	.14657	.14317	.13989	.13674	.13370	.13077	.12794
56	.16684	.16290	.15911	.15546	.15194	.14855	.14528	.14213	.13909	.13615
57	.17648	.17242	.16851	.16474	.16111	.15760	.15422	.15096	.14781	.14477
58	.18647	.18229	.17827	.17438	.17064	.16702	.16353	.16015	.15689	.15374
59	.19678	.19249	.18835	.18435	.18049	.17676	.17316	.16968	.16631	.16305
60	.20740	.20300	.19875	.19464	.19066	.18682	.18311	.17952	.17604	.17268
61	.21837	.21385	.20949	.20527	.20119	.19724	.19341	.18971	.18613	.18266
62	.22973	.22511	.22064	.21631	.21212	.20807	.20414	.20033	.19664	.19306
63	.24152	.23680	.23222	.22779	.22350	.21934	.21530	.21139	.20760	.20392
64	.25372	.24890	.24422	.23969	.23529	.23103	.22690	.22289	.21899	.21521
65	.26633	.26141	.25664	.25201	.24752	.24316	.23893	.23482	.23083	.22695
66	.27940	.27439	.26953	.26481	.26023	.25577	.25145	.24724	.24316	.23918
67	.29299	.28790	.28296	.27815	.27348	.26894	.26453	.26024	.25606	.25200
68	.30709	.30193	.29691	.29202	.28728	.28265	.27816	.27378	.26952	.26537
69	.32166	.31643	.31134	.30639	.30157	.29687	.29230	.28785	.28351	.27928
70	.33661	.33133	.32618	.32116	.31628	.31152	.30688	.30235	.29794	.29364
71	.35188	.34654	.34134	.33627	.33133	.32651	.32181	.31722	.31275	.30838
72	.36742	.36204	.35679	.35168	.34668	.34181	.33706	.33241	.32788	.32345
73	.38317	.37776	.37248	.36733	.36229	.35738	.35257	.34788	.34330	.33882

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
74	.39923	.39380	.38849	.38330	.37823	.37328	.36844	.36370	.35908	.35455
75	.41566	.41021	.40489	.39968	.39459	.38961	.38474	.37997	.37531	.37074
76	.43254	.42709	.42176	.41655	.41144	.40645	.40156	.39677	.39208	.38749
77	.44988	.44444	.43912	.43391	.42880	.42380	.41891	.41411	.40940	.40479
78	.46765	.46224	.45694	.45174	.44665	.44166	.43677	.43197	.42726	.42265
79	.48574	.48037	.47510	.46993	.46487	.45990	.45502	.45024	.44554	.44094
80	.50397	.49865	.49343	.48830	.48327	.47834	.47349	.46873	.46406	.45947
81	.52219	.51693	.51176	.50669	.50171	.49682	.49201	.48729	.48265	.47809
82	.54029	.53510	.53000	.52499	.52007	.51523	.51047	.50580	.50120	.49667
83	.55826	.55315	.54813	.54319	.53834	.53356	.52886	.52424	.51969	.51522
84	.57624	.57123	.56629	.56144	.55666	.55195	.54732	.54277	.53828	.53386
85	.59435	.58944	.58460	.57984	.57516	.57054	.56599	.56151	.55710	.55275
86	.61241	.60762	.60289	.59824	.59365	.58913	.58468	.58029	.57596	.57170
87	.63015	.62548	.62087	.61633	.61185	.60744	.60309	.59880	.59456	.59039
88	.64753	.64299	.63851	.63409	.62973	.62543	.62118	.61700	.61287	.60879
89	.66454	.66013	.65579	.65150	.64726	.64308	.63895	.63488	.63086	.62689
90	.68115	.67689	.67268	.66853	.66442	.66037	.65637	.65241	.64851	.64465
91	.69706	.69294	.68887	.68486	.68089	.67696	.67309	.66925	.66547	.66173
92	.71190	.70792	.70399	.70011	.69627	.69247	.68872	.68501	.68134	.67771
93	.72569	.72184	.71804	.71429	.71057	.70689	.70326	.69967	.69611	.69259
94	.73861	.73490	.73123	.72759	.72400	.72044	.71692	.71344	.71000	.70659
95	.75097	.74739	.74384	.74033	.73686	.73342	.73002	.72665	.72331	.72001
96	.76267	.75922	.75579	.75240	.74905	.74572	.74243	.73917	.73595	.73275
97	.77356	.77022	.76691	.76363	.76039	.75718	.75399	.75084	.74772	.74463
98	.78382	.78059	.77740	.77423	.77110	.76799	.76491	.76186	.75884	.75584
99	.79390	.79079	.78771	.78465	.78162	.77862	.77565	.77270	.76978	.76688
100	.80376	.80076	.79779	.79485	.79193	.78904	.78617	.78333	.78051	.77771
101	.81353	.81066	.80780	.80497	.80217	.79938	.79662	.79388	.79117	.78847
102	.82318	.82042	.81768	.81496	.81227	.80960	.80694	.80431	.80170	.79911
103	.83278	.83014	.82752	.82491	.82233	.81977	.81723	.81470	.81220	.80971
104	.84310	.84059	.83810	.83563	.83317	.83073	.82831	.82591	.82352	.82115
105	.85318	.85079	.84843	.84607	.84374	.84142	.83911	.83682	.83455	.83229
106	.86633	.86413	.86193	.85975	.85758	.85543	.85329	.85116	.84904	.84694
107	.88247	.88049	.87852	.87656	.87460	.87266	.87073	.86881	.86690	.86500
108	.90825	.90666	.90507	.90350	.90193	.90037	.89881	.89727	.89572	.89419
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.01298	.01285	.01273	.01261	.01250	.01240	.01230	.01221	.01212	.01203
1	.00468	.00455	.00443	.00431	.00420	.00410	.00400	.00391	.00382	.00374
2	.00448	.00435	.00421	.00409	.00398	.00387	.00376	.00366	.00357	.00348
3	.00452	.00437	.00423	.00410	.00398	.00386	.00375	.00365	.00355	.00345
4	.00468	.00452	.00437	.00423	.00410	.00397	.00386	.00375	.00364	.00354
5	.00493	.00476	.00460	.00445	.00431	.00418	.00405	.00393	.00382	.00371
6	.00524	.00506	.00489	.00473	.00458	.00444	.00430	.00418	.00406	.00394
7	.00562	.00543	.00525	.00508	.00492	.00477	.00462	.00449	.00436	.00423
8	.00606	.00586	.00566	.00548	.00531	.00515	.00499	.00485	.00471	.00458
9	.00659	.00637	.00616	.00597	.00579	.00561	.00545	.00529	.00514	.00500
10	.00721	.00698	.00676	.00655	.00636	.00617	.00600	.00583	.00567	.00552
11	.00792	.00767	.00744	.00722	.00701	.00682	.00663	.00645	.00628	.00612
12	.00871	.00845	.00821	.00797	.00775	.00754	.00735	.00716	.00698	.00681
13	.00955	.00928	.00902	.00877	.00854	.00831	.00810	.00790	.00771	.00753
14	.01038	.01009	.00981	.00955	.00930	.00907	.00885	.00864	.00843	.00824
15	.01116	.01085	.01056	.01028	.01002	.00977	.00954	.00932	.00910	.00890
16	.01186	.01153	.01123	.01094	.01066	.01040	.01015	.00992	.00969	.00948
17	.01250	.01215	.01183	.01152	.01124	.01096	.01070	.01045	.01022	.00999
18	.01308	.01272	.01238	.01206	.01175	.01147	.01119	.01093	.01068	.01044
19	.01367	.01329	.01293	.01259	.01227	.01196	.01167	.01140	.01113	.01088
20	.01428	.01388	.01350	.01314	.01280	.01248	.01217	.01188	.01161	.01134
21	.01494	.01451	.01411	.01373	.01337	.01303	.01271	.01240	.01211	.01183
22	.01562	.01517	.01475	.01435	.01397	.01361	.01326	.01294	.01263	.01233
23	.01635	.01588	.01543	.01501	.01460	.01422	.01386	.01351	.01319	.01287
24	.01716	.01665	.01618	.01573	.01530	.01489	.01451	.01415	.01380	.01347
25	.01804	.01751	.01701	.01653	.01608	.01565	.01524	.01485	.01448	.01413
26	.01902	.01845	.01792	.01741	.01693	.01648	.01604	.01563	.01524	.01487
27	.02011	.01951	.01895	.01841	.01790	.01742	.01696	.01652	.01610	.01571
28	.02129	.02066	.02006	.01949	.01895	.01844	.01795	.01748	.01704	.01662
29	.02258	.02191	.02127	.02067	.02009	.01955	.01903	.01853	.01806	.01762
30	.02396	.02325	.02257	.02193	.02132	.02074	.02019	.01966	.01916	.01869
31	.02543	.02467	.02396	.02328	.02263	.02201	.02143	.02087	.02034	.01983
32	.02701	.02621	.02545	.02472	.02404	.02338	.02276	.02217	.02160	.02106
33	.02871	.02786	.02706	.02629	.02556	.02487	.02420	.02357	.02297	.02240
34	.03054	.02964	.02879	.02797	.02720	.02646	.02576	.02509	.02445	.02383

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
35	.03253	.03158	.03067	.02981	.02898	.02820	.02745	.02674	.02606	.02541
36	.03467	.03366	.03269	.03178	.03090	.03007	.02928	.02852	.02779	.02710
37	.03697	.03590	.03488	.03391	.03298	.03209	.03125	.03044	.02967	.02893
38	.03947	.03833	.03725	.03622	.03524	.03430	.03340	.03254	.03172	.03094
39	.04217	.04096	.03982	.03873	.03768	.03669	.03573	.03482	.03395	.03312
40	.04510	.04383	.04262	.04146	.04035	.03930	.03828	.03732	.03639	.03550
41	.04830	.04695	.04567	.04445	.04327	.04215	.04108	.04005	.03907	.03812
42	.05177	.05035	.04900	.04770	.04646	.04527	.04413	.04304	.04200	.04100
43	.05553	.05404	.05261	.05123	.04992	.04866	.04746	.04630	.04520	.04413
44	.05960	.05802	.05651	.05506	.05368	.05235	.05107	.04985	.04867	.04754
45	.06395	.06229	.06069	.05917	.05770	.05630	.05495	.05365	.05241	.05121
46	.06860	.06685	.06517	.06356	.06202	.06053	.05911	.05774	.05643	.05516
47	.07353	.07169	.06992	.06823	.06660	.06504	.06353	.06209	.06070	.05936
48	.07877	.07684	.07498	.07320	.07149	.06984	.06826	.06673	.06527	.06385
49	.08433	.08231	.08036	.07849	.07669	.07495	.07329	.07168	.07013	.06864
50	.09026	.08814	.08609	.08413	.08224	.08042	.07867	.07698	.07535	.07378
51	.09655	.09433	.09219	.09013	.08815	.08624	.08440	.08262	.08091	.07926
52	.10318	.10086	.09863	.09647	.09439	.09239	.09046	.08860	.08680	.08506
53	.11017	.10774	.10541	.10315	.10098	.09888	.09686	.09491	.09302	.09120
54	.11750	.11498	.11254	.11019	.10792	.10572	.10361	.10156	.09958	.09767
55	.12522	.12258	.12005	.11759	.11522	.11294	.11072	.10859	.10652	.10451
56	.13332	.13059	.12794	.12539	.12292	.12054	.11823	.11599	.11383	.11174
57	.14183	.13899	.13624	.13359	.13102	.12853	.12613	.12380	.12154	.11936
58	.15070	.14775	.14490	.14215	.13948	.13689	.13439	.13197	.12962	.12734
59	.15990	.15685	.15389	.15103	.14826	.14558	.14298	.14046	.13801	.13564
60	.16942	.16626	.16321	.16024	.15737	.15459	.15189	.14927	.14673	.14426
61	.17929	.17603	.17287	.16981	.16684	.16395	.16115	.15844	.15580	.15324
62	.18960	.18623	.18297	.17980	.17673	.17375	.17085	.16803	.16530	.16264
63	.20035	.19688	.19352	.19025	.18708	.18400	.18100	.17809	.17525	.17250
64	.21154	.20797	.20451	.20114	.19787	.19469	.19159	.18859	.18566	.18281
65	.22318	.21951	.21595	.21249	.20912	.20584	.20265	.19955	.19652	.19358
66	.23532	.23156	.22790	.22434	.22088	.21751	.21422	.21102	.20791	.20487
67	.24804	.24419	.24044	.23679	.23324	.22977	.22640	.22311	.21990	.21678
68	.26133	.25740	.25356	.24983	.24618	.24263	.23917	.23579	.23250	.22929
69	.27516	.27114	.26723	.26341	.25969	.25605	.25251	.24905	.24567	.24237
70	.28945	.28536	.28137	.27747	.27367	.26996	.26633	.26279	.25934	.25596
71	.30412	.29996	.29590	.29193	.28806	.28427	.28057	.27696	.27343	.26998
72	.31913	.31491	.31078	.30675	.30281	.29895	.29519	.29150	.28790	.28438
73	.33444	.33016	.32597	.32188	.31788	.31396	.31013	.30638	.30271	.29913
74	.35012	.34579	.34155	.33741	.33335	.32938	.32549	.32168	.31795	.31430
75	.36628	.36190	.35762	.35343	.34932	.34530	.34136	.33750	.33372	.33001
76	.38299	.37858	.37427	.37004	.36589	.36183	.35784	.35394	.35011	.34636
77	.40028	.39585	.39151	.38725	.38307	.37898	.37496	.37103	.36716	.36337
78	.41812	.41368	.40933	.40506	.40086	.39675	.39271	.38874	.38485	.38103
79	.43641	.43198	.42762	.42334	.41914	.41502	.41096	.40698	.40308	.39924
80	.45496	.45054	.44619	.44192	.43772	.43360	.42954	.42556	.42164	.41779
81	.47360	.46920	.46487	.46061	.45643	.45231	.44827	.44429	.44038	.43653
82	.49223	.48785	.48355	.47932	.47516	.47106	.46703	.46307	.45916	.45532
83	.51081	.50648	.50221	.49802	.49388	.48982	.48581	.48187	.47799	.47416
84	.52951	.52523	.52101	.51686	.51277	.50874	.50477	.50086	.49701	.49321
85	.54847	.54425	.54009	.53600	.53196	.52798	.52406	.52019	.51638	.51262
86	.56749	.56335	.55926	.55523	.55126	.54734	.54348	.53966	.53591	.53220
87	.58627	.58221	.57820	.57425	.57035	.56650	.56270	.55895	.55526	.55161
88	.60477	.60079	.59688	.59301	.58919	.58542	.58170	.57802	.57439	.57081
89	.62297	.61909	.61527	.61149	.60776	.60408	.60044	.59685	.59330	.58979
90	.64084	.63707	.63335	.62968	.62604	.62246	.61891	.61540	.61194	.60851
91	.65803	.65437	.65076	.64719	.64366	.64017	.63672	.63330	.62993	.62659
92	.67412	.67058	.66707	.66360	.66017	.65678	.65342	.65010	.64682	.64357
93	.68911	.68567	.68227	.67890	.67557	.67227	.66901	.66578	.66258	.65942
94	.70321	.69988	.69657	.69330	.69006	.68686	.68369	.68055	.67744	.67437
95	.71674	.71351	.71031	.70713	.70399	.70088	.69781	.69476	.69174	.68875
96	.72959	.72646	.72335	.72028	.71724	.71422	.71123	.70828	.70534	.70244
97	.74156	.73853	.73552	.73254	.72959	.72666	.72376	.72089	.71804	.71522
98	.75287	.74993	.74702	.74413	.74126	.73842	.73561	.73282	.73006	.72732
99	.76401	.76117	.75834	.75555	.75277	.75002	.74730	.74459	.74191	.73926
100	.77494	.77219	.76946	.76676	.76408	.76142	.75878	.75616	.75357	.75099
101	.78580	.78315	.78052	.77791	.77532	.77275	.77021	.76768	.76517	.76268
102	.79654	.79399	.79146	.78894	.78645	.78397	.78152	.77908	.77666	.77426
103	.80724	.80479	.80236	.79994	.79755	.79517	.79280	.79046	.78813	.78582
104	.81879	.81646	.81413	.81183	.80954	.80726	.80501	.80276	.80054	.79832
105	.83005	.82782	.82560	.82340	.82121	.81904	.81688	.81474	.81260	.81049
106	.84485	.84277	.84071	.83866	.83662	.83459	.83257	.83057	.82857	.82659
107	.86311	.86124	.85937	.85751	.85566	.85382	.85199	.85017	.84835	.84655
108	.89266	.89114	.88963	.88812	.88662	.88513	.88364	.88216	.88068	.87922

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

(f) *Effective dates.* This section applies after April 30, 1999.

§ 1.642(c)–6T [Removed]

Par. 6. Section 1.642(c)-6T is removed.

Par. 7. Section 1.664–4 is amended by:

1. Revising paragraph (a)(1).
2. Removing existing paragraphs (d) through (e)(5).
3. Adding paragraphs (d), (e) heading and (e)(1) through (e)(5).
4. Adding paragraph (e)(7).
5. Revising paragraph (f).

The revisions and additions read as follows:

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) * * *

(1) Life contingencies determined as to each life involved, from the values of *lx* set forth in Table 90CM contained in § 20.2031–7(d)(7) of this chapter in the case of transfers for which the valuation date is after April 30, 1999; or from Table 80CNSMT contained § 20.2031–7A(e)(4) of this chapter in the case of transfer for which the valuation date is after April 30, 1989, and before May 1, 1999. See § 20.2031–7A(a) through (d) of this chapter, whichever is applicable, for transfers for which the valuation date is before May 1, 1989;

* * * * *

(d) *Valuation.* The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is after April 30, 1999, is its present value determined under paragraph (e) of this section. The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is before May 1, 1999, is its present value determined under the following sections:

Valuation dates		Applicable Regulations
After	Before	
	01–01–52	1.664–4A(a)
12–31–51	01–01–71	1.664–4A(b)
12–31–70	12–01–83	1.664–4A(c)
11–30–83	05–01–89	1.664–4A(d)
04–30–89	05–01–99	1.664–4A(e)

(e) *Valuation of charitable remainder unitrusts having certain payout sequences for transfers for which the valuation date is after April 30, 1999*—(1) *In general.* Except as otherwise provided in paragraph (e)(2) of this section, in the case of transfers for which the valuation date is after April 30, 1999, the present value of a remainder interest is determined under paragraphs (e)(3) through (e)(7) of this section, provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664-3(a)(1)(v) if the taxable year of the trust were to end on such date. See, however, § 1.7520–3(b) (relating to exceptions to the use of the prescribed tables under certain circumstances).

(2) *Transitional rules for valuation of charitable remainder unitrusts.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after April 30, 1999, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency after April 30, 1999, the present value of a remainder interest under this section is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 1999, or after April 30, 1999, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a charitable remainder unitrust for which the valuation date is after April 30, 1999, and before July 1, 1999, the present value of a remainder interest based on one or more measuring lives is determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(7) of this section or § 1.664–4A(e)(6), at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (e)(2)(i) and (ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(7) of this section or § 1.664–4A(e)(6), the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Adjusted payout rate.* For transfers for which the valuation date is after April 30, 1989, the adjusted payout rate is determined by using the appropriate Table F in paragraph (e)(6) of this section, for the section 7520 interest rate applicable to the transfer. If the interest rate is between 4.2 and 14 percent, see paragraph (e)(6) of this section. If the interest rate is below 4.2 percent or greater than 14 percent, see paragraph (b) of this section. The adjusted payout rate is determined by multiplying the fixed percentage described in § 1.664–3(a)(1)(i)(*a*) by the factor describing the payout sequence of the trust and the number of months by which the valuation date for the first full taxable year of the trust precedes the first payout date for such taxable year. If the governing instrument does not prescribe when the distribution or distributions shall be made during the taxable year of the trust, see paragraph (a) of this section. In the case of a trust having a payout sequence for which no figures have been provided by the appropriate table, and in the case of a trust that determines the fair market value of the trust assets by taking the average of valuations on more than one date during the taxable year, see paragraph (b) of this section.

(4) *Period is a term of years.* If the period described in § 1.664–3(a)(5) is a term of years, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after November 30, 1983, is the factor under the appropriate adjusted payout rate in Table D of paragraph (e)(6) of this section corresponding to the number of years in the term. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in Table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph. For purposes of this section, the valuation date is, in the case of an inter vivos transfer, the date on which

the property is transferred to the trust by the donor. However, if an election is made under section 7520 and § 1.7520–2(b) to compute the present value of the charitable interest by use of the interest rate component for either of the 2 months preceding the month in which the date of transfer falls, the month so elected is the valuation date for purposes of determining the interest rate and mortality tables. In the case of a testamentary transfer under section 2055, 2106, or 2624, the valuation date is the date of death, unless the alternate valuation date is elected under section 2032, in which event, and within the limitations set forth in section 2032 and the regulations thereunder, the valuation date is the alternate valuation date. If the decedent's estate elects the alternate valuation date under section 2032 and also elects, under section 7520 and § 1.7520–2(b), to use the interest rate component for one of the 2 months preceding the alternate valuation date, the month so elected is the valuation date for purposes of determining the interest rate and mortality tables. The application of this paragraph (e)(4) may be illustrated by the following example:

Example. D transfers $100,000 to a charitable remainder unitrust on January 1. The trust instrument requires that the trust pay 8 percent of the fair market value of the trust assets as of January 1st for a term of 12 years to D in quarterly payments (March 31, June 30, September 30, and December 31). The section 7520 rate for January (the month that the transfer occurred) is 9.6 percent. Under Table F(9.6) in paragraph(e)(6) of this section, the appropriate adjustment factor is .944628 for quarterly payments payable at the end of each quarter. The adjusted payout rate is 7.557 (8%× .944628). Based on the remainder factors in Table D in paragraph(e)(6) of this section, the present value of the remainder interest is $38,950.30, computed as follows:

Factor at 7.4 percent for 12 years	.397495
Factor at 7.6 percent for 12 years	.387314
Difference	.010181

Interpolation adjustment:

$$\frac{7.557\% - 7.4\%}{0.2\%} = \frac{x}{.010181}$$

$$x = .007992$$

Factor at 7.4 percent for 12 years	.397495
Less: Interpolation adjustment	.007992
Interpolated factor	.389503

Present value of remainder interest:

($100,000× .389503).....$38,950.30

(5) *Period is the life of one individual.* If the period described in § 1.664–3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after April 30, 1999, is the factor in Table U(1) in paragraph (e)(7) of this section under the appropriate adjusted payout. For purposes of the computations described in this paragraph, the age of an individual is the age of that individual at the individual's nearest birthday. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in the appropriate table, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the valuation date as determined in paragraph (e)(4) of this section) of the property placed in trust by the factor determined under this paragraph (e)(5). If the adjusted payout rate is between 4.2 and 14 percent, see paragraph (e)(7) of this section. If the adjusted payout rate is below 4.2 percent or greater than 14 percent, see paragraph (b) of this section. The application of this paragraph (e)(5) may be illustrated by the following example:

Example. A, who is 44 years and 11 months old, transfers $100,000 to a charitable remainder unitrust on January 1st. The trust instrument requires that the trust pay to A semiannually (on June 30 and December 31) 9 percent of the fair market value of the trust assets as of January 1st during A's life. The section 7520 rate for January is 9.6 percent. Under Table F(9.6) in paragraph (e)(6) of this section, the appropriate adjustment factor is .933805 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 8.404 (9% X .933805). Based on the remainder factors in Table U(1) in paragraph (e)(7) of this section, the present value of the remainder interest is $10,109.00, computed as follows:

Factor at 8.4 percent at age 45	.10117
Factor at 8.6 percent at age 45	.09715
Difference	.00402

Interpolation adjustment:

$$\frac{8.404\% - 8.4\%}{0.2\%} = \frac{x}{.00402}$$

$$x = .00008$$

Factor at 8.4 percent at age 45	.10117
Less: Interpolation adjustment	.00008
Interpolated Factor	.10109

Present value of remainder interest:

($100,000× .10109).....$10,109.00

* * * * *

(7) *Actuarial Table U(1) for transfers for which the valuation date is after April 30, 1999.* For transfers for which the valuation date is after April 30, 1999, the present value of a charitable remainder unitrust interest that is dependent on the termination of a life interest is determined by using the section 7520 rate, Table U(1) in this paragraph (e)(7), and Table F(4.2) through (14.0) in paragraph (e)(6) of this section. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Many actuarial factors not contained in the following tables are contained in Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (7–1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

TABLE U(1).—BASED ON LIFE TABLE 90CM UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE FOR TRANSFERS AFTER APRIL 30, 1999

[Adjusted payout rate]

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	.8%	6.0%
0	.06177	.05580	.05061	.04609	.04215	.03871	.03570	.03307	.03075	.02872
1	.05543	.04925	.04388	.03919	.03509	.03151	.02838	.02563	.02321	.02109
2	.05716	.05081	.04528	.04045	.03622	.03252	.02927	.02642	.02391	.02170
3	.05920	.05268	.04699	.04201	.03765	.03382	.03046	.02750	.02490	.02260
4	.06143	.05475	.04889	.04376	.03926	.03530	.03182	.02876	.02605	.02366
5	.06384	.05697	.05095	.04567	.04103	.03694	.03334	.03016	.02735	.02487
6	.06637	.05933	.05315	.04771	.04292	.03870	.03497	.03168	.02876	.02618
7	.06905	.06183	.05547	.04987	.04494	.04058	.03673	.03332	.03029	.02761
8	.07186	.06445	.05792	.05216	.04708	.04258	.03859	.03506	.03192	.02914
9	.07482	.06722	.06052	.05460	.04936	.04471	.04060	.03694	.03369	.03079

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	.8%	6.0%
10	.07793	.07015	.06327	.05718	.05179	.04700	.04274	.03896	.03559	.03259
11	.08120	.07323	.06617	.05991	.05435	.04942	.04502	.04111	.03762	.03450
12	.08461	.07645	.06920	.06277	.05706	.05197	.04744	.04339	.03978	.03655
13	.08812	.07976	.07234	.06574	.05985	.05461	.04993	.04576	.04202	.03867
14	.09168	.08313	.07552	.06874	.06269	.05729	.05247	.04815	.04428	.04081
15	.09527	.08652	.07872	.07176	.06554	.05999	.05501	.05055	.04655	.04296
16	.09886	.08991	.08192	.07478	.06839	.06267	.05754	.05294	.04880	.04508
17	.10249	.09334	.08515	.07782	.07126	.06537	.06008	.05533	.05105	.04720
18	.10616	.09680	.08842	.08090	.07415	.06809	.06264	.05774	.05332	.04933
19	.10994	.10037	.09178	.08407	.07714	.07091	.06529	.06023	.05566	.05153
20	.11384	.10406	.09527	.08737	.08025	.07383	.06805	.06283	.05811	.05384
21	.11790	.10790	.09891	.09080	.08349	.07690	.07094	.06555	.06068	.05626
22	.12208	.11188	.10267	.09436	.08686	.08008	.07395	.06839	.06336	.05879
23	.12643	.11601	.10659	.09808	.09038	.08342	.07710	.07138	.06618	.06146
24	.13095	.12031	.11069	.10197	.09408	.08692	.08042	.07452	.06915	.06427
25	.13567	.12481	.11497	.10605	.09795	.09060	.08392	.07784	.07230	.06726
26	.14058	.12950	.11945	.11032	.10202	.09447	.08760	.08134	.07563	.07042
27	.14571	.13442	.12415	.11481	.10631	.09856	.09149	.08505	.07916	.07379
28	.15104	.13953	.12904	.11949	.11078	.10284	.09558	.08895	.08288	.07733
29	.15656	.14484	.13414	.12438	.11546	.10731	.09986	.09304	.08679	.08106
30	.16229	.15034	.13943	.12946	.12034	.11198	.10433	.09732	.09089	.08498
31	.16821	.15605	.14493	.13474	.12541	.11685	.10900	.10179	.09517	.08909
32	.17433	.16196	.15063	.14023	.13069	.12193	.11387	.10647	.09966	.09339
33	.18068	.16810	.15655	.14595	.13620	.12723	.11897	.11137	.10437	.09791
34	.18724	.17446	.16270	.15189	.14193	.13275	.12430	.11650	.10930	.10265
35	.19405	.18107	.16910	.15808	.14791	.13853	.12987	.12187	.11448	.10764
36	.20109	.18791	.17574	.16451	.15414	.14456	.13569	.12749	.11990	.11287
37	.20838	.19500	.18263	.17120	.16062	.15083	.14177	.13337	.12558	.11835
38	.21593	.20236	.18979	.17816	.16739	.15739	.14813	.13953	.13154	.12412
39	.22374	.20998	.19723	.18540	.17443	.16423	.15477	.14597	.13779	.13017
40	.23183	.21789	.20496	.19294	.18177	.17138	.16172	.15272	.14434	.13653
41	.24021	.22611	.21299	.20079	.18943	.17885	.16899	.15980	.15123	.14322
42	.24889	.23463	.22134	.20896	.19741	.18665	.17660	.16721	.15845	.15025
43	.25786	.24344	.23000	.21744	.20572	.19477	.18453	.17496	.16601	.15762
44	.26712	.25257	.23896	.22625	.21435	.20322	.19281	.18305	.17391	.16534
45	.27665	.26196	.24821	.23534	.22328	.21198	.20139	.19145	.18213	.17338
46	.28644	.27163	.25774	.24472	.23251	.22105	.21028	.20018	.19068	.18174
47	.29647	.28155	.26754	.25438	.24201	.23040	.21947	.20919	.19952	.19041
48	.30676	.29173	.27760	.26431	.25181	.24004	.22896	.21852	.20868	.19941
49	.31729	.30217	.28794	.27453	.26190	.24999	.23876	.22817	.21817	.20873
50	.32808	.31289	.29856	.28505	.27229	.26026	.24889	.23814	.22799	.21839
51	.33912	.32387	.30946	.29585	.28299	.27083	.25933	.24845	.23815	.22840
52	.35038	.33507	.32060	.30691	.29395	.28168	.27005	.25904	.24861	.23872
53	.36185	.34651	.33198	.31821	.30517	.29280	.28106	.26993	.25937	.24934
54	.37352	.35815	.34358	.32976	.31664	.30418	.29234	.28110	.27042	.26026
55	.38539	.37002	.35542	.34155	.32836	.31583	.30390	.29256	.28177	.27149
56	.39746	.38209	.36748	.35358	.34034	.32774	.31574	.30431	.29342	.28303
57	.40971	.39437	.37976	.36584	.35257	.33992	.32785	.31634	.30536	.29488
58	.42212	.40682	.39222	.37829	.36500	.35231	.34019	.32862	.31756	.30699
59	.43464	.41939	.40482	.39090	.37759	.36488	.35272	.34109	.32996	.31932
60	.44726	.43207	.41754	.40364	.39034	.37761	.36542	.35375	.34257	.33186
61	.45999	.44488	.43041	.41655	.40326	.39053	.37833	.36662	.35540	.34463
62	.47286	.45785	.44345	.42964	.41639	.40367	.39146	.37974	.36848	.35767
63	.48589	.47098	.45667	.44293	.42972	.41703	.40484	.39311	.38184	.37100
64	.49903	.48426	.47005	.45638	.44324	.43060	.41843	.40671	.39544	.38458
65	.51229	.49766	.48357	.47001	.45694	.44435	.43223	.42054	.40927	.39841
66	.52568	.51121	.49726	.48381	.47084	.45833	.44626	.43461	.42337	.41252
67	.53924	.52495	.51115	.49784	.48498	.47256	.46056	.44898	.43778	.42696
68	.55293	.53883	.52521	.51205	.49932	.48701	.47511	.46360	.45246	.44169
69	.56671	.55283	.53940	.52640	.51382	.50165	.48985	.47844	.46738	.45666
70	.58052	.56687	.55365	.54084	.52843	.51639	.50473	.49342	.48245	.47181
71	.59431	.58091	.56791	.55529	.54306	.53118	.51966	.50847	.49761	.48707
72	.60804	.59490	.58213	.56973	.55768	.54598	.53461	.52357	.51283	.50239
73	.62168	.60881	.59629	.58411	.57227	.56076	.54955	.53866	.52806	.51774
74	.63528	.62268	.61042	.59848	.58686	.57555	.56453	.55380	.54335	.53316
75	.64887	.63657	.62458	.61290	.60151	.59041	.57959	.56904	.55875	.54872
76	.66249	.65049	.63880	.62739	.61625	.60538	.59478	.58443	.57432	.56446
77	.67612	.66446	.65307	.64194	.63108	.62046	.61009	.59995	.59005	.58037
78	.68975	.67843	.66736	.65654	.64596	.63561	.62548	.61558	.60590	.59643
79	.70330	.69233	.68160	.67109	.66081	.65074	.64088	.63123	.62178	.61253
80	.71666	.70605	.69566	.68548	.67550	.66573	.65615	.64676	.63755	.62853
81	.72975	.71950	.70946	.69961	.68995	.68047	.67117	.66205	.65310	.64433
82	.74250	.73263	.72293	.71342	.70407	.69490	.68589	.67705	.66837	.65984
83	.75493	.74542	.73608	.72690	.71788	.70902	.70031	.69175	.68333	.67506

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	.8%	6.0%
84	.76712	.75798	.74900	.74016	.73147	.72292	.71451	.70624	.69810	.69010
85	.77913	.77037	.76175	.75326	.74491	.73668	.72859	.72061	.71276	.70503
86	.79086	.78248	.77423	.76610	.75808	.75019	.74241	.73474	.72719	.71974
87	.80218	.79418	.78628	.77850	.77083	.76326	.75580	.74844	.74118	.73402
88	.81307	.80544	.79790	.79047	.78313	.77589	.76874	.76169	.75473	.74786
89	.82355	.81628	.80909	.80200	.79500	.78808	.78125	.77450	.76783	.76125
90	.83360	.82668	.81985	.81309	.80642	.79982	.79330	.78685	.78048	.77418
91	.84308	.83650	.83000	.82357	.81721	.81092	.80470	.79855	.79246	.78645
92	.85182	.84556	.83937	.83325	.82718	.82119	.81525	.80937	.80356	.79780
93	.85985	.85390	.84800	.84215	.83637	.83064	.82497	.81936	.81379	.80829
94	.86732	.86164	.85601	.85044	.84491	.83944	.83402	.82865	.82333	.81806
95	.87437	.86895	.86359	.85827	.85300	.84778	.84260	.83746	.83237	.82733
96	.88097	.87582	.87070	.86563	.86060	.85561	.85066	.84575	.84088	.83605
97	.88708	.88216	.87727	.87243	.86762	.86285	.85811	.85341	.84875	.84413
98	.89280	.88810	.88343	.87880	.87420	.86964	.86511	.86061	.85614	.85171
99	.89836	.89388	.88943	.88501	.88062	.87626	.87193	.86763	.86336	.85911
100	.90375	.89948	.89525	.89103	.88685	.88269	.87856	.87445	.87037	.86632
101	.90905	.90500	.90097	.89696	.89298	.88902	.88509	.88118	.87729	.87342
102	.91424	.91040	.90658	.90278	.89900	.89524	.89150	.88778	.88408	.88040
103	.91939	.91575	.91214	.90854	.90496	.90139	.89785	.89432	.89081	.88732
104	.92485	.92144	.91805	.91467	.91131	.90796	.90463	.90131	.89800	.89471
105	.93020	.92701	.92383	.92067	.91751	.91437	.91125	.90813	.90502	.90193
106	.93701	.93411	.93122	.92834	.92546	.92260	.91974	.91689	.91405	.91122
107	.94522	.94268	.94013	.93760	.93507	.93254	.93002	.92750	.92499	.92249
108	.95782	.95583	.95385	.95187	.94989	.94791	.94593	.94396	.94199	.94002
109	.97900	.97800	.97700	.97600	.97500	.97400	.97300	.97200	.97100	.97000

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.02693	.02534	.02395	.02271	.02161	.02063	.01976	.01898	.01828	.01765
1	.01922	.01756	.01610	.01480	.01365	.01263	.01171	.01090	.01017	.00951
2	.01975	.01802	.01650	.01514	.01393	.01286	.01190	.01104	.01028	.00959
3	.02056	.01876	.01717	.01575	.01449	.01336	.01235	.01145	.01064	.00992
4	.02155	.01967	.01800	.01652	.01520	.01401	.01296	.01201	.01116	.01039
5	.02266	.02071	.01896	.01741	.01603	.01479	.01368	.01269	.01179	.01098
6	.02389	.02184	.02003	.01841	.01696	.01566	.01450	.01345	.01251	.01166
7	.02522	.02309	.02120	.01950	.01799	.01663	.01540	.01431	.01332	.01242
8	.02665	.02444	.02246	.02069	.01910	.01768	.01640	.01524	.01420	.01326
9	.02821	.02590	.02384	.02199	.02033	.01884	.01750	.01629	.01520	.01421
10	.02990	.02750	.02535	.02342	.02169	.02013	.01872	.01745	.01631	.01526
11	.03172	.02922	.02698	.02497	.02316	.02153	.02006	.01872	.01752	.01643
12	.03365	.03106	.02872	.02663	.02474	.02303	.02149	.02010	.01884	.01769
13	.03566	.03297	.03054	.02835	.02638	.02460	.02299	.02154	.02021	.01901
14	.03770	.03490	.03237	.03010	.02804	.02619	.02450	.02298	.02159	.02033
15	.03973	.03682	.03419	.03182	.02968	.02775	.02599	.02439	.02294	.02162
16	.04173	.03871	.03598	.03352	.03129	.02926	.02743	.02576	.02424	.02286
17	.04372	.04059	.03775	.03519	.03287	.03076	.02884	.02710	.02551	.02406
18	.04573	.04248	.03953	.03686	.03444	.03224	.03024	.02842	.02676	.02524
19	.04780	.04443	.04137	.03859	.03607	.03378	.03169	.02978	.02804	.02646
20	.04997	.04647	.04329	.04040	.03778	.03539	.03321	.03122	.02940	.02773
21	.05226	.04862	.04532	.04232	.03958	.03709	.03481	.03274	.03083	.02909
22	.05465	.05088	.04745	.04432	.04148	.03888	.03650	.03433	.03234	.03052
23	.05716	.05325	.04969	.04645	.04348	.04077	.03830	.03603	.03394	.03203
24	.05983	.05578	.05208	.04871	.04562	.04280	.04021	.03784	.03566	.03367
25	.06266	.05846	.05463	.05112	.04791	.04497	.04227	.03980	.03752	.03543
26	.06566	.06131	.05734	.05369	.05035	.04729	.04448	.04189	.03951	.03732
27	.06887	.06436	.06024	.05646	.05298	.04979	.04686	.04416	.04168	.03939
28	.07225	.06758	.06331	.05938	.05577	.05245	.04940	.04658	.04398	.04159
29	.07581	.07099	.06656	.06248	.05873	.05528	.05210	.04916	.04645	.04394
30	.07956	.07457	.06998	.06575	.06186	.05827	.05495	.05189	.04906	.04644
31	.08348	.07833	.07358	.06920	.06515	.06142	.05797	.05478	.05182	.04908
32	.08761	.08228	.07736	.07282	.06863	.06475	.06116	.05783	.05475	.05189
33	.09195	.08645	.08136	.07666	.07231	.06828	.06454	.06108	.05786	.05488
34	.09651	.09082	.08557	.08070	.07619	.07200	.06812	.06452	.06117	.05805
35	.10131	.09545	.09002	.08498	.08030	.07596	.07193	.06818	.06469	.06144
36	.10635	.10031	.09470	.08949	.08465	.08015	.07596	.07206	.06842	.06503
37	.11165	.10542	.09963	.09424	.08923	.08457	.08022	.07617	.07238	.06885
38	.11722	.11081	.10484	.09927	.09409	.08926	.08475	.08054	.07661	.07293
39	.12308	.11648	.11032	.10458	.09922	.09422	.08955	.08518	.08109	.07726
40	.12925	.12246	.11612	.11020	.10466	.09949	.09465	.09011	.08587	.08189
41	.13575	.12877	.12225	.11614	.11043	.10508	.10007	.09537	.09097	.08683
42	.14259	.13542	.12871	.12243	.11654	.11101	.10583	.10097	.09640	.09210
43	.14977	.14242	.13552	.12905	.12298	.11729	.11193	.10690	.10217	.09771
44	.15731	.14976	.14269	.13604	.12979	.12391	.11838	.11318	.10828	.10367

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
45	.16516	.15743	.15017	.14334	.13691	.13086	.12516	.11979	.11472	.10994
46	.17334	.16544	.15800	.15099	.14438	.13816	.13228	.12674	.12150	.11656
47	.18184	.17375	.16613	.15895	.15217	.14576	.13972	.13400	.12860	.12349
48	.19066	.18240	.17461	.16724	.16029	.15371	.14749	.14161	.13604	.13077
49	.19981	.19138	.18342	.17588	.16875	.16201	.15562	.14956	.14383	.13839
50	.20931	.20072	.19259	.18489	.17759	.17067	.16412	.15790	.15199	.14639
51	.21917	.21042	.20212	.19426	.18679	.17971	.17299	.16660	.16054	.15477
52	.22933	.22043	.21198	.20395	.19633	.18909	.18220	.17566	.16943	.16350
53	.23981	.23076	.22216	.21399	.20621	.19881	.19176	.18506	.17867	.17258
54	.25060	.24141	.23267	.22434	.21642	.20886	.20166	.19480	.18826	.18201
55	.26171	.25239	.24351	.23504	.22697	.21927	.21192	.20491	.19821	.19182
56	.27313	.26369	.25468	.24608	.23787	.23003	.22254	.21538	.20854	.20199
57	.28487	.27531	.26618	.25746	.24912	.24114	.23351	.22621	.21923	.21254
58	.29688	.28722	.27798	.26914	.26067	.25257	.24481	.23738	.23025	.22343
59	.30913	.29937	.29002	.28107	.27249	.26427	.25639	.24882	.24157	.23461
60	.32159	.31175	.30231	.29325	.28457	.27623	.26823	.26055	.25317	.24608
61	.33429	.32437	.31485	.30571	.29692	.28848	.28037	.27257	.26507	.25786
62	.34728	.33730	.32770	.31847	.30960	.30106	.29285	.28495	.27734	.27001
63	.36057	.35053	.34087	.33157	.32262	.31400	.30569	.29769	.28998	.28255
64	.37412	.36404	.35433	.34498	.33596	.32726	.31887	.31078	.30298	.29545
65	.38794	.37783	.36809	.35868	.34961	.34085	.33239	.32422	.31633	.30871
66	.40205	.39193	.38216	.37272	.36361	.35479	.34628	.33804	.33008	.32238
67	.41650	.40639	.39661	.38715	.37800	.36915	.36059	.35230	.34428	.33651
68	.43126	.42117	.41139	.40193	.39277	.38390	.37530	.36697	.35890	.35108
69	.44628	.43622	.42648	.41703	.40787	.39898	.39037	.38201	.37391	.36604
70	.46150	.45149	.44178	.43236	.42321	.41433	.40571	.39735	.38922	.38132
71	.47683	.46689	.45723	.44785	.43873	.42987	.42126	.41290	.40476	.39685
72	.49225	.48238	.47279	.46346	.45439	.44556	.43697	.42862	.42048	.41257
73	.50770	.49793	.48841	.47915	.47013	.46135	.45280	.44447	.43635	.42844
74	.52324	.51358	.50416	.49498	.48603	.47731	.46880	.46051	.45242	.44454
75	.53894	.52939	.52008	.51100	.50214	.49349	.48505	.47681	.46877	.46092
76	.55483	.54543	.53624	.52728	.51852	.50996	.50160	.49344	.48546	.47766
77	.57091	.56167	.55263	.54380	.53516	.52671	.51845	.51038	.50247	.49475
78	.58716	.57809	.56922	.56053	.55203	.54372	.53557	.52760	.51980	.51216
79	.60346	.59459	.58590	.57738	.56904	.56086	.55286	.54501	.53732	.52978
80	.61969	.61102	.60252	.59419	.58601	.57800	.57014	.56243	.55487	.54745
81	.63571	.62726	.61897	.61082	.60283	.59499	.58729	.57974	.57232	.56503
82	.65146	.64324	.63515	.62722	.61942	.61176	.60423	.59683	.58957	.58242
83	.66693	.65893	.65108	.64335	.63575	.62828	.62093	.61371	.60660	.59962
84	.68222	.67447	.66684	.65934	.65195	.64468	.63753	.63049	.62356	.61674
85	.69742	.68993	.68255	.67528	.66812	.66106	.65411	.64727	.64053	.63389
86	.71241	.70517	.69805	.69102	.68410	.67727	.67054	.66390	.65736	.65091
87	.72696	.72000	.71313	.70635	.69967	.69307	.68656	.68014	.67381	.66756
88	.74108	.73438	.72777	.72125	.71480	.70845	.70217	.69597	.68985	.68380
89	.75475	.74832	.74198	.73571	.72951	.72339	.71734	.71137	.70547	.69963
90	.76796	.76180	.75572	.74971	.74376	.73788	.73207	.72633	.72065	.71503
91	.78049	.77460	.76878	.76302	.75732	.75168	.74610	.74058	.73512	.72972
92	.79211	.78647	.78089	.77537	.76990	.76449	.75913	.75383	.74858	.74338
93	.80283	.79743	.79208	.78679	.78154	.77634	.77119	.76610	.76105	.75604
94	.81283	.80765	.80253	.79744	.79240	.78741	.78247	.77756	.77270	.76789
95	.82233	.81737	.81245	.80757	.80274	.79795	.79320	.78849	.78382	.77918
96	.83126	.82651	.82180	.81712	.81248	.80788	.80332	.79880	.79431	.78985
97	.83953	.83498	.83046	.82597	.82152	.81710	.81271	.80836	.80404	.79976
98	.84731	.84294	.83860	.83429	.83002	.82577	.82155	.81737	.81321	.80908
99	.85490	.85071	.84656	.84243	.83832	.83425	.83020	.82618	.82219	.81822
100	.86229	.85828	.85431	.85035	.84642	.84252	.83864	.83478	.83095	.82714
101	.86958	.86575	.86195	.85818	.85442	.85069	.84698	.84329	.83962	.83597
102	.87674	.87310	.86947	.86587	.86229	.85873	.85518	.85166	.84815	.84466
103	.88384	.88038	.87694	.87351	.87010	.86671	.86334	.85998	.85663	.85331
104	.89143	.88817	.88492	.88169	.87847	.87526	.87207	.86889	.86573	.86258
105	.89885	.89578	.89272	.88967	.88664	.88361	.88060	.87760	.87461	.87163
106	.90840	.90559	.90278	.89999	.89720	.89442	.89165	.88888	.88613	.88338
107	.91999	.91750	.91501	.91253	.91005	.90758	.90511	.90265	.90019	.89774
108	.93805	.93609	.93412	.93216	.93020	.92824	.92629	.92434	.92239	.92044
109	.96900	.96800	.96700	.96600	.96500	.96400	.96300	.96200	.96100	.96000

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01709	.01658	.01612	.01570	.01532	.01497	.01466	.01437	.01410	.01386
1	.00892	.00839	.00791	.00747	.00708	.00672	.00639	.00609	.00582	.00557
2	.00896	.00840	.00790	.00744	.00702	.00664	.00629	.00598	.00569	.00542
3	.00926	.00867	.00814	.00765	.00721	.00681	.00644	.00611	.00580	.00552
4	.00970	.00908	.00851	.00800	.00753	.00711	.00672	.00636	.00604	.00574
5	.01026	.00960	.00900	.00846	.00796	.00751	.00710	.00672	.00637	.00606

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
6	.01089	.01019	.00956	.00899	.00846	.00799	.00755	.00715	.00678	.00644
7	.01161	.01088	.01021	.00960	.00905	.00854	.00808	.00765	.00726	.00690
8	.01241	.01163	.01093	.01029	.00970	.00917	.00867	.00822	.00781	.00743
9	.01331	.01249	.01175	.01107	.01045	.00988	.00936	.00889	.00845	.00804
10	.01432	.01346	.01268	.01196	.01131	.01071	.01016	.00965	.00918	.00875
11	.01543	.01453	.01370	.01295	.01226	.01162	.01104	.01051	.01001	.00956
12	.01664	.01569	.01482	.01403	.01330	.01263	.01202	.01145	.01093	.01045
13	.01791	.01691	.01600	.01516	.01440	.01369	.01304	.01245	.01190	.01139
14	.01918	.01813	.01717	.01629	.01548	.01474	.01406	.01343	.01285	.01231
15	.02041	.01931	.01831	.01738	.01653	.01576	.01504	.01437	.01376	.01320
16	.02160	.02044	.01938	.01841	.01752	.01670	.01595	.01525	.01460	.01401
17	.02274	.02152	.02041	.01940	.01846	.01760	.01680	.01607	.01539	.01476
18	.02386	.02258	.02142	.02035	.01936	.01846	.01762	.01685	.01613	.01547
19	.02500	.02367	.02245	.02132	.02029	.01933	.01845	.01764	.01689	.01619
20	.02621	.02481	.02353	.02235	.02126	.02025	.01933	.01847	.01768	.01694
21	.02749	.02603	.02468	.02344	.02229	.02124	.02026	.01936	.01852	.01774
22	.02884	.02730	.02589	.02458	.02338	.02227	.02124	.02029	.01940	.01859
23	.03028	.02867	.02718	.02581	.02454	.02337	.02229	.02128	.02035	.01949
24	.03183	.03013	.02857	.02713	.02580	.02456	.02342	.02236	.02138	.02047
25	.03350	.03172	.03008	.02857	.02717	.02587	.02467	.02355	.02251	.02155
26	.03530	.03344	.03172	.03013	.02865	.02729	.02602	.02484	.02375	.02273
27	.03727	.03532	.03351	.03183	.03028	.02885	.02751	.02627	.02511	.02404
28	.03937	.03732	.03543	.03367	.03204	.03052	.02911	.02780	.02658	.02545
29	.04162	.03947	.03748	.03564	.03392	.03233	.03084	.02946	.02818	.02698
30	.04401	.04176	.03967	.03773	.03593	.03425	.03269	.03124	.02988	.02861
31	.04654	.04419	.04200	.03996	.03807	.03630	.03466	.03312	.03169	.03035
32	.04923	.04676	.04447	.04233	.04034	.03849	.03676	.03514	.03363	.03221
33	.05210	.04952	.04711	.04487	.04278	.04083	.03901	.03731	.03571	.03422
34	.05515	.05245	.04993	.04758	.04538	.04333	.04142	.03962	.03794	.03637
35	.05841	.05558	.05295	.05048	.04818	.04603	.04401	.04212	.04035	.03869
36	.06187	.05892	.05616	.05358	.05116	.04890	.04678	.04480	.04293	.04118
37	.06555	.06247	.05958	.05688	.05435	.05198	.04975	.04766	.04570	.04385
38	.06949	.06627	.06325	.06043	.05777	.05528	.05295	.05075	.04868	.04674
39	.07368	.07032	.06717	.06421	.06143	.05882	.05637	.05406	.05189	.04984
40	.07816	.07465	.07137	.06827	.06537	.06263	.06006	.05764	.05535	.05320
41	.08295	.07930	.07587	.07264	.06960	.06674	.06405	.06150	.05910	.05683
42	.08807	.08427	.08069	.07733	.07415	.07116	.06833	.06567	.06315	.06077
43	.09352	.08957	.08585	.08233	.07902	.07589	.07294	.07014	.06750	.06500
44	.09932	.09521	.09134	.08768	.08423	.08096	.07787	.07495	.07218	.06956
45	.10543	.10117	.09715	.09334	.08974	.08634	.08311	.08005	.07716	.07441
46	.11189	.10747	.10329	.09933	.09559	.09204	.08867	.08548	.08245	.07958
47	.11866	.11408	.10974	.10564	.10174	.09805	.09454	.09121	.08805	.08504
48	.12577	.12103	.11654	.11228	.10823	.10439	.10074	.09727	.09397	.09083
49	.13323	.12833	.12368	.11926	.11506	.11107	.10728	.10366	.10022	.09695
50	.14107	.13601	.13120	.12663	.12228	.11813	.11419	.11043	.10685	.10344
51	.14928	.14407	.13910	.13437	.12987	.12558	.12149	.11758	.11386	.11031
52	.15785	.15248	.14735	.14247	.13781	.13337	.12913	.12508	.12122	.11752
53	.16678	.16124	.15597	.15093	.14612	.14153	.13714	.13294	.12893	.12509
54	.17606	.17037	.16493	.15974	.15478	.15004	.14550	.14116	.13700	.13302
55	.18570	.17986	.17428	.16893	.16382	.15893	.15424	.14976	.14546	.14134
56	.19573	.18974	.18400	.17851	.17325	.16821	.16338	.15875	.15430	.15004
57	.20613	.20000	.19412	.18848	.18307	.17789	.17291	.16814	.16355	.15914
58	.21688	.21060	.20458	.19880	.19325	.18792	.18280	.17788	.17316	.16861
59	.22793	.22151	.21535	.20943	.20374	.19827	.19301	.18795	.18309	.17840
60	.23927	.23272	.22642	.22036	.21454	.20893	.20354	.19834	.19334	.18851
61	.25092	.24425	.23782	.23163	.22567	.21993	.21440	.20907	.20393	.19898
62	.26295	.25616	.24961	.24329	.23721	.23134	.22568	.22021	.21494	.20985
63	.27538	.26847	.26180	.25537	.24916	.24316	.23738	.23179	.22639	.22117
64	.28817	.28116	.27438	.26783	.26150	.25539	.24949	.24377	.23825	.23291
65	.30134	.29423	.28735	.28069	.27426	.26803	.26201	.25618	.25054	.24508
66	.31493	.30772	.30075	.29399	.28746	.28113	.27500	.26906	.26331	.25774
67	.32899	.32170	.31464	.30780	.30118	.29475	.28852	.28248	.27663	.27095
68	.34349	.33614	.32901	.32209	.31538	.30887	.30256	.29643	.29047	.28469
69	.35841	.35100	.34381	.33683	.33005	.32346	.31707	.31085	.30481	.29894
70	.37366	.36620	.35896	.35193	.34509	.33844	.33197	.32568	.31957	.31362
71	.38916	.38167	.37440	.36732	.36043	.35372	.34720	.34084	.33466	.32864
72	.40486	.39736	.39006	.38295	.37602	.36927	.36270	.35629	.35005	.34396
73	.42074	.41323	.40591	.39878	.39182	.38504	.37843	.37198	.36568	.35955
74	.43685	.42934	.42202	.41488	.40791	.40110	.39446	.38798	.38165	.37547
75	.45326	.44577	.43846	.43132	.42435	.41754	.41088	.40438	.39802	.39181
76	.47004	.46259	.45530	.44818	.44122	.43442	.42776	.42125	.41488	.40865
77	.48718	.47979	.47255	.46547	.45853	.45175	.44511	.43861	.43225	.42601
78	.50467	.49735	.49017	.48314	.47626	.46951	.46290	.45643	.45008	.44386
79	.52239	.51515	.50806	.50110	.49427	.48758	.48102	.47459	.46828	.46209

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
80	.54018	.53304	.52603	.51916	.51242	.50580	.49930	.49292	.48666	.48052
81	.55788	.55085	.54396	.53718	.53053	.52399	.51757	.51126	.50507	.49898
82	.57540	.56851	.56173	.55506	.54851	.54207	.53574	.52951	.52339	.51737
83	.59274	.58598	.57933	.57279	.56635	.56001	.55378	.54765	.54161	.53567
84	.61002	.60341	.59690	.59049	.58418	.57796	.57184	.56582	.55988	.55403
85	.62734	.62090	.61454	.60828	.60211	.59603	.59004	.58414	.57832	.57258
86	.64455	.63828	.63210	.62600	.61999	.61406	.60821	.60244	.59675	.59113
87	.66139	.65531	.64930	.64337	.63752	.63175	.62605	.62043	.61488	.60939
88	.67783	.67194	.66612	.66037	.65469	.64908	.64354	.63807	.63267	.62733
89	.69387	.68817	.68254	.67698	.67148	.66605	.66068	.65537	.65012	.64493
90	.70947	.70398	.69855	.69318	.68786	.68261	.67742	.67228	.66719	.66217
91	.72437	.71908	.71385	.70867	.70354	.69847	.69345	.68848	.68357	.67870
92	.73823	.73314	.72810	.72310	.71816	.71326	.70841	.70361	.69886	.69415
93	.75109	.74618	.74132	.73650	.73173	.72700	.72232	.71768	.71308	.70852
94	.76312	.75839	.75370	.74905	.74445	.73988	.73536	.73087	.72643	.72202
95	.77459	.77004	.76552	.76104	.75660	.75220	.74783	.74350	.73920	.73494
96	.78543	.78105	.77670	.77238	.76810	.76386	.75964	.75546	.75131	.74720
97	.79550	.79128	.78709	.78293	.77880	.77470	.77063	.76659	.76258	.75860
98	.80498	.80091	.79687	.79286	.78888	.78492	.78099	.77709	.77322	.76937
99	.81428	.81036	.80647	.80261	.79877	.79496	.79117	.78741	.78367	.77995
100	.82336	.81959	.81586	.81214	.80845	.80478	.80113	.79751	.79390	.79032
101	.83234	.82873	.82515	.82158	.81804	.81451	.81101	.80753	.80406	.80062
102	.84119	.83774	.83431	.83089	.82750	.82412	.82076	.81742	.81409	.81078
103	.84999	.84670	.84342	.84016	.83691	.83368	.83046	.82726	.82408	.82091
104	.85944	.85632	.85321	.85011	.84703	.84396	.84090	.83786	.83483	.83182
105	.86866	.86570	.86276	.85982	.85690	.85399	.85109	.84820	.84532	.84245
106	.88065	.87792	.87520	.87248	.86978	.86708	.86440	.86172	.85905	.85638
107	.89530	.89286	.89042	.88799	.88557	.88315	.88073	.87833	.87592	.87352
108	.91849	.91654	.91460	.91266	.91072	.90879	.90685	.90492	.90299	.90106
109	.95900	.95800	.95700	.95600	.95500	.95400	.95300	.95200	.95100	.95000

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01363	.01342	.01323	.01305	.01288	.01272	.01258	.01244	.01231	.01219
1	.00534	.00512	.00493	.00474	.00458	.00442	.00427	.00414	.00401	.00389
2	.00518	.00495	.00474	.00455	.00437	.00421	.00405	.00391	.00377	.00365
3	.00526	.00502	.00480	.00459	.00440	.00422	.00406	.00391	.00376	.00363
4	.00546	.00521	.00497	.00475	.00455	.00436	.00419	.00402	.00387	.00373
5	.00576	.00549	.00524	.00501	.00479	.00459	.00440	.00423	.00406	.00391
6	.00613	.00584	.00557	.00532	.00509	.00488	.00468	.00449	.00432	.00415
7	.00657	.00626	.00598	.00571	.00547	.00524	.00502	.00482	.00464	.00446
8	.00707	.00675	.00644	.00616	.00590	.00565	.00542	.00521	.00501	.00482
9	.00766	.00732	.00699	.00669	.00641	.00615	.00591	.00568	.00547	.00527
10	.00835	.00798	.00764	.00732	.00702	.00675	.00649	.00624	.00602	.00580
11	.00913	.00874	.00838	.00804	.00772	.00743	.00715	.00689	.00665	.00642
12	.01000	.00959	.00920	.00884	.00851	.00819	.00790	.00762	.00737	.00712
13	.01091	.01048	.01007	.00969	.00933	.00900	.00869	.00840	.00813	.00787
14	.01181	.01135	.01092	.01052	.01014	.00979	.00947	.00916	.00887	.00860
15	.01267	.01218	.01173	.01130	.01091	.01054	.01019	.00987	.00956	.00928
16	.01345	.01294	.01246	.01201	.01160	.01121	.01084	.01050	.01018	.00988
17	.01418	.01364	.01313	.01266	.01222	.01181	.01143	.01107	.01073	.01041
18	.01486	.01429	.01375	.01326	.01279	.01236	.01196	.01158	.01122	.01088
19	.01554	.01494	.01438	.01385	.01336	.01291	.01248	.01208	.01170	.01135
20	.01626	.01562	.01503	.01448	.01396	.01348	.01303	.01260	.01220	.01183
21	.01702	.01635	.01573	.01514	.01460	.01409	.01361	.01316	.01274	.01235
22	.01782	.01711	.01645	.01584	.01526	.01472	.01422	.01374	.01330	.01288
23	.01868	.01793	.01724	.01658	.01597	.01540	.01487	.01437	.01390	.01345
24	.01962	.01883	.01809	.01740	.01675	.01615	.01558	.01505	.01455	.01408
25	.02065	.01981	.01903	.01830	.01762	.01698	.01638	.01581	.01528	.01478
26	.02178	.02089	.02006	.01929	.01856	.01789	.01725	.01665	.01609	.01556
27	.02303	.02209	.02122	.02040	.01963	.01891	.01824	.01760	.01700	.01644
28	.02439	.02339	.02247	.02160	.02079	.02002	.01931	.01863	.01800	.01740
29	.02585	.02480	.02382	.02290	.02204	.02123	.02047	.01976	.01908	.01845
30	.02742	.02631	.02527	.02430	.02339	.02253	.02172	.02096	.02025	.01957
31	.02910	.02793	.02683	.02579	.02482	.02391	.02306	.02225	.02149	.02077
32	.03089	.02965	.02849	.02739	.02636	.02540	.02449	.02363	.02282	.02206
33	.03282	.03151	.03028	.02912	.02803	.02701	.02604	.02513	.02427	.02346
34	.03489	.03350	.03220	.03097	.02982	.02873	.02771	.02674	.02583	.02497
35	.03713	.03567	.03429	.03299	.03177	.03061	.02953	.02850	.02753	.02661
36	.03953	.03798	.03653	.03515	.03386	.03263	.03148	.03039	.02936	.02838
37	.04211	.04048	.03894	.03748	.03611	.03481	.03359	.03243	.03134	.03030
38	.04490	.04318	.04155	.04001	.03856	.03719	.03589	.03466	.03350	.03239
39	.04791	.04609	.04437	.04274	.04120	.03975	.03837	.03707	.03583	.03466
40	.05116	.04924	.04742	.04571	.04408	.04254	.04108	.03970	.03839	.03714

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
41	.05469	.05267	.05075	.04894	.04722	.04559	.04405	.04258	.04119	.03987
42	.05851	.05638	.05436	.05245	.05063	.04891	.04728	.04573	.04425	.04285
43	.06263	.06039	.05827	.05625	.05433	.05252	.05079	.04915	.04759	.04610
44	.06707	.06472	.06248	.06035	.05834	.05642	.05459	.05286	.05121	.04963
45	.07180	.06933	.06698	.06474	.06262	.06059	.05867	.05684	.05509	.05342
46	.07685	.07425	.07178	.06943	.06720	.06507	.06304	.06110	.05926	.05750
47	.08218	.07946	.07687	.07440	.07205	.06981	.06768	.06564	.06369	.06183
48	.08784	.08499	.08228	.07969	.07722	.07487	.07262	.07047	.06842	.06646
49	.09382	.09085	.08801	.08530	.08271	.08024	.07788	.07562	.07346	.07140
50	.10018	.09707	.09410	.09127	.08856	.08597	.08349	.08112	.07885	.07667
51	.10691	.10367	.10057	.09761	.09477	.09206	.08946	.08697	.08459	.08231
52	.11399	.11061	.10738	.10429	.10132	.09849	.09577	.09316	.09066	.08826
53	.12142	.11791	.11454	.11132	.10823	.10526	.10242	.09969	.09707	.09456
54	.12921	.12556	.12206	.11870	.11548	.11239	.10942	.10657	.10383	.10120
55	.13738	.13359	.12995	.12646	.12311	.11989	.11679	.11382	.11096	.10820
56	.14595	.14202	.13824	.13462	.13113	.12778	.12456	.12146	.11847	.11560
57	.15491	.15084	.14693	.14317	.13955	.13607	.13272	.12949	.12638	.12338
58	.16424	.16004	.15599	.15209	.14834	.14473	.14125	.13789	.13465	.13153
59	.17390	.16955	.16537	.16134	.15746	.15371	.15010	.14662	.14325	.14001
60	.18387	.17939	.17507	.17091	.16689	.16302	.15927	.15566	.15217	.14880
61	.19420	.18958	.18513	.18084	.17669	.17268	.16881	.16506	.16145	.15795
62	.20494	.20020	.19561	.19119	.18691	.18277	.17877	.17490	.17115	.16753
63	.21613	.21126	.20654	.20199	.19758	.19331	.18918	.18518	.18131	.17757
64	.22774	.22274	.21791	.21322	.20869	.20429	.20004	.19592	.19192	.18805
65	.23979	.23467	.22971	.22490	.22025	.21573	.21135	.20710	.20299	.19899
66	.25233	.24709	.24202	.23709	.23231	.22767	.22318	.21881	.21457	.21045
67	.26543	.26009	.25489	.24985	.24496	.24021	.23560	.23111	.22676	.22252
68	.27908	.27363	.26833	.26319	.25819	.25332	.24860	.24400	.23954	.23519
69	.29324	.28769	.28230	.27705	.27195	.26699	.26216	.25746	.25288	.24843
70	.30783	.30219	.29671	.29137	.28618	.28112	.27619	.27139	.26672	.26216
71	.32277	.31706	.31150	.30608	.30079	.29564	.29063	.28573	.28096	.27631
72	.33803	.33225	.32661	.32112	.31575	.31052	.30542	.30044	.29559	.29084
73	.35356	.34772	.34201	.33645	.33101	.32571	.32053	.31547	.31053	.30571
74	.36943	.36354	.35778	.35215	.34666	.34129	.33604	.33091	.32590	.32100
75	.38574	.37980	.37400	.36833	.36278	.35735	.35205	.34686	.34178	.33681
76	.40256	.39660	.39076	.38505	.37947	.37400	.36864	.36340	.35827	.35324
77	.41991	.41394	.40808	.40235	.39674	.39124	.38585	.38056	.37539	.37032
78	.43777	.43180	.42594	.42020	.41457	.40906	.40365	.39834	.39314	.38803
79	.45602	.45007	.44422	.43849	.43287	.42735	.42193	.41661	.41139	.40627
80	.47449	.46856	.46275	.45704	.45143	.44592	.44051	.43519	.42997	.42484
81	.49300	.48712	.48134	.47566	.47008	.46460	.45921	.45391	.44870	.44357
82	.51145	.50563	.49990	.49427	.48873	.48328	.47792	.47265	.46746	.46235
83	.52983	.52407	.51841	.51284	.50735	.50195	.49663	.49139	.48624	.48116
84	.54828	.54261	.53702	.53151	.52609	.52075	.51549	.51030	.50519	.50015
85	.56693	.56135	.55586	.55044	.54510	.53983	.53464	.52952	.52447	.51949
86	.58560	.58013	.57474	.56943	.56418	.55901	.55390	.54886	.54389	.53898
87	.60398	.59864	.59337	.58817	.58303	.57795	.57294	.56799	.56310	.55828
88	.62206	.61685	.61170	.60662	.60159	.59663	.59173	.58688	.58209	.57736
89	.63980	.63474	.62972	.62477	.61987	.61503	.61024	.60551	.60083	.59620
90	.65719	.65227	.64741	.64259	.63783	.63312	.62846	.62385	.61928	.61477
91	.67388	.66912	.66440	.65973	.65511	.65053	.64600	.64152	.63708	.63269
92	.68949	.68487	.68030	.67577	.67129	.66685	.66245	.65809	.65378	.64950
93	.70401	.69954	.69511	.69072	.68637	.68205	.67778	.67355	.66935	.66519
94	.71765	.71332	.70902	.70477	.70055	.69636	.69222	.68810	.68403	.67998
95	.73072	.72653	.72237	.71825	.71416	.71010	.70608	.70209	.69813	.69421
96	.74311	.73906	.73504	.73105	.72709	.72316	.71926	.71539	.71155	.70774
97	.75465	.75073	.74684	.74297	.73914	.73533	.73155	.72780	.72407	.72037
98	.76555	.76175	.75798	.75424	.75052	.74683	.74317	.73953	.73591	.73232
99	.77626	.77260	.76895	.76534	.76174	.75817	.75462	.75109	.74759	.74411
100	.78676	.78323	.77971	.77622	.77274	.76929	.76586	.76245	.75906	.75569
101	.79719	.79379	.79040	.78703	.78368	.78035	.77704	.77375	.77048	.76722
102	.80749	.80422	.80096	.79772	.79450	.79130	.78811	.78494	.78178	.77864
103	.81775	.81461	.81149	.80838	.80529	.80221	.79914	.79609	.79306	.79003
104	.82881	.82582	.82284	.81988	.81693	.81399	.81106	.80815	.80525	.80236
105	.83959	.83674	.83391	.83108	.82826	.82546	.82267	.81988	.81711	.81435
106	.85373	.85108	.84844	.84581	.84319	.84058	.83797	.83537	.83278	.83020
107	.87113	.86875	.86636	.86399	.86161	.85925	.85689	.85453	.85218	.84984
108	.89913	.89721	.89529	.89337	.89145	.88953	.88762	.88571	.88380	.88189
109	.94900	.94800	.94700	.94600	.94500	.94400	.94300	.94200	.94100	.94000

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.01208	.01197	.01187	.01177	.01168	.01159	.01151	.01143	.01135	.01128
1	.00378	.00367	.00358	.00348	.00340	.00331	.00323	.00316	.00309	.00302

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
2	.00353	.00342	.00331	.00322	.00312	.00304	.00295	.00288	.00280	.00273
3	.00350	.00339	.00327	.00317	.00307	.00298	.00289	.00281	.00273	.00265
4	.00359	.00347	.00335	.00324	.00313	.00303	.00294	.00285	.00276	.00268
5	.00377	.00363	.00351	.00339	.00327	.00317	.00306	.00297	.00288	.00279
6	.00400	.00386	.00372	.00359	.00347	.00335	.00325	.00314	.00305	.00295
7	.00430	.00414	.00400	.00386	.00373	.00360	.00349	.00338	.00327	.00317
8	.00465	.00448	.00432	.00417	.00403	.00390	.00378	.00366	.00354	.00344
9	.00508	.00490	.00473	.00457	.00442	.00428	.00414	.00402	.00389	.00378
10	.00560	.00541	.00523	.00506	.00490	.00475	.00460	.00446	.00433	.00421
11	.00620	.00600	.00581	.00563	.00546	.00529	.00514	.00499	.00485	.00472
12	.00689	.00668	.00647	.00628	.00610	.00593	.00576	.00560	.00545	.00531
13	.00763	.00740	.00718	.00698	.00678	.00660	.00642	.00626	.00610	.00595
14	.00834	.00810	.00787	.00766	.00745	.00726	.00707	.00689	.00673	.00657
15	.00901	.00875	.00851	.00828	.00807	.00786	.00767	.00748	.00730	.00714
16	.00959	.00932	.00907	.00883	.00860	.00839	.00818	.00799	.00780	.00762
17	.01011	.00983	.00956	.00930	.00907	.00884	.00862	.00842	.00822	.00804
18	.01057	.01027	.00999	.00972	.00947	.00923	.00900	.00879	.00858	.00839
19	.01101	.01070	.01040	.01012	.00985	.00960	.00936	.00914	.00892	.00871
20	.01148	.01115	.01083	.01054	.01026	.00999	.00974	.00950	.00927	.00905
21	.01197	.01162	.01129	.01098	.01068	.01040	.01014	.00988	.00964	.00941
22	.01249	.01211	.01176	.01143	.01112	.01082	.01054	.01027	.01002	.00978
23	.01304	.01264	.01227	.01192	.01159	.01127	.01098	.01069	.01042	.01017
24	.01364	.01322	.01283	.01246	.01210	.01177	.01145	.01115	.01087	.01060
25	.01431	.01387	.01345	.01306	.01268	.01233	.01199	.01168	.01137	.01109
26	.01506	.01459	.01415	.01373	.01333	.01295	.01260	.01226	.01194	.01163
27	.01591	.01541	.01494	.01449	.01407	.01367	.01329	.01293	.01259	.01226
28	.01684	.01631	.01580	.01533	.01488	.01445	.01405	.01367	.01330	.01296
29	.01785	.01728	.01675	.01624	.01577	.01531	.01488	.01447	.01408	.01372
30	.01893	.01833	.01776	.01723	.01672	.01623	.01578	.01534	.01493	.01453
31	.02010	.01946	.01885	.01828	.01773	.01722	.01673	.01627	.01582	.01540
32	.02134	.02066	.02002	.01940	.01883	.01828	.01776	.01726	.01679	.01634
33	.02270	.02197	.02128	.02063	.02002	.01943	.01887	.01835	.01784	.01736
34	.02415	.02338	.02265	.02195	.02130	.02067	.02008	.01951	.01897	.01846
35	.02574	.02492	.02414	.02340	.02270	.02203	.02140	.02080	.02022	.01967
36	.02746	.02658	.02575	.02496	.02422	.02350	.02283	.02218	.02157	.02098
37	.02932	.02838	.02750	.02666	.02586	.02510	.02438	.02369	.02303	.02241
38	.03135	.03035	.02941	.02851	.02766	.02685	.02608	.02534	.02464	.02397
39	.03355	.03249	.03149	.03053	.02962	.02876	.02793	.02715	.02640	.02568
40	.03596	.03484	.03377	.03275	.03178	.03086	.02998	.02914	.02833	.02757
41	.03861	.03742	.03628	.03520	.03416	.03318	.03224	.03134	.03048	.02966
42	.04152	.04025	.03903	.03788	.03678	.03573	.03473	.03377	.03285	.03198
43	.04468	.04333	.04205	.04082	.03965	.03853	.03746	.03644	.03546	.03453
44	.04813	.04670	.04533	.04403	.04278	.04159	.04045	.03936	.03832	.03732
45	.05183	.05032	.04887	.04748	.04616	.04489	.04368	.04252	.04141	.04034
46	.05582	.05421	.05267	.05121	.04980	.04846	.04717	.04593	.04475	.04362
47	.06006	.05836	.05673	.05518	.05369	.05226	.05089	.04958	.04832	.04711
48	.06459	.06279	.06107	.05943	.05785	.05634	.05488	.05349	.05216	.05087
49	.06942	.06752	.06571	.06397	.06230	.06070	.05916	.05768	.05626	.05490
50	.07459	.07259	.07068	.06884	.06708	.06538	.06376	.06219	.06069	.05924
51	.08012	.07801	.07599	.07406	.07220	.07041	.06869	.06703	.06544	.06391
52	.08596	.08375	.08163	.07959	.07763	.07574	.07392	.07218	.07049	.06887
53	.09214	.08982	.08759	.08544	.08338	.08139	.07948	.07763	.07586	.07415
54	.09867	.09623	.09389	.09164	.08946	.08737	.08536	.08342	.08154	.07974
55	.10556	.10301	.10055	.09819	.09591	.09371	.09159	.08955	.08757	.08567
56	.11283	.11016	.10759	.10511	.10272	.10042	.09819	.09605	.09397	.09197
57	.12050	.11771	.11502	.11243	.10993	.10751	.10518	.10293	.10075	.09864
58	.12852	.12562	.12281	.12011	.11749	.11496	.11252	.11016	.10787	.10567
59	.13687	.13385	.13092	.12810	.12537	.12273	.12017	.11770	.11531	.11299
60	.14554	.14240	.13935	.13641	.13356	.13080	.12813	.12555	.12305	.12063
61	.15457	.15130	.14813	.14507	.14210	.13923	.13644	.13375	.13113	.12860
62	.16402	.16063	.15734	.15415	.15107	.14808	.14518	.14237	.13964	.13699
63	.17393	.17042	.16700	.16370	.16049	.15738	.15437	.15144	.14860	.14584
64	.18429	.18065	.17712	.17369	.17036	.16714	.16400	.16096	.15800	.15513
65	.19511	.19135	.18769	.18415	.18070	.17735	.17410	.17094	.16787	.16488
66	.20645	.20257	.19880	.19513	.19157	.18810	.18473	.18146	.17827	.17517
67	.21841	.21441	.21052	.20673	.20305	.19947	.19599	.19259	.18929	.18608
68	.23096	.22685	.22284	.21895	.21515	.21146	.20786	.20436	.20094	.19762
69	.24409	.23987	.23575	.23175	.22784	.22404	.22033	.21672	.21320	.20976
70	.25772	.25339	.24918	.24507	.24106	.23715	.23333	.22961	.22598	.22244
71	.27178	.26735	.26304	.25882	.25471	.25070	.24679	.24296	.23923	.23559
72	.28622	.28170	.27729	.27298	.26877	.26467	.26065	.25673	.25290	.24915
73	.30100	.29639	.29189	.28749	.28320	.27899	.27489	.27087	.26694	.26310
74	.31621	.31152	.30694	.30246	.29807	.29378	.28959	.28548	.28146	.27753
75	.33195	.32719	.32253	.31797	.31351	.30914	.30486	.30067	.29657	.29255

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
76	.34832	.34350	.33877	.33415	.32961	.32517	.32082	.31656	.31238	.30828
77	.36535	.36047	.35570	.35101	.34642	.34192	.33750	.33317	.32892	.32475
78	.38302	.37811	.37329	.36856	.36392	.35937	.35490	.35051	.34621	.34198
79	.40124	.39630	.39145	.38669	.38201	.37742	.37291	.36848	.36413	.35985
80	.41980	.41485	.40998	.40520	.40050	.39588	.39134	.38688	.38249	.37818
81	.43854	.43358	.42871	.42392	.41921	.41457	.41001	.40553	.40112	.39678
82	.45733	.45238	.44752	.44273	.43802	.43338	.42881	.42431	.41989	.41553
83	.47616	.47123	.46638	.46161	.45690	.45227	.44770	.44320	.43877	.43441
84	.49519	.49030	.48548	.48073	.47604	.47143	.46688	.46239	.45797	.45361
85	.51458	.50974	.50496	.50025	.49560	.49102	.48650	.48204	.47763	.47329
86	.53413	.52935	.52463	.51998	.51538	.51084	.50636	.50194	.49758	.49327
87	.55351	.54881	.54416	.53957	.53503	.53055	.52613	.52176	.51744	.51317
88	.57268	.56806	.56349	.55898	.55451	.55010	.54574	.54144	.53718	.53296
89	.59162	.58710	.58262	.57819	.57382	.56949	.56520	.56097	.55678	.55263
90	.61030	.60588	.60151	.59718	.59290	.58866	.58447	.58032	.57621	.57214
91	.62834	.62403	.61977	.61554	.61136	.60722	.60312	.59907	.59505	.59107
92	.64527	.64107	.63692	.63280	.62872	.62468	.62068	.61672	.61279	.60890
93	.66107	.65699	.65294	.64893	.64495	.64101	.63711	.63323	.62940	.62559
94	.67597	.67200	.66806	.66415	.66027	.65643	.65262	.64884	.64509	.64138
95	.69031	.68645	.68262	.67881	.67504	.67130	.66759	.66390	.66025	.65662
96	.70396	.70021	.69648	.69279	.68912	.68548	.68186	.67828	.67471	.67118
97	.71670	.71305	.70943	.70584	.70227	.69872	.69520	.69171	.68824	.68480
98	.72875	.72521	.72169	.71819	.71472	.71127	.70784	.70444	.70106	.69770
99	.74065	.73721	.73379	.73040	.72703	.72368	.72035	.71704	.71375	.71048
100	.75234	.74901	.74570	.74241	.73914	.73589	.73265	.72944	.72625	.72307
101	.76399	.76077	.75757	.75438	.75122	.74807	.74494	.74183	.73873	.73565
102	.77552	.77241	.76932	.76625	.76319	.76015	.75712	.75411	.75111	.74813
103	.78703	.78404	.78106	.77809	.77514	.77221	.76929	.76638	.76348	.76060
104	.79948	.79662	.79377	.79093	.78810	.78528	.78248	.77969	.77691	.77414
105	.81159	.80885	.80612	.80340	.80069	.79799	.79530	.79262	.78995	.78729
106	.82763	.82506	.82250	.81995	.81741	.81488	.81235	.80983	.80732	.80482
107	.84749	.84516	.84283	.84051	.83819	.83587	.83356	.83126	.82896	.82666
108	.87999	.87808	.87618	.87428	.87238	.87049	.86859	.86670	.86481	.86293
109	.93900	.93800	.93700	.93600	.93500	.93400	.93300	.93200	.93100	.93000

(f) *Effective dates.* This section applies after April 30, 1999.

§ 1.664–4T [Removed]

Par. 8. Section 1.664–4T is removed.

Par. 9. Section 1.7520–1 is amended by:

1. Revising paragraph (b)(2).
2. Revising paragraphs (c)(1) and (c)(2).
3. Revising paragraph (d).

The revisions read as follows:

§ 1.7520–1 Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the revised mortality component tables will be published in the regulations at that time. For transactions with valuation dates after April 30, 1999, the mortality component table (Table 90CM) is contained in § 20.2031–7(d)(7) of this chapter. See § 20.2031–7A of this chapter for mortality component tables applicable to transactions for which the valuation date falls before May 1, 1999.

(c) * * *

(1) *Regulation sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1999.* Section 1.642(c)–6(e)(6) contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5. See § 1.642(c)–6A for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 1.664–4(e)(6) contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section 1.664–4(e)(7) contains Table U(1) (unitrust single life remainder factors). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3. See § 1.664–4A for unitrust single life remainder factors applicable to valuation dates before May 1, 1999. Section 20.2031–7(d)(6) of this chapter contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), and Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7(d)(7) of this chapter contains Table S (single life remainder factors), and Table 90CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A of this chapter for single life remainder factors and mortality components applicable to valuation dates before May 1, 1999.

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 22 percent for valuation dates after April 30, 1999.* The following documents are available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402:

(i) Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (7–1999). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust

as defined in § 1.664–2 and a pooled income fund as defined in § 1.642(c)–5. See § 20.2031–7A of this chapter for publications containing tables for valuation dates before May 1, 1999.

(ii) Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (7–1999). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3. See § 1.664–4A for publications containing tables for valuation dates before May 1, 1999.

(iii) Internal Revenue Service Publication 1459, ''Actuarial Values, Book Gimel,'' (7–1999). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12.

(d) *Effective date.* This section applies after April 30, 1989.

§ 1.7520–1T [Removed]

Par. 10. Section 1.7520–1T is removed.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 11. The authority citation for part 20 is amended by removing entries for sections 20.2031–7T and 20.7520–1T to read in part as follows:

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

§ 20.2031–0 [Amended]

Par. 12. Section 20.2031–0 is amended by removing the entry for § 20.2031–7T from the contents listing.

Par. 13. Section 20.2031–7 is amended by:

1. Removing existing paragraphs (c) through (d)(5).
2. Adding paragraphs (c), (d) heading, and (d)(1) through (d)(5).
3. Revising the introductory text of paragraph (d)(6).
4. Adding paragraph (d)(7).
5. Revising paragraph (e).

The revisions and additions read as follows:

§ 20.2031–7 Valuation of annuities, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) *Actuarial valuations.* The present value of annuities, life estates, terms of years, remainders, and reversions for estates of decedents for which the valuation date of the gross estate is after April 30, 1999, is determined under paragraph (d) of this section. The present value of annuities, life estates, terms of years, remainders, and reversions for estates of decedents for which the valuation date of the gross estate is before May 1, 1999, is determined under the following sections:

Valuation date		Applicable regulations
After	Before	
	01–01–52	20.2031–7A(a)
12–31–51	01–01–71	20.2031–7A(b)
12–31–70	12–01–83	20.2031–7A(c)
11–30–83	05–01–89	20.2031–7A(d)
04–30–89	05–01–99	20.2031–7A(e)

(d) *Actuarial valuations after April 30, 1999*—(1) *In general.* Except as otherwise provided in paragraph (b) of this section and § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date for the gross estate of the decedent is after April 30, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversionary interests is the present value determined by use of standard or special section 7520 actuarial factors. These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. For purposes of the computations described in this section, the age of an individual is the age of that individual at the individual's nearest birthday. See §§ 20.7520–1 through 20.7520–4.

(2) *Specific interests*—(i) *Charitable remainder trusts.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5 of this chapter, is its value determined under § 1.642(c)–6(e) of this chapter. The fair market value of a remainder interest in a charitable remainder annuity trust, as defined in § 1.664–2(a) of this chapter, is the present value determined under § 1.664–2(c) of this chapter. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3 of this chapter, is its present value determined under § 1.664–4(e) of this chapter. The fair market value of a life interest or term of years in a charitable remainder unitrust is the fair market value of the property as of the date of valuation less the fair market value of the remainder interest on that date determined under § 1.664–4(e)(4) and (5) of this chapter.

(ii) *Ordinary remainder and reversionary interests.* If the interest to be valued is to take effect after a definite number of years or after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder interest actuarial factor (that corresponds to the applicable section 7520 interest rate and remainder interest period) in Table B (for a term certain) or the appropriate Table S (for one measuring life), as the case may be. Table B is contained in paragraph (d)(6) of this section and Table S (for one measuring life when the valuation date is after April 30, 1999) is contained in paragraph (d)(7) of this section and in Internal Revenue Service Publication 1457. For information about obtaining actuarial factors for other types of remainder interests, see paragraph (d)(4) of this section.

(iii) *Ordinary term-of-years and life interests.* If the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable section 7520 interest rate and term-of-years or life interest period). Internal Revenue Service Publication 1457 includes actuarial factors for an interest for a term of years in Table B and for the life of one individual in Table S (for one measuring life when the valuation date is after April 30, 1999). However, term-of-years and life interest actuarial factors are not included in Table B in paragraph (d)(6) of this section or Table S in paragraph (d)(7) of this section. If Internal Revenue Service Publication 1457 (or any other reliable source of term-of-years and life interest actuarial factors) is not conveniently available, an actuarial factor for the interest may be derived mathematically. This actuarial factor may be derived by subtracting the correlative remainder factor (that corresponds to the applicable section 7520 interest rate and the term of years or the life) in Table B (for a term of years) in paragraph (d)(6) of this section or in Table S (for the life of one individual) in paragraph (d)(7) of this section, as the case may be, from 1.000000. For information about obtaining actuarial factors for other types of term-of-years and life interests, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount payable annually by the appropriate annuity actuarial factor (that corresponds to the applicable section 7520 interest rate and annuity period). Internal Revenue Publication 1457

includes actuarial factors in Table B (for an annuity payable for a term of years) and in Table S (for an annuity payable for the life of one individual when the valuation date is after April 30, 1999). However, annuity actuarial factors are not included in Table B in paragraph (d)(6) of this section or Table S in paragraph (d)(7) of this section. If Internal Revenue Service Publication 1457 (or any other reliable source of annuity actuarial factors) is not conveniently available, a required annuity factor for a term of years or for one life may be mathematically derived. This annuity factor may be derived by subtracting the applicable remainder factor (that corresponds to the applicable section 7520 interest rate and annuity period) in Table B (in the case of a term-of-years annuity) in paragraph (d)(6) of this section or in Table S (in the case of a one-life annuity when the valuation date is after April 30, 1999) in paragraph (d)(7) of this section, as the case may be, from 1.000000 and then dividing the result by the applicable section 7520 interest rate expressed as a decimal number.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor as contained in Table K in paragraph (d)(6) of this section for payments made at the end of the specified periods. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the following example:

Example. At the time of the decedent's death, the survivor/annuitant, age 72, is entitled to receive an annuity of $15,000 a year for life payable in equal monthly installments at the end of each period. The section 7520 rate for the month in which the decedent died is 9.6 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 9.6 percent for an individual aged 72 is .38438. By converting the remainder factor to an annuity factor, as described above, the annuity factor at 9.6 percent for an individual aged 72 is 6.4127 (1.00000 minus .38438, divided by .096). Under Table K in paragraph (d)(6) of this section, the adjustment factor under the column for payments made at the end of each monthly period at the rate of 9.6 percent is 1.0433. The aggregate annual amount, $15,000, is multiplied by the factor 6.4127 and the product multiplied by 1.0433. The present value of the annuity at the date of the decedent's death is, therefore, $100,355.55 ($15,000 × 6.4127 × 1.0433).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained is then multiplied by the adjustment factor in Table J in paragraph (d)(6) of this section at the appropriate interest rate component for payments made at the beginning of specified periods. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in this paragraph (d)(2)(iv).

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual.* See § 25.2512–5(d)(2)(v) of this chapter for examples explaining how to compute the present value of an annuity or unitrust interest that is payable until the earlier of the lapse of a specific number of years or the death of an individual.

(3) *Transitional rule.* (i) If a decedent dies after April 30, 1999, and if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the decedent's property could not be changed, and the decedent dies without having regained competency to dispose of the decedent's property or dies within 90 days of the date on which the decedent first regains competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the gross estate of the decedent is their present value determined either under this section or under the corresponding section applicable at the time the decedent became mentally incompetent, at the option of the decedent's executor. For example, see § 20.2031–7A(e)(2).

(ii) If a decedent dies after April 30, 1999, and before July 1, 1999, the fair market value of annuities, life estates, remainders, and reversions based on one or more measuring lives included in the gross estate of the decedent is their present value determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 20.7520–1(b) and 20.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (d)(7) of this section or § 20.2031–7A(e)(4), at the option of the decedent's executor.

(iii) For purposes of paragraphs (d)(3)(i) and (ii) of this section, where the decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (d)(7) of this section or § 20.2031–7A(e)(4), the decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(4) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in paragraphs (d)(6) or (d)(7) of this section are included in Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (7–1999). Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. See § 20.2031–7A for publications containing actuarial factors for valuing interests for which the valuation date is before May 1, 1999. If a special factor is required in the case of an actual decedent, the Internal Revenue Service may furnish the factor to the executor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent's death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

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

Example 1. Remainder payable at an individual's death. The decedent, or the decedent's estate, was entitled to receive certain property worth $50,000 upon the death of A, to whom the income was bequeathed for life. At the time of the decedent's death, A was 47 years 5 months old. In the month in which the decedent died, the section 7520 rate was 9.8 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 9.8 percent for determining the present value of the remainder interest due at the death of a person aged 47, the number of years nearest A's actual age at the decedent's death, is .10317. The present value of the remainder interest at the date of the decedent's death is, therefore, $5,158.50 ($50,000 × .10317).

Example 2. Income payable for an individual's life. A's parent bequeathed an

income interest in property to A for life, with the remainder interest passing to B at A's death. At the time of the parent's death, the value of the property was $50,000 and A was 30 years 10 months old. The section 7520 rate at the time of the parent's death was 10.2 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 10.2 percent for determining the present value of the remainder interest due at the death of a person aged 31, the number of years closest to A's age at the decedent's death, is .03583. Converting this remainder factor to an income factor, as described in paragraph (d)(2)(iii) of this section, the factor for determining the present value of an income interest for the life of a person aged 31 is .96417. The present value of A's interest at the time of the parent's death is, therefore, $48,208.50 ($50,000 × .96417).

Example 3. Annuity payable for an individual's life. A purchased an annuity for the benefit of both A and B. Under the terms of the annuity contract, at A's death, a survivor annuity of $10,000 a year payable in equal semiannual installments made at the end of each interval is payable to B for life. At A's death, B was 45 years 7 months old. Also, at A's death, the section 7520 rate was 9.6 percent. Under Table S in paragraph (d)(7) of this section, the factor at 9.6 percent for determining the present value of the remainder interest at the death of a person age 46 (the number of years nearest B's actual age) is .10013. By converting the factor to an annuity factor, as described in paragraph (d)(2)(iv)(A) of this section, the factor for the present value of an annuity payable until the death of a person age 46 is 9.3736 (1.00000 minus .10013, divided by .096). The adjustment factor from Table K in paragraph (d)(6) of this section at an interest rate of 9.6 percent for semiannual annuity payments made at the end of the period is 1.0235. The present value of the annuity at the date of A's death is, therefore, $95,938.80 ($10,000 × 9.3736 × 1.0235).

Example 4. Annuity payable for a term of years. The decedent, or the decedent's estate, was entitled to receive an annuity of $10,000 a year payable in equal quarterly installments at the end of each quarter throughout a term certain. At the time of the decedent's death, the section 7520 rate was 9.8 percent. A quarterly payment had just been made prior to the decedent's death and payments were to continue for 5 more years. Under Table B in paragraph (d)(6) of this section for the interest rate of 9.8 percent, the factor for the present value of a remainder interest due after a term of 5 years is .626597. Converting the factor to an annuity factor, as described in paragraph (d)(2)(iv)(A) of this section, the factor for the present value of an annuity for a term of 5 years is 3.8102. The adjustment factor from Table K in paragraph (d)(6) of this section at an interest rate of 9.8 percent for quarterly annuity payments made at the end of the period is 1.0360. The present value of the annuity is, therefore, $39,473.67 ($10,000 × 3.8102 × 1.0360).

(6) *Actuarial Table B, Table J, and Table K where the valuation date is after April 30, 1989.* Except as provided in § 20.7520–3(b) (pertaining to certain limitations on prescribed tables), for determination of the present value of an interest that is dependent on a term of years, the tables in this paragraph (d)(6) must be used in the application of the provisions of this section when the section 7520 interest rate component is between 4.2 and 14 percent.

* * * * *

(7) *Actuarial Table S and Table 90CM where the valuation date is after April 30, 1999.* Except as provided in § 20.7520–2(b) (pertaining to certain limitations on the use of prescribed tables), for determination of the present value of an interest that is dependent on the termination of a life interest, Table 90CM and Table S, single life remainder factors applicable where the valuation date is after April 30, 1999, contained in this paragraph (d)(7) (or Table S and Table 80CNSMT contained in § 20.2031–7A(e)(4) for valuation dates after April 30, 1989, and before May 1, 1999) and Table J and Table K contained in paragraph (d)(6) of this section, must be used in the application of the provisions of this section when the section 7520 interest rate component is between 4.2 and 14 percent.

TABLE S.—BASED ON LIFE TABLE 90CM SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1999

[Interest rate]

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06752	.06130	.05586	.05109	.04691	.04322	.03998	.03711	.03458	.03233
1	.06137	.05495	.04932	.04438	.04003	.03620	.03283	.02985	.02721	.02487
2	.06325	.05667	.05088	.04580	.04132	.03737	.03388	.03079	.02806	.02563
3	.06545	.05869	.05275	.04752	.04291	.03883	.03523	.03203	.02920	.02668
4	.06784	.06092	.05482	.04944	.04469	.04048	.03676	.03346	.03052	.02791
5	.07040	.06331	.05705	.05152	.04662	.04229	.03845	.03503	.03199	.02928
6	.07310	.06583	.05941	.05372	.04869	.04422	.04025	.03672	.03357	.03076
7	.07594	.06849	.06191	.05607	.05089	.04628	.04219	.03854	.03528	.03236
8	.07891	.07129	.06453	.05853	.05321	.04846	.04424	.04046	.03709	.03407
9	.08203	.07423	.06731	.06115	.05567	.05079	.04643	.04253	.03904	.03592
10	.08532	.07734	.07024	.06392	.05829	.05326	.04877	.04474	.04114	.03790
11	.08875	.08059	.07331	.06683	.06104	.05587	.05124	.04709	.04336	.04002
12	.09233	.08398	.07653	.06989	.06394	.05862	.05385	.04957	.04572	.04226
13	.09601	.08748	.07985	.07304	.06693	.06146	.05655	.05214	.04816	.04458
14	.09974	.09102	.08322	.07624	.06997	.06435	.05929	.05474	.05064	.04694
15	.10350	.09460	.08661	.07946	.07303	.06725	.06204	.05735	.05312	.04930
16	.10728	.09818	.09001	.08268	.07608	.07014	.06479	.05996	.05559	.05164
17	.11108	.10179	.09344	.08592	.07916	.07306	.06755	.06257	.05807	.05399
18	.11494	.10545	.09691	.08921	.08227	.07601	.07034	.06521	.06057	.05636
19	.11889	.10921	.10047	.09259	.08548	.07904	.07322	.06794	.06315	.05880
20	.12298	.11310	.10417	.09610	.08881	.08220	.07622	.07078	.06584	.06135
21	.12722	.11713	.10801	.09976	.09228	.08550	.07935	.07375	.06866	.06403
22	.13159	.12130	.11199	.10354	.09588	.08893	.08260	.07685	.07160	.06682
23	.13613	.12563	.11612	.10748	.09964	.09250	.08601	.08009	.07468	.06975
24	.14084	.13014	.12043	.11160	.10357	.09625	.08958	.08349	.07793	.07284
25	.14574	.13484	.12493	.11591	.10768	.10018	.09334	.08708	.08135	.07611
26	.15084	.13974	.12963	.12041	.11199	.10431	.09728	.09085	.08496	.07956
27	.15615	.14485	.13454	.12513	.11652	.10865	.10144	.09484	.08878	.08322
28	.16166	.15016	.13965	.13004	.12124	.11319	.10580	.09901	.09279	.08706
29	.16737	.15567	.14497	.13516	.12617	.11792	.11035	.10339	.09699	.09109
30	.17328	.16138	.15048	.14047	.13129	.12286	.11510	.10796	.10138	.09532
31	.17938	.16728	.15618	.14599	.13661	.12799	.12004	.11272	.10597	.09974
32	.18568	.17339	.16210	.15171	.14214	.13333	.12520	.11769	.11076	.10435

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
33	.19220	.17972	.16824	.15766	.14790	.13889	.13058	.12289	.11578	.10920
34	.19894	.18627	.17460	.16383	.15388	.14468	.13618	.12831	.12102	.11426
35	.20592	.19307	.18121	.17025	.16011	.15073	.14204	.13399	.12652	.11958
36	.21312	.20010	.18805	.17691	.16658	.15701	.14814	.13990	.13225	.12514
37	.22057	.20737	.19514	.18382	.17331	.16356	.15450	.14608	.13825	.13096
38	.22827	.21490	.20251	.19100	.18031	.17038	.16113	.15253	.14452	.13705
39	.23623	.22270	.21013	.19845	.18759	.17747	.16805	.15927	.15108	.14344
40	.24446	.23078	.21805	.20620	.19516	.18487	.17527	.16631	.15795	.15013
41	.25298	.23915	.22626	.21425	.20305	.19259	.18282	.17368	.16514	.15715
42	.26178	.24782	.23478	.22262	.21125	.20062	.19069	.18138	.17267	.16450
43	.27087	.25678	.24360	.23129	.21977	.20898	.19888	.18941	.18053	.17220
44	.28025	.26603	.25273	.24027	.22860	.21766	.20740	.19777	.18873	.18023
45	.28987	.27555	.26212	.24953	.23772	.22664	.21622	.20644	.19724	.18858
46	.29976	.28533	.27179	.25908	.24714	.23591	.22536	.21542	.20606	.19725
47	.30987	.29535	.28171	.26889	.25682	.24546	.23476	.22468	.21518	.20621
48	.32023	.30563	.29190	.27897	.26678	.25530	.24447	.23425	.22460	.21549
49	.33082	.31615	.30234	.28931	.27702	.26543	.25447	.24412	.23434	.22509
50	.34166	.32694	.31306	.29995	.28756	.27586	.26479	.25432	.24441	.23502
51	.35274	.33798	.32404	.31085	.29838	.28658	.27541	.26482	.25479	.24528
52	.36402	.34924	.33525	.32200	.30946	.29757	.28630	.27561	.26547	.25584
53	.37550	.36070	.34668	.33339	.32078	.30882	.29746	.28667	.27643	.26669
54	.38717	.37237	.35833	.34500	.33234	.32031	.30888	.29801	.28766	.27782
55	.39903	.38424	.37019	.35683	.34413	.33205	.32056	.30961	.29918	.28925
56	.41108	.39631	.38227	.36890	.35617	.34405	.33250	.32149	.31099	.30097
57	.42330	.40857	.39455	.38118	.36844	.35629	.34469	.33363	.32306	.31297
58	.43566	.42098	.40699	.39364	.38089	.36873	.35710	.34600	.33538	.32522
59	.44811	.43351	.41956	.40623	.39350	.38133	.36968	.35855	.34789	.33768
60	.46066	.44613	.43224	.41896	.40624	.39408	.38243	.37127	.36058	.35033
61	.47330	.45887	.44505	.43182	.41914	.40699	.39535	.38418	.37347	.36318
62	.48608	.47175	.45802	.44485	.43223	.42011	.40848	.39732	.38660	.37629
63	.49898	.48478	.47115	.45807	.44550	.43343	.42184	.41069	.39997	.38966
64	.51200	.49793	.48442	.47143	.45895	.44694	.43539	.42427	.41357	.40326
65	.52512	.51121	.49782	.48495	.47255	.46062	.44912	.43805	.42738	.41709
66	.53835	.52461	.51137	.49862	.48634	.47449	.46307	.45206	.44143	.43118
67	.55174	.53818	.52511	.51250	.50034	.48860	.47727	.46633	.45576	.44556
68	.56524	.55188	.53899	.52654	.51452	.50291	.49168	.48083	.47034	.46020
69	.57882	.56568	.55299	.54071	.52885	.51737	.50627	.49552	.48513	.47506
70	.59242	.57951	.56703	.55495	.54325	.53193	.52096	.51034	.50004	.49007
71	.60598	.59332	.58106	.56918	.55767	.54651	.53569	.52520	.51503	.50516
72	.61948	.60707	.59504	.58338	.57206	.56108	.55043	.54009	.53004	.52029
73	.63287	.62073	.60895	.59751	.58640	.57561	.56513	.55495	.54505	.53543
74	.64621	.63435	.62282	.61162	.60073	.59015	.57985	.56984	.56009	.55061
75	.65953	.64796	.63671	.62575	.61510	.60473	.59463	.58480	.57523	.56591
76	.67287	.66160	.65063	.63995	.62954	.61940	.60952	.59989	.59050	.58135
77	.68622	.67526	.66459	.65419	.64404	.63415	.62450	.61509	.60590	.59694
78	.69954	.68892	.67856	.66845	.65858	.64895	.63955	.63036	.62140	.61264
79	.71278	.70250	.69246	.68265	.67308	.66372	.65457	.64563	.63690	.62836
80	.72581	.71588	.70618	.69668	.68740	.67833	.66945	.66077	.65227	.64396
81	.73857	.72899	.71962	.71045	.70147	.69268	.68408	.67566	.66741	.65933
82	.75101	.74178	.73274	.72389	.71522	.70672	.69840	.69024	.68225	.67441
83	.76311	.75423	.74553	.73700	.72864	.72044	.71240	.70451	.69678	.68919
84	.77497	.76645	.75809	.74988	.74183	.73393	.72618	.71857	.71110	.70377
85	.78665	.77848	.77047	.76260	.75487	.74728	.73982	.73250	.72530	.71823
86	.79805	.79025	.78258	.77504	.76764	.76036	.75320	.74617	.73925	.73245
87	.80904	.80159	.79427	.78706	.77998	.77301	.76615	.75940	.75277	.74624
88	.81962	.81251	.80552	.79865	.79188	.78521	.77865	.77220	.76584	.75958
89	.82978	.82302	.81636	.80980	.80335	.79699	.79072	.78455	.77847	.77248
90	.83952	.83309	.82676	.82052	.81437	.80831	.80234	.79645	.79064	.78492
91	.84870	.84260	.83658	.83064	.82479	.81902	.81332	.80771	.80217	.79671
92	.85716	.85136	.84563	.83998	.83441	.82891	.82348	.81812	.81283	.80761
93	.86494	.85942	.85396	.84858	.84326	.83801	.83283	.82771	.82266	.81767
94	.87216	.86690	.86170	.85657	.85149	.84648	.84153	.83664	.83181	.82704
95	.87898	.87397	.86902	.86412	.85928	.85450	.84977	.84510	.84049	.83592
96	.88537	.88060	.87587	.87121	.86659	.86203	.85751	.85305	.84864	.84427
97	.89127	.88672	.88221	.87775	.87335	.86898	.86467	.86040	.85618	.85200
98	.89680	.89245	.88815	.88389	.87968	.87551	.87138	.86730	.86326	.85926
99	.90217	.89803	.89393	.88987	.88585	.88187	.87793	.87402	.87016	.86633
100	.90738	.90344	.89953	.89567	.89183	.88804	.88428	.88056	.87687	.87322
101	.91250	.90876	.90504	.90137	.89772	.89412	.89054	.88699	.88348	.88000
102	.91751	.91396	.91045	.90696	.90350	.90007	.89668	.89331	.88997	.88666
103	.92247	.91912	.91579	.91249	.90922	.90598	.90276	.89957	.89640	.89326
104	.92775	.92460	.92148	.91839	.91532	.91227	.90924	.90624	.90326	.90031
105	.93290	.92996	.92704	.92415	.92127	.91841	.91558	.91276	.90997	.90719
106	.93948	.93680	.93415	.93151	.92889	.92628	.92370	.92113	.91857	.91604

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
107	.94739	.94504	.94271	.94039	.93808	.93579	.93351	.93124	.92899	.92675
108	.95950	.95767	.95585	.95404	.95224	.95045	.94867	.94689	.94512	.94336
109	.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.03034	.02857	.02700	.02559	.02433	.02321	.02220	.02129	.02047	.01973
1	.02279	.02094	.01929	.01782	.01650	.01533	.01427	.01331	.01246	.01168
2	.02347	.02155	.01983	.01829	.01692	.01569	.01458	.01358	.01268	.01187
3	.02444	.02243	.02065	.01905	.01761	.01632	.01516	.01412	.01317	.01232
4	.02558	.02349	.02163	.01996	.01846	.01712	.01590	.01481	.01382	.01292
5	.02686	.02469	.02275	.02101	.01945	.01804	.01677	.01562	.01458	.01364
6	.02825	.02600	.02398	.02217	.02053	.01906	.01773	.01653	.01544	.01445
7	.02976	.02742	.02532	.02343	.02172	.02019	.01880	.01754	.01640	.01536
8	.03137	.02894	.02675	.02479	.02301	.02140	.01995	.01864	.01744	.01635
9	.03311	.03059	.02832	.02627	.02442	.02274	.02122	.01985	.01859	.01745
10	.03499	.03237	.03001	.02788	.02595	.02420	.02262	.02118	.01987	.01867
11	.03700	.03428	.03183	.02961	.02760	.02578	.02413	.02262	.02125	.02000
12	.03913	.03632	.03377	.03146	.02937	.02748	.02575	.02418	.02275	.02144
13	.04135	.03843	.03579	.03339	.03122	.02924	.02744	.02580	.02431	.02294
14	.04359	.04057	.03783	.03534	.03308	.03102	.02915	.02744	.02587	.02444
15	.04584	.04270	.03986	.03728	.03493	.03279	.03083	.02905	.02742	.02593
16	.04806	.04482	.04187	.03919	.03674	.03452	.03248	.03063	.02892	.02736
17	.05029	.04692	.04387	.04108	.03855	.03623	.03411	.03218	.03040	.02877
18	.05253	.04905	.04588	.04299	.04036	.03795	.03574	.03373	.03187	.03017
19	.05484	.05124	.04796	.04496	.04222	.03972	.03742	.03532	.03339	.03161
20	.05726	.05354	.05013	.04702	.04418	.04158	.03919	.03700	.03498	.03313
21	.05980	.05595	.05242	.04920	.04625	.04354	.04105	.03877	.03667	.03473
22	.06246	.05847	.05482	.05147	.04841	.04559	.04301	.04063	.03844	.03642
23	.06524	.06112	.05734	.05387	.05069	.04777	.04508	.04260	.04032	.03821
24	.06819	.06392	.06001	.05642	.05312	.05008	.04728	.04470	.04232	.04012
25	.07131	.06690	.06285	.05913	.05570	.05255	.04964	.04695	.04447	.04218
26	.07460	.07005	.06586	.06200	.05845	.05518	.05215	.04936	.04677	.04438
27	.07810	.07340	.06907	.06508	.06140	.05800	.05485	.05195	.04925	.04676
28	.08179	.07693	.07246	.06833	.06451	.06098	.05772	.05469	.05189	.04929
29	.08566	.08065	.07603	.07176	.06780	.06414	.06075	.05761	.05469	.05198
30	.08973	.08456	.07978	.07536	.07127	.06748	.06396	.06069	.05766	.05483
31	.09398	.08865	.08372	.07915	.07491	.07098	.06733	.06394	.06078	.05785
32	.09843	.09294	.08785	.08313	.07875	.07468	.07089	.06737	.06409	.06103
33	.10310	.09745	.09220	.08732	.08279	.07858	.07466	.07100	.06759	.06441
34	.10799	.10217	.09676	.09173	.08705	.08269	.07862	.07483	.07129	.06798
35	.11314	.10715	.10157	.09638	.09155	.08704	.08283	.07890	.07522	.07179
36	.11852	.11236	.10662	.10127	.09628	.09162	.08726	.08319	.07938	.07581
37	.12416	.11783	.11193	.10641	.10126	.09645	.09194	.08772	.08377	.08006
38	.13009	.12359	.11751	.11183	.10652	.10155	.09689	.09253	.08843	.08459
39	.13629	.12962	.12338	.11753	.11206	.10693	.10212	.09761	.09337	.08938
40	.14281	.13597	.12955	.12355	.11791	.11262	.10766	.10299	.09860	.09447
41	.14966	.14264	.13606	.12989	.12409	.11864	.11352	.10870	.10417	.09989
42	.15685	.14966	.14291	.13657	.13061	.12500	.11972	.11475	.11006	.10564
43	.16437	.15702	.15010	.14360	.13747	.13171	.12627	.12115	.11631	.11174
44	.17224	.16472	.15764	.15098	.14469	.13876	.13317	.12789	.12290	.11819
45	.18042	.17274	.16550	.15867	.15223	.14615	.14040	.13496	.12982	.12496
46	.18893	.18110	.17370	.16671	.16011	.15387	.14796	.14238	.13708	.13207
47	.19775	.18975	.18220	.17505	.16830	.16190	.15584	.15010	.14466	.13950
48	.20688	.19873	.19102	.18373	.17682	.17027	.16406	.15817	.15258	.14727
49	.21633	.20804	.20018	.19274	.18568	.17898	.17262	.16658	.16084	.15539
50	.22612	.21769	.20969	.20210	.19490	.18805	.18155	.17536	.16948	.16388
51	.23625	.22769	.21955	.21182	.20448	.19749	.19084	.18452	.17849	.17275
52	.24669	.23799	.22973	.22186	.21438	.20726	.20047	.19400	.18784	.18196
53	.25742	.24861	.24022	.23222	.22461	.21735	.21043	.20383	.19753	.19151
54	.26845	.25952	.25101	.24290	.23516	.22777	.22072	.21399	.20756	.20140
55	.27978	.27074	.26212	.25389	.24604	.23853	.23136	.22450	.21793	.21166
56	.29140	.28227	.27355	.26522	.25725	.24963	.24233	.23535	.22867	.22227
57	.30333	.29411	.28529	.27686	.26879	.26106	.25365	.24656	.23976	.23324
58	.31551	.30621	.29731	.28878	.28061	.27278	.26528	.25807	.25116	.24453
59	.32790	.31854	.30956	.30095	.29269	.28477	.27716	.26986	.26284	.25610
60	.34050	.33107	.32202	.31334	.30500	.29699	.28929	.28190	.27478	.26794
61	.35331	.34384	.33473	.32598	.31757	.30948	.30170	.29422	.28701	.28007
62	.36639	.35688	.34772	.33892	.33044	.32229	.31443	.30687	.29958	.29255
63	.37974	.37020	.36101	.35216	.34363	.33542	.32750	.31986	.31250	.30539
64	.39334	.38378	.37456	.36568	.35711	.34884	.34087	.33317	.32574	.31857
65	.40718	.39761	.38838	.37947	.37087	.36257	.35455	.34681	.33932	.33208
66	.42128	.41172	.40249	.39357	.38496	.37663	.36858	.36079	.35326	.34597
67	.43569	.42616	.41694	.40803	.39941	.39107	.38299	.37518	.36761	.36028

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
68	.45038	.44089	.43170	.42281	.41419	.40585	.39777	.38994	.38235	.37499
69	.46531	.45587	.44672	.43786	.42927	.42094	.41286	.40503	.39743	.39006
70	.48040	.47103	.46194	.45312	.44456	.43626	.42820	.42038	.41278	.40540
71	.49558	.48629	.47727	.46851	.46000	.45174	.44371	.43591	.42832	.42095
72	.51082	.50162	.49268	.48399	.47554	.46733	.45934	.45157	.44401	.43666
73	.52607	.51697	.50813	.49952	.49114	.48299	.47506	.46733	.45981	.45249
74	.54139	.53241	.52367	.51515	.50686	.49879	.49092	.48325	.47578	.46849
75	.55683	.54798	.53936	.53095	.52276	.51477	.50698	.49938	.49197	.48474
76	.57243	.56373	.55524	.54696	.53888	.53100	.52330	.51579	.50846	.50130
77	.58819	.57965	.57132	.56318	.55523	.54747	.53988	.53247	.52523	.51815
78	.60408	.59572	.58755	.57957	.57177	.56414	.55668	.54939	.54225	.53527
79	.62001	.61184	.60385	.59604	.58840	.58092	.57360	.56644	.55943	.55256
80	.63582	.62786	.62007	.61244	.60497	.59765	.59048	.58347	.57659	.56985
81	.65142	.64367	.63608	.62864	.62135	.61421	.60721	.60034	.59361	.58701
82	.66673	.65920	.65182	.64458	.63748	.63052	.62368	.61698	.61041	.60395
83	.68175	.67444	.66728	.66024	.65334	.64656	.63991	.63338	.62696	.62066
84	.69657	.68950	.68256	.67574	.66904	.66246	.65599	.64964	.64340	.63727
85	.71128	.70446	.69775	.69116	.68467	.67830	.67204	.66587	.65982	.65386
86	.72576	.71919	.71272	.70636	.70010	.69394	.68789	.68193	.67606	.67029
87	.73981	.73349	.72726	.72114	.71511	.70917	.70333	.69757	.69190	.68632
88	.75342	.74735	.74137	.73548	.72968	.72396	.71833	.71279	.70732	.70194
89	.76658	.76076	.75503	.74938	.74381	.73832	.73290	.72757	.72231	.71712
90	.77928	.77371	.76823	.76281	.75748	.75221	.74702	.74190	.73684	.73186
91	.79131	.78600	.78075	.77557	.77046	.76542	.76044	.75553	.75068	.74589
92	.80246	.79737	.79235	.78740	.78250	.77767	.77290	.76818	.76353	.75893
93	.81274	.80788	.80307	.79832	.79363	.78899	.78441	.77989	.77542	.77100
94	.82232	.81766	.81306	.80850	.80401	.79956	.79517	.79082	.78653	.78228
95	.83141	.82695	.82254	.81818	.81387	.80961	.80539	.80122	.79710	.79302
96	.83996	.83569	.83147	.82729	.82316	.81907	.81503	.81103	.80707	.80315
97	.84787	.84378	.83973	.83573	.83176	.82784	.82396	.82012	.81632	.81255
98	.85530	.85138	.84750	.84366	.83985	.83609	.83236	.82867	.82502	.82140
99	.86255	.85880	.85508	.85140	.84776	.84415	.84057	.83703	.83353	.83005
100	.86960	.86601	.86246	.85894	.85546	.85200	.84858	.84519	.84183	.83849
101	.87655	.87313	.86974	.86638	.86305	.85975	.85648	.85324	.85003	.84684
102	.88338	.88012	.87689	.87369	.87052	.86738	.86426	.86116	.85809	.85505
103	.89015	.88706	.88399	.88095	.87793	.87494	.87197	.86903	.86611	.86321
104	.89737	.89446	.89157	.88871	.88586	.88304	.88024	.87745	.87469	.87195
105	.90443	.90170	.89898	.89628	.89360	.89094	.88830	.88568	.88307	.88049
106	.91351	.91101	.90852	.90605	.90359	.90115	.89873	.89632	.89392	.89154
107	.92452	.92230	.92010	.91791	.91573	.91356	.91141	.90927	.90714	.90502
108	.94161	.93987	.93814	.93641	.93469	.93298	.93128	.92958	.92790	.92622
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01906	.01845	.01790	.01740	.01694	.01652	.01613	.01578	.01546	.01516
1	.01098	.01034	.00977	.00924	.00876	.00833	.00793	.00756	.00722	.00691
2	.01113	.01046	.00986	.00930	.00880	.00834	.00791	.00753	.00717	.00684
3	.01155	.01084	.01020	.00962	.00909	.00860	.00816	.00775	.00737	.00702
4	.01211	.01137	.01069	.01008	.00952	.00900	.00853	.00810	.00770	.00733
5	.01279	.01201	.01130	.01065	.01006	.00952	.00902	.00856	.00814	.00775
6	.01356	.01274	.01199	.01131	.01068	.01011	.00959	.00910	.00865	.00824
7	.01442	.01356	.01277	.01205	.01140	.01079	.01023	.00972	.00925	.00881
8	.01536	.01446	.01363	.01287	.01218	.01154	.01096	.01041	.00991	.00945
9	.01641	.01546	.01460	.01380	.01307	.01240	.01178	.01120	.01068	.01019
10	.01758	.01659	.01567	.01484	.01407	.01336	.01270	.01210	.01154	.01103
11	.01886	.01781	.01686	.01598	.01517	.01442	.01373	.01310	.01251	.01196
12	.02024	.01915	.01814	.01721	.01636	.01558	.01485	.01419	.01357	.01299
13	.02168	.02054	.01948	.01851	.01762	.01679	.01603	.01533	.01467	.01407
14	.02313	.02193	.02083	.01981	.01887	.01801	.01721	.01646	.01578	.01514
15	.02456	.02330	.02214	.02107	.02009	.01918	.01834	.01756	.01684	.01617
16	.02593	.02462	.02340	.02229	.02126	.02030	.01942	.01860	.01785	.01714
17	.02728	.02590	.02463	.02346	.02238	.02138	.02046	.01960	.01880	.01806
18	.02861	.02717	.02584	.02462	.02348	.02243	.02146	.02056	.01972	.01894
19	.02998	.02847	.02708	.02580	.02461	.02351	.02249	.02154	.02066	.01984
20	.03142	.02984	.02839	.02704	.02580	.02465	.02357	.02258	.02165	.02079
21	.03295	.03130	.02978	.02837	.02706	.02585	.02473	.02368	.02271	.02180
22	.03455	.03283	.03124	.02976	.02839	.02712	.02594	.02484	.02382	.02286
23	.03626	.03446	.03279	.03124	.02981	.02847	.02723	.02608	.02500	.02400
24	.03809	.03620	.03446	.03283	.03133	.02993	.02863	.02741	.02628	.02522
25	.04005	.03808	.03625	.03456	.03298	.03151	.03014	.02887	.02768	.02656
26	.04216	.04010	.03819	.03641	.03476	.03322	.03178	.03044	.02919	.02802
27	.04444	.04229	.04029	.03843	.03670	.03508	.03357	.03217	.03085	.02962
28	.04687	.04463	.04254	.04059	.03877	.03708	.03550	.03402	.03263	.03133

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
29	.04946	.04712	.04493	.04289	.04099	.03922	.03756	.03600	.03455	.03318
30	.05221	.04976	.04748	.04534	.04335	.04149	.03975	.03812	.03659	.03515
31	.05511	.05255	.05017	.04794	.04585	.04390	.04208	.04037	.03876	.03725
32	.05818	.05551	.05302	.05069	.04851	.04647	.04455	.04276	.04107	.03948
33	.06144	.05866	.05606	.05363	.05135	.04921	.04720	.04532	.04355	.04188
34	.06489	.06200	.05928	.05674	.05436	.05212	.05002	.04805	.04619	.04444
35	.06857	.06555	.06273	.06007	.05758	.05524	.05304	.05097	.04902	.04718
36	.07246	.06932	.06638	.06361	.06101	.05856	.05626	.05409	.05205	.05012
37	.07659	.07332	.07025	.06737	.06466	.06210	.05969	.05742	.05528	.05325
38	.08098	.07758	.07439	.07138	.06855	.06588	.06336	.06099	.05874	.05662
39	.08563	.08210	.07878	.07565	.07270	.06992	.06729	.06480	.06245	.06023
40	.09059	.08692	.08347	.08021	.07714	.07423	.07149	.06889	.06643	.06411
41	.09586	.09206	.08848	.08509	.08189	.07886	.07600	.07329	.07072	.06828
42	.10147	.09753	.09381	.09029	.08696	.08381	.08083	.07800	.07531	.07277
43	.10742	.10334	.09948	.09583	.09237	.08909	.08598	.08304	.08024	.07758
44	.11373	.10950	.10551	.10172	.09813	.09472	.09148	.08841	.08549	.08272
45	.12035	.11599	.11185	.10792	.10420	.10066	.09730	.09410	.09106	.08817
46	.12732	.12281	.11853	.11447	.11061	.10694	.10345	.10013	.09696	.09395
47	.13460	.12995	.12553	.12133	.11733	.11353	.10991	.10646	.10317	.10004
48	.14223	.13743	.13287	.12853	.12439	.12046	.11671	.11313	.10972	.10646
49	.15020	.14526	.14056	.13608	.13181	.12774	.12385	.12015	.11661	.11322
50	.15855	.15347	.14862	.14401	.13960	.13540	.13138	.12754	.12388	.12037
51	.16727	.16205	.15707	.15232	.14777	.14344	.13929	.13532	.13153	.12789
52	.17634	.17098	.16587	.16097	.15630	.15183	.14755	.14345	.13953	.13577
53	.18576	.18027	.17501	.16999	.16518	.16057	.15616	.15194	.14789	.14400
54	.19552	.18990	.18451	.17935	.17441	.16968	.16514	.16078	.15661	.15260
55	.20564	.19989	.19437	.18908	.18402	.17915	.17449	.17001	.16571	.16157
56	.21613	.21025	.20461	.19919	.19400	.18901	.18422	.17962	.17519	.17093
57	.22698	.22098	.21522	.20968	.20436	.19925	.19434	.18961	.18507	.18069
58	.23816	.23204	.22616	.22051	.21507	.20984	.20481	.19996	.19530	.19080
59	.24962	.24339	.23740	.23163	.22608	.22073	.21558	.21062	.20584	.20123
60	.26136	.25502	.24892	.24304	.23738	.23192	.22666	.22158	.21669	.21196
61	.27339	.26695	.26075	.25477	.24900	.24343	.23806	.23288	.22787	.22304
62	.28578	.27925	.27295	.26687	.26100	.25533	.24985	.24456	.23945	.23451
63	.29854	.29192	.28553	.27935	.27339	.26762	.26205	.25666	.25145	.24641
64	.31164	.30494	.29846	.29221	.28615	.28030	.27463	.26915	.26384	.25870
65	.32508	.31831	.31177	.30543	.29930	.29336	.28761	.28203	.27663	.27140
66	.33891	.33208	.32547	.31906	.31285	.30684	.30101	.29536	.28987	.28456
67	.35318	.34630	.33963	.33316	.32689	.32081	.31491	.30918	.30363	.29823
68	.36785	.36093	.35422	.34770	.34138	.33524	.32928	.32349	.31787	.31240
69	.38290	.37595	.36920	.36265	.35628	.35009	.34408	.33824	.33256	.32703
70	.39823	.39127	.38450	.37791	.37151	.36529	.35924	.35335	.34762	.34204
71	.41378	.40681	.40003	.39343	.38701	.38076	.37467	.36875	.36298	.35736
72	.42950	.42253	.41575	.40914	.40271	.39644	.39034	.38438	.37858	.37293
73	.44535	.43840	.43162	.42502	.41858	.41231	.40619	.40022	.39440	.38872
74	.46139	.45446	.44771	.44112	.43469	.42842	.42230	.41632	.41049	.40479
75	.47769	.47080	.46408	.45752	.45111	.44485	.43874	.43277	.42693	.42123
76	.49430	.48747	.48079	.47427	.46790	.46167	.45558	.44963	.44380	.43811
77	.51123	.50447	.49786	.49139	.48506	.47888	.47282	.46690	.46111	.45543
78	.52845	.52177	.51523	.50884	.50257	.49645	.49044	.48457	.47881	.47317
79	.54584	.53926	.53282	.52650	.52032	.51426	.50833	.50251	.49681	.49122
80	.56325	.55678	.55044	.54423	.53813	.53216	.52630	.52056	.51492	.50939
81	.58054	.57419	.56797	.56186	.55587	.54999	.54422	.53856	.53300	.52754
82	.59762	.59140	.58530	.57931	.57343	.56766	.56198	.55641	.55094	.54557
83	.61448	.60840	.60243	.59657	.59081	.58515	.57958	.57411	.56874	.56346
84	.63124	.62531	.61949	.61376	.60813	.60259	.59715	.59179	.58652	.58134
85	.64800	.64224	.63657	.63099	.62550	.62010	.61478	.60955	.60441	.59934
86	.66461	.65902	.65351	.64810	.64276	.63751	.63233	.62724	.62222	.61728
87	.68083	.67541	.67008	.66483	.65965	.65455	.64953	.64458	.63970	.63489
88	.69663	.69140	.68624	.68116	.67615	.67121	.66634	.66154	.65680	.65213
89	.71201	.70696	.70199	.69708	.69224	.68747	.68276	.67811	.67353	.66900
90	.72694	.72209	.71730	.71257	.70791	.70330	.69876	.69427	.68984	.68547
91	.74117	.73650	.73190	.72735	.72286	.71842	.71404	.70972	.70545	.70123
92	.75439	.74991	.74548	.74110	.73678	.73251	.72829	.72412	.72000	.71593
93	.76664	.76233	.75806	.75385	.74969	.74557	.74150	.73748	.73350	.72957
94	.77809	.77394	.76983	.76578	.76177	.75780	.75388	.75000	.74616	.74237
95	.78899	.78500	.78106	.77715	.77329	.76947	.76569	.76195	.75826	.75460
96	.79928	.79544	.79165	.78790	.78418	.78050	.77686	.77326	.76970	.76617
97	.80883	.80514	.80149	.79787	.79430	.79075	.78725	.78377	.78033	.77693
98	.81781	.81427	.81075	.80727	.80382	.80041	.79703	.79368	.79036	.78708
99	.82661	.82320	.81982	.81648	.81316	.80988	.80662	.80340	.80020	.79704
100	.83519	.83192	.82868	.82547	.82228	.81913	.81600	.81290	.80982	.80678
101	.84368	.84055	.83744	.83437	.83131	.82829	.82529	.82231	.81936	.81643
102	.85203	.84904	.84607	.84313	.84021	.83731	.83444	.83159	.82876	.82596

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
103	.86034	.85748	.85465	.85184	.84906	.84629	.84355	.84082	.83812	.83544
104	.86923	.86653	.86385	.86119	.85855	.85593	.85333	.85074	.84818	.84563
105	.87792	.87537	.87283	.87032	.86782	.86534	.86287	.86042	.85799	.85557
106	.88918	.88683	.88450	.88218	.87987	.87758	.87530	.87304	.87079	.86855
107	.90291	.90082	.89873	.89666	.89460	.89255	.89051	.88849	.88647	.88447
108	.92455	.92288	.92123	.91958	.91794	.91630	.91468	.91306	.91145	.90984
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01488	.01463	.01439	.01417	.01396	.01377	.01359	.01343	.01327	.01312
1	.00662	.00636	.00612	.00589	.00568	.00548	.00530	.00513	.00497	.00482
2	.00654	.00626	.00600	.00576	.00554	.00533	.00514	.00496	.00479	.00463
3	.00670	.00641	.00613	.00588	.00564	.00542	.00522	.00502	.00484	.00468
4	.00699	.00668	.00639	.00612	.00587	.00563	.00542	.00521	.00502	.00484
5	.00739	.00706	.00675	.00646	.00620	.00595	.00571	.00550	.00529	.00510
6	.00786	.00751	.00718	.00687	.00659	.00633	.00608	.00585	.00563	.00543
7	.00841	.00803	.00769	.00736	.00706	.00678	.00652	.00627	.00604	.00582
8	.00902	.00863	.00826	.00791	.00759	.00730	.00702	.00675	.00651	.00628
9	.00973	.00931	.00892	.00856	.00822	.00790	.00760	.00733	.00706	.00682
10	.01055	.01010	.00969	.00930	.00894	.00861	.00829	.00799	.00772	.00746
11	.01146	.01099	.01055	.01014	.00976	.00940	.00907	.00875	.00846	.00818
12	.01246	.01196	.01150	.01106	.01066	.01028	.00993	.00960	.00928	.00899
13	.01351	.01298	.01249	.01204	.01161	.01121	.01084	.01049	.01016	.00985
14	.01455	.01400	.01348	.01300	.01255	.01213	.01173	.01136	.01102	.01069
15	.01555	.01497	.01443	.01392	.01345	.01300	.01259	.01220	.01183	.01148
16	.01648	.01587	.01530	.01477	.01427	.01380	.01336	.01295	.01257	.01220
17	.01737	.01673	.01612	.01556	.01504	.01455	.01408	.01365	.01324	.01286
18	.01822	.01754	.01691	.01632	.01576	.01525	.01476	.01430	.01387	.01347
19	.01908	.01837	.01770	.01708	.01650	.01595	.01544	.01495	.01450	.01407
20	.01999	.01924	.01854	.01788	.01726	.01669	.01615	.01564	.01516	.01471
21	.02096	.02017	.01943	.01874	.01809	.01748	.01691	.01637	.01586	.01539
22	.02197	.02114	.02036	.01963	.01895	.01830	.01770	.01713	.01660	.01610
23	.02306	.02218	.02136	.02059	.01987	.01919	.01855	.01795	.01739	.01686
24	.02424	.02331	.02245	.02163	.02087	.02016	.01948	.01885	.01825	.01769
25	.02552	.02455	.02364	.02278	.02197	.02122	.02051	.01984	.01920	.01861
26	.02692	.02589	.02493	.02403	.02318	.02238	.02162	.02091	.02025	.01961
27	.02846	.02738	.02636	.02541	.02451	.02367	.02287	.02212	.02141	.02074
28	.03012	.02898	.02791	.02690	.02595	.02506	.02422	.02342	.02267	.02196
29	.03190	.03070	.02957	.02851	.02751	.02656	.02567	.02483	.02404	.02329
30	.03381	.03254	.03135	.03023	.02917	.02817	.02723	.02634	.02551	.02471
31	.03583	.03450	.03324	.03206	.03094	.02989	.02890	.02796	.02707	.02623
32	.03799	.03659	.03527	.03402	.03284	.03173	.03068	.02968	.02874	.02785
33	.04031	.03883	.03744	.03612	.03488	.03371	.03260	.03155	.03055	.02961
34	.04279	.04123	.03976	.03838	.03707	.03583	.03465	.03354	.03249	.03149
35	.04545	.04382	.04227	.04081	.03943	.03812	.03688	.03571	.03459	.03354
36	.04830	.04658	.04495	.04341	.04196	.04058	.03927	.03803	.03685	.03573
37	.05134	.04953	.04782	.04620	.04467	.04321	.04183	.04052	.03928	.03809
38	.05462	.05272	.05092	.04921	.04760	.04606	.04461	.04322	.04191	.04066
39	.05812	.05613	.05424	.05245	.05075	.04913	.04760	.04614	.04475	.04343
40	.06190	.05981	.05782	.05594	.05415	.05245	.05083	.04929	.04783	.04643
41	.06597	.06378	.06170	.05972	.05784	.05605	.05435	.05272	.05118	.04970
42	.07035	.06806	.06587	.06380	.06182	.05994	.05815	.05644	.05481	.05326
43	.07505	.07265	.07036	.06818	.06611	.06414	.06225	.06045	.05874	.05710
44	.08008	.07757	.07518	.07290	.07072	.06865	.06667	.06478	.06298	.06125
45	.08542	.08279	.08029	.07791	.07563	.07346	.07138	.06940	.06750	.06569
46	.09108	.08834	.08573	.08324	.08085	.07858	.07640	.07432	.07233	.07043
47	.09705	.09419	.09147	.08886	.08637	.08399	.08172	.07954	.07745	.07545
48	.10335	.10038	.09754	.09482	.09222	.08973	.08735	.08507	.08288	.08078
49	.10999	.10690	.10394	.10111	.09840	.09581	.09332	.09093	.08864	.08644
50	.11701	.11380	.11073	.10778	.10496	.10225	.09965	.09716	.09477	.09247
51	.12441	.12108	.11789	.11482	.11189	.10907	.10636	.10376	.10126	.09886
52	.13217	.12871	.12540	.12222	.11916	.11623	.11341	.11071	.10810	.10560
53	.14028	.13670	.13327	.12997	.12680	.12375	.12082	.11801	.11529	.11268
54	.14875	.14505	.14150	.13808	.13480	.13163	.12859	.12566	.12284	.12012
55	.15760	.15378	.15011	.14657	.14317	.13989	.13674	.13370	.13077	.12794
56	.16684	.16290	.15911	.15546	.15194	.14855	.14528	.14213	.13909	.13615
57	.17648	.17242	.16851	.16474	.16111	.15760	.15422	.15096	.14781	.14477
58	.18647	.18229	.17827	.17438	.17064	.16702	.16353	.16015	.15689	.15374
59	.19678	.19249	.18835	.18435	.18049	.17676	.17316	.16968	.16631	.16305
60	.20740	.20300	.19875	.19464	.19066	.18682	.18311	.17952	.17604	.17268
61	.21837	.21385	.20949	.20527	.20119	.19724	.19341	.18971	.18613	.18266
62	.22973	.22511	.22064	.21631	.21212	.20807	.20414	.20033	.19664	.19306
63	.24152	.23680	.23222	.22779	.22350	.21934	.21530	.21139	.20760	.20392

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
64	.25372	.24890	.24422	.23969	.23529	.23103	.22690	.22289	.21899	.21521
65	.26633	.26141	.25664	.25201	.24752	.24316	.23893	.23482	.23083	.22695
66	.27940	.27439	.26953	.26481	.26023	.25577	.25145	.24724	.24316	.23918
67	.29299	.28790	.28296	.27815	.27348	.26894	.26453	.26024	.25606	.25200
68	.30709	.30193	.29691	.29202	.28728	.28265	.27816	.27378	.26952	.26537
69	.32166	.31643	.31134	.30639	.30157	.29687	.29230	.28785	.28351	.27928
70	.33661	.33133	.32618	.32116	.31628	.31152	.30688	.30235	.29794	.29364
71	.35188	.34654	.34134	.33627	.33133	.32651	.32181	.31722	.31275	.30838
72	.36742	.36204	.35679	.35168	.34668	.34181	.33706	.33241	.32788	.32345
73	.38317	.37776	.37248	.36733	.36229	.35738	.35257	.34788	.34330	.33882
74	.39923	.39380	.38849	.38330	.37823	.37328	.36844	.36370	.35908	.35455
75	.41566	.41021	.40489	.39968	.39459	.38961	.38474	.37997	.37531	.37074
76	.43254	.42709	.42176	.41655	.41144	.40645	.40156	.39677	.39208	.38749
77	.44988	.44444	.43912	.43391	.42880	.42380	.41891	.41411	.40940	.40479
78	.46765	.46224	.45694	.45174	.44665	.44166	.43677	.43197	.42726	.42265
79	.48574	.48037	.47510	.46993	.46487	.45990	.45502	.45024	.44554	.44094
80	.50397	.49865	.49343	.48830	.48327	.47834	.47349	.46873	.46406	.45947
81	.52219	.51693	.51176	.50669	.50171	.49682	.49201	.48729	.48265	.47809
82	.54029	.53510	.53000	.52499	.52007	.51523	.51047	.50580	.50120	.49667
83	.55826	.55315	.54813	.54319	.53834	.53356	.52886	.52424	.51969	.51522
84	.57624	.57123	.56629	.56144	.55666	.55195	.54732	.54277	.53828	.53386
85	.59435	.58944	.58460	.57984	.57516	.57054	.56599	.56151	.55710	.55275
86	.61241	.60762	.60289	.59824	.59365	.58913	.58468	.58029	.57596	.57170
87	.63015	.62548	.62087	.61633	.61185	.60744	.60309	.59880	.59456	.59039
88	.64753	.64299	.63851	.63409	.62973	.62543	.62118	.61700	.61287	.60879
89	.66454	.66013	.65579	.65150	.64726	.64308	.63895	.63488	.63086	.62689
90	.68115	.67689	.67268	.66853	.66442	.66037	.65637	.65241	.64851	.64465
91	.69706	.69294	.68887	.68486	.68089	.67696	.67309	.66925	.66547	.66173
92	.71190	.70792	.70399	.70011	.69627	.69247	.68872	.68501	.68134	.67771
93	.72569	.72184	.71804	.71429	.71057	.70689	.70326	.69967	.69611	.69259
94	.73861	.73490	.73123	.72759	.72400	.72044	.71692	.71344	.71000	.70659
95	.75097	.74739	.74384	.74033	.73686	.73342	.73002	.72665	.72331	.72001
96	.76267	.75922	.75579	.75240	.74905	.74572	.74243	.73917	.73595	.73275
97	.77356	.77022	.76691	.76363	.76039	.75718	.75399	.75084	.74772	.74463
98	.78382	.78059	.77740	.77423	.77110	.76799	.76491	.76186	.75884	.75584
99	.79390	.79079	.78771	.78465	.78162	.77862	.77565	.77270	.76978	.76688
100	.80376	.80076	.79779	.79485	.79193	.78904	.78617	.78333	.78051	.77771
101	.81353	.81066	.80780	.80497	.80217	.79938	.79662	.79388	.79117	.78847
102	.82318	.82042	.81768	.81496	.81227	.80960	.80694	.80431	.80170	.79911
103	.83278	.83014	.82752	.82491	.82233	.81977	.81723	.81470	.81220	.80971
104	.84310	.84059	.83810	.83563	.83317	.83073	.82831	.82591	.82352	.82115
105	.85318	.85079	.84843	.84607	.84374	.84142	.83911	.83682	.83455	.83229
106	.86633	.86413	.86193	.85975	.85758	.85543	.85329	.85116	.84904	.84694
107	.88247	.88049	.87852	.87656	.87460	.87266	.87073	.86881	.86690	.86500
108	.90825	.90666	.90507	.90350	.90193	.90037	.89881	.89727	.89572	.89419
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.01298	.01285	.01273	.01261	.01250	.01240	.01230	.01221	.01212	.01203
1	.00468	.00455	.00443	.00431	.00420	.00410	.00400	.00391	.00382	.00374
2	.00448	.00435	.00421	.00409	.00398	.00387	.00376	.00366	.00357	.00348
3	.00452	.00437	.00423	.00410	.00398	.00386	.00375	.00365	.00355	.00345
4	.00468	.00452	.00437	.00423	.00410	.00397	.00386	.00375	.00364	.00354
5	.00493	.00476	.00460	.00445	.00431	.00418	.00405	.00393	.00382	.00371
6	.00524	.00506	.00489	.00473	.00458	.00444	.00430	.00418	.00406	.00394
7	.00562	.00543	.00525	.00508	.00492	.00477	.00462	.00449	.00436	.00423
8	.00606	.00586	.00566	.00548	.00531	.00515	.00499	.00485	.00471	.00458
9	.00659	.00637	.00616	.00597	.00579	.00561	.00545	.00529	.00514	.00500
10	.00721	.00698	.00676	.00655	.00636	.00617	.00600	.00583	.00567	.00552
11	.00792	.00767	.00744	.00722	.00701	.00682	.00663	.00645	.00628	.00612
12	.00871	.00845	.00821	.00797	.00775	.00754	.00735	.00716	.00698	.00681
13	.00955	.00928	.00902	.00877	.00854	.00831	.00810	.00790	.00771	.00753
14	.01038	.01009	.00981	.00955	.00930	.00907	.00885	.00864	.00843	.00824
15	.01116	.01085	.01056	.01028	.01002	.00977	.00954	.00932	.00910	.00890
16	.01186	.01153	.01123	.01094	.01066	.01040	.01015	.00992	.00969	.00948
17	.01250	.01215	.01183	.01152	.01124	.01096	.01070	.01045	.01022	.00999
18	.01308	.01272	.01238	.01206	.01175	.01147	.01119	.01093	.01068	.01044
19	.01367	.01329	.01293	.01259	.01227	.01196	.01167	.01140	.01113	.01088
20	.01428	.01388	.01350	.01314	.01280	.01248	.01217	.01188	.01161	.01134
21	.01494	.01451	.01411	.01373	.01337	.01303	.01271	.01240	.01211	.01183
22	.01562	.01517	.01475	.01435	.01397	.01361	.01326	.01294	.01263	.01233
23	.01635	.01588	.01543	.01501	.01460	.01422	.01386	.01351	.01319	.01287
24	.01716	.01665	.01618	.01573	.01530	.01489	.01451	.01415	.01380	.01347

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
25	.01804	.01751	.01701	.01653	.01608	.01565	.01524	.01485	.01448	.01413
26	.01902	.01845	.01792	.01741	.01693	.01648	.01604	.01563	.01524	.01487
27	.02011	.01951	.01895	.01841	.01790	.01742	.01696	.01652	.01610	.01571
28	.02129	.02066	.02006	.01949	.01895	.01844	.01795	.01748	.01704	.01662
29	.02258	.02191	.02127	.02067	.02009	.01955	.01903	.01853	.01806	.01762
30	.02396	.02325	.02257	.02193	.02132	.02074	.02019	.01966	.01916	.01869
31	.02543	.02467	.02396	.02328	.02263	.02201	.02143	.02087	.02034	.01983
32	.02701	.02621	.02545	.02472	.02404	.02338	.02276	.02217	.02160	.02106
33	.02871	.02786	.02706	.02629	.02556	.02487	.02420	.02357	.02297	.02240
34	.03054	.02964	.02879	.02797	.02720	.02646	.02576	.02509	.02445	.02383
35	.03253	.03158	.03067	.02981	.02898	.02820	.02745	.02674	.02606	.02541
36	.03467	.03366	.03269	.03178	.03090	.03007	.02928	.02852	.02779	.02710
37	.03697	.03590	.03488	.03391	.03298	.03209	.03125	.03044	.02967	.02893
38	.03947	.03833	.03725	.03622	.03524	.03430	.03340	.03254	.03172	.03094
39	.04217	.04096	.03982	.03873	.03768	.03669	.03573	.03482	.03395	.03312
40	.04510	.04383	.04262	.04146	.04035	.03930	.03828	.03732	.03639	.03550
41	.04830	.04695	.04567	.04445	.04327	.04215	.04108	.04005	.03907	.03812
42	.05177	.05035	.04900	.04770	.04646	.04527	.04413	.04304	.04200	.04100
43	.05553	.05404	.05261	.05123	.04992	.04866	.04746	.04630	.04520	.04413
44	.05960	.05802	.05651	.05506	.05368	.05235	.05107	.04985	.04867	.04754
45	.06395	.06229	.06069	.05917	.05770	.05630	.05495	.05365	.05241	.05121
46	.06860	.06685	.06517	.06356	.06202	.06053	.05911	.05774	.05643	.05516
47	.07353	.07169	.06992	.06823	.06660	.06504	.06353	.06209	.06070	.05936
48	.07877	.07684	.07498	.07320	.07149	.06984	.06826	.06673	.06527	.06385
49	.08433	.08231	.08036	.07849	.07669	.07495	.07329	.07168	.07013	.06864
50	.09026	.08814	.08609	.08413	.08224	.08042	.07867	.07698	.07535	.07378
51	.09655	.09433	.09219	.09013	.08815	.08624	.08440	.08262	.08091	.07926
52	.10318	.10086	.09863	.09647	.09439	.09239	.09046	.08860	.08680	.08506
53	.11017	.10774	.10541	.10315	.10098	.09888	.09686	.09491	.09302	.09120
54	.11750	.11498	.11254	.11019	.10792	.10572	.10361	.10156	.09958	.09767
55	.12522	.12258	.12005	.11759	.11522	.11294	.11072	.10859	.10652	.10451
56	.13332	.13059	.12794	.12539	.12292	.12054	.11823	.11599	.11383	.11174
57	.14183	.13899	.13624	.13359	.13102	.12853	.12613	.12380	.12154	.11936
58	.15070	.14775	.14490	.14215	.13948	.13689	.13439	.13197	.12962	.12734
59	.15990	.15685	.15389	.15103	.14826	.14558	.14298	.14046	.13801	.13564
60	.16942	.16626	.16321	.16024	.15737	.15459	.15189	.14927	.14673	.14426
61	.17929	.17603	.17287	.16981	.16684	.16395	.16115	.15844	.15580	.15324
62	.18960	.18623	.18297	.17980	.17673	.17375	.17085	.16803	.16530	.16264
63	.20035	.19688	.19352	.19025	.18708	.18400	.18100	.17809	.17525	.17250
64	.21154	.20797	.20451	.20114	.19787	.19469	.19159	.18859	.18566	.18281
65	.22318	.21951	.21595	.21249	.20912	.20584	.20265	.19955	.19652	.19358
66	.23532	.23156	.22790	.22434	.22088	.21751	.21422	.21102	.20791	.20487
67	.24804	.24419	.24044	.23679	.23324	.22977	.22640	.22311	.21990	.21678
68	.26133	.25740	.25356	.24983	.24618	.24263	.23917	.23579	.23250	.22929
69	.27516	.27114	.26723	.26341	.25969	.25605	.25251	.24905	.24567	.24237
70	.28945	.28536	.28137	.27747	.27367	.26996	.26633	.26279	.25934	.25596
71	.30412	.29996	.29590	.29193	.28806	.28427	.28057	.27696	.27343	.26998
72	.31913	.31491	.31078	.30675	.30281	.29895	.29519	.29150	.28790	.28438
73	.33444	.33016	.32597	.32188	.31788	.31396	.31013	.30638	.30271	.29913
74	.35012	.34579	.34155	.33741	.33335	.32938	.32549	.32168	.31795	.31430
75	.36628	.36190	.35762	.35343	.34932	.34530	.34136	.33750	.33372	.33001
76	.38299	.37858	.37427	.37004	.36589	.36183	.35784	.35394	.35011	.34636
77	.40028	.39585	.39151	.38725	.38307	.37898	.37496	.37103	.36716	.36337
78	.41812	.41368	.40933	.40506	.40086	.39675	.39271	.38874	.38485	.38103
79	.43641	.43198	.42762	.42334	.41914	.41502	.41096	.40698	.40308	.39924
80	.45496	.45054	.44619	.44192	.43772	.43360	.42954	.42556	.42164	.41779
81	.47360	.46920	.46487	.46061	.45643	.45231	.44827	.44429	.44038	.43653
82	.49223	.48785	.48355	.47932	.47516	.47106	.46703	.46307	.45916	.45532
83	.51081	.50648	.50221	.49802	.49388	.48982	.48581	.48187	.47799	.47416
84	.52951	.52523	.52101	.51686	.51277	.50874	.50477	.50086	.49701	.49321
85	.54847	.54425	.54009	.53600	.53196	.52798	.52406	.52019	.51638	.51262
86	.56749	.56335	.55926	.55523	.55126	.54734	.54348	.53966	.53591	.53220
87	.58627	.58221	.57820	.57425	.57035	.56650	.56270	.55895	.55526	.55161
88	.60477	.60079	.59688	.59301	.58919	.58542	.58170	.57802	.57439	.57081
89	.62297	.61909	.61527	.61149	.60776	.60408	.60044	.59685	.59330	.58979
90	.64084	.63707	.63335	.62968	.62604	.62246	.61891	.61540	.61194	.60851
91	.65803	.65437	.65076	.64719	.64366	.64017	.63672	.63330	.62993	.62659
92	.67412	.67058	.66707	.66360	.66017	.65678	.65342	.65010	.64682	.64357
93	.68911	.68567	.68227	.67890	.67557	.67227	.66901	.66578	.66258	.65942
94	.70321	.69988	.69657	.69330	.69006	.68686	.68369	.68055	.67744	.67437
95	.71674	.71351	.71031	.70713	.70399	.70088	.69781	.69476	.69174	.68875
96	.72959	.72646	.72335	.72028	.71724	.71422	.71123	.70828	.70534	.70244
97	.74156	.73853	.73552	.73254	.72959	.72666	.72376	.72089	.71804	.71522
98	.75287	.74993	.74702	.74413	.74126	.73842	.73561	.73282	.73006	.72732

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
99	.76401	.76117	.75834	.75555	.75277	.75002	.74730	.74459	.74191	.73926
100	.77494	.77219	.76946	.76676	.76408	.76142	.75878	.75616	.75357	.75099
101	.78580	.78315	.78052	.77791	.77532	.77275	.77021	.76768	.76517	.76268
102	.79654	.79399	.79146	.78894	.78645	.78397	.78152	.77908	.77666	.77426
103	.80724	.80479	.80236	.79994	.79755	.79517	.79280	.79046	.78813	.78582
104	.81879	.81646	.81413	.81183	.80954	.80726	.80501	.80276	.80054	.79832
105	.83005	.82782	.82560	.82340	.82121	.81904	.81688	.81474	.81260	.81049
106	.84485	.84277	.84071	.83866	.83662	.83459	.83257	.83057	.82857	.82659
107	.86311	.86124	.85937	.85751	.85566	.85382	.85199	.85017	.84835	.84655
108	.89266	.89114	.88963	.88812	.88662	.88513	.88364	.88216	.88068	.87922
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

TABLE 90CM.—LIFE TABLE APPLICABLE AFTER APRIL 30, 1999

Age x (1)	l(x) (2)	Age x (1)	l(x) (2)	Age x (1)	l(x) (2)
0	100000	37	95969	74	62852
1	99064	38	95780	75	60449
2	98992	39	95581	76	57955
3	98944	40	95373	77	55373
4	98907	41	95156	78	52704
5	98877	42	94928	79	49943
6	98850	43	94687	80	47084
7	98826	44	94431	81	44129
8	98803	45	94154	82	41091
9	98783	46	93855	83	37994
10	98766	47	93528	84	34876
11	98750	48	93173	85	31770
12	98734	49	92787	86	28687
13	98713	50	92370	87	25638
14	98681	51	91918	88	22658
15	98635	52	91424	89	19783
16	98573	53	90885	90	17046
17	98497	54	90297	91	14466
18	98409	55	89658	92	12066
19	98314	56	88965	93	9884
20	98215	57	88214	94	7951
21	98113	58	87397	95	6282
22	98006	59	86506	96	4868
23	97896	60	85537	97	3694
24	97784	61	84490	98	2745
25	97671	62	83368	99	1999
26	97556	63	82169	100	1424
27	97441	64	80887	101	991
28	97322	65	79519	102	672
29	97199	66	78066	103	443
30	97070	67	76531	104	284
31	96934	68	74907	105	175
32	96791	69	73186	106	105
33	96642	70	71357	107	60
34	96485	71	69411	108	33
35	96322	72	67344	109	17
36	96150	73	65154	110	0

(e) *Effective dates.* This section applies after April 30, 1999.

§ 20.2031–7T [Removed]

Par. 13a. Section 20.2031–7T is removed.

Par. 14. Section 20.7520–1 is amended by revising paragraphs (a)(2), (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 20.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

(a) * * *

(2) In the case of a transfer to a pooled income fund with a valuation date after April 30, 1999, see § 1.642(c)–6(e) (or, for certain prior periods, § 1.642(c)–6A of this chapter) of this chapter with respect to the valuation of the remainder interest.

* * * * *

(b) * * *

(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States Census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the mortality component tables will be published in the regulations at that time. For decedents' estates with valuation dates after April 30, 1999, the mortality component table (Table 90CM)

is included in § 20.2031–7(d)(7). See § 20.2031–7A for mortality component tables applicable to decedent's estates with valuation dates before May 1, 1999.

(c) * * *

(1) *Regulation sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1999.* Section 1.642(c)–6(e)(6) of this chapter contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5 of this chapter. See § 1.642(c)–6A of this chapter for single life remainder factors applicable to valuation dates before May 1, 1999. Section 1.664–4(e)(6) of this chapter contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section 1.664–4(e)(7) of this chapter contains Table U(1) (unitrust single life remainder factors). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3 of this chapter. See § 1.664–4A of this chapter for unitrust single life remainder factors applicable to valuation dates before May 1, 1999. Section 20.2031–(d)(6) contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), and Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7(d)(7) contains Table S (single life remainder factors) and Table 90CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A for single life remainder factors and mortality components applicable to valuation dates before May 1, 1999.

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 22 percent for valuation dates after April 30, 1999.* The following documents are available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402:

(i) Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (7–1999). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 of this chapter and a pooled income fund as defined in § 1.642(c)–5 of this chapter. See § 20.2031–7A for publications containing tables for valuation dates before May 1, 1999.

(ii) Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (7–1999). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3 of this chapter. See § 1.664–4A of this chapter for publications containing tables for valuation dates before May 1, 1999.

(iii) Internal Revenue Service Publication 1459, ''Actuarial Values, Book Gimel,'' (7–1999). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12 of this chapter.

(d) *Effective date.* This section applies after April 30, 1989.

§ 20.7520–1T [Removed]

Par. 15. Section 20.7520–1T is removed.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 16. The authority citation for part 25 is amended by removing the entries for Sections 25–2512–5T and 25.7520–1T to read in part as follows:

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

§ 25.2512–0 [Amended]

Par. 17. Section 25.2512–0 is amended by removing the entry for § 25.2512–5T from the contents listing.

Par. 18. Section 25.2512–5 is amended by revising paragraphs (c), (d) and (e) to read as follows:

§ 25.2512–5 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) *Actuarial valuations.* The present value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift after April 30, 1999, is determined under paragraph (d) of this section. The present value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift before May 1, 1999, is determined under the following sections:

Transfers		Applicable regulations
After	Before	
	01–01–52	25.2512–5A(a)
12–31–51	01–01–71	25.2512–5A(b)
12–31–70	12–01–83	25.2512–5A(c)
11–30–83	05–01–89	25.2512–5A(d)
04–30–89	05–01–99	25.2512–5A(e)

(d) *Actuarial valuations after April 30, 1999*—(1) *In general.* Except as otherwise provided in paragraph (b) of this section and § 25.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances), if the valuation date for the gift is after April 30, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversions transferred after April 30, 1999, is the present value of such interests determined under paragraph (d)(2) of this section and by use of standard or special section 7520 actuarial factors. These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 25.7520–1 through 25.7520–4. The fair market value of a qualified annuity interest described in section 2702(b)(1) and a qualified unitrust interest described in section 2702(b)(2) is the present value of such interests determined under § 25.7520–1(c).

(2) *Specific interests.* When the donor transfers property in trust or otherwise and retains an interest therein, generally, the value of the gift is the value of the property transferred less the value of the donor's retained interest. However, if the donor transfers property after October 8, 1990, to or for the benefit of a member of the donor's family, the value of the gift is the value of the property transferred less the value of the donor's retained interest as determined under section 2702. If the donor assigns or relinquishes an annuity, life estate, remainder, or reversion that the donor holds by virtue of a transfer previously made by the donor or another, the value of the gift is the value of the interest transferred. However, see section 2519 for a special rule in the case of the assignment of an income interest by a person who received the interest from a spouse.

(i) *Charitable remainder trusts.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5 of this chapter, is its value determined under § 1.642(c)–6(e) of this chapter (see § 1.642(c)–6A for certain prior periods). The fair market value of a remainder interest in a charitable remainder annuity trust, as described in § 1.664–2(a) of this chapter, is its present value determined under § 1.664–2(c) of this chapter. The fair

market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3 of this chapter, is its present value determined under § 1.664–4(e) of this chapter. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of transfer less the fair market value of the remainder interest, determined under § 1.664–4(e)(4) and (5) of this chapter.

(ii) *Ordinary remainder and reversionary interests.* If the interest to be valued is to take effect after a definite number of years or after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder interest actuarial factor (that corresponds to the applicable section 7520 interest rate and remainder interest period) in Table B (for a term certain) or the appropriate Table S (for one measuring life), as the case may be. Table B is contained in § 20.2031–7(d)(6) of this chapter and Table S (for one measuring life when the valuation date is after April 30, 1999) is included in § 20.2031–7(d)(7) of this chapter and Internal Revenue Service Publication 1457. See § 20.2031–7A(e)(4) of this chapter containing Table S and Life Table 80CNSMT for valuation of interests after April 30, 1989, and before May 1, 1999. For information about obtaining actuarial factors for other types of remainder interests, see paragraph (d)(4) of this section.

(iii) *Ordinary term-of-years and life interests.* If the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable section 7520 interest rate and term-of-years or life interest period). Internal Revenue Service Publication 1457 includes actuarial factors for an interest for a term of years in Table B and for the life of one individual in Table S (for one measuring life when the valuation date is after April 30, 1999). However, term-of-years and life interest actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in § 20.2031–7(d)(7) (or in § 20.2031–7A(e)(4)) of this chapter. If Internal Revenue Service Publication 1457 (or any other reliable source of term-of-years and life interest actuarial factors) is not conveniently available, an actuarial factor for the interest may be derived mathematically. This actuarial factor may be derived by subtracting the correlative remainder factor (that corresponds to the applicable section 7520 interest rate) in Table B (for a term of years) in § 20.2031–7(d)(6) of this chapter or in Table S (for the life of one individual) in § 20.2031–7(d)(7) of this chapter, as the case may be, from 1.000000. For information about obtaining actuarial factors for other types of term-of-years and life interests, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount payable annually by the appropriate annuity actuarial factor (that corresponds to the applicable section 7520 interest rate and annuity period). Internal Revenue Service Publication 1457 includes actuarial factors in Table B (for an annuity payable for a term of years) and in Table S (for an annuity payable for the life of one individual when the valuation date is after April 30, 1999). However, annuity actuarial factors are not included in Table B in § 20.2031–7(d)(6) of this chapter or Table S in § 20.2031–7(d)(7) (or in § 20.2031–7A(e)(4)) of this chapter. If Internal Revenue Service Publication 1457 (or any other reliable source of annuity actuarial factors) is not conveniently available, an annuity factor for a term of years or for one life may be derived mathematically. This annuity factor may be derived by subtracting the applicable remainder factor (that corresponds to the applicable section 7520 interest rate and annuity period) in Table B (in the case of a term-of-years annuity) in § 20.2031–7(d)(6) of this chapter or in Table S (in the case of a one-life annuity) in § 20.2031–7(d)(7) of this chapter, as the case may be, from 1.000000 and then dividing the result by the applicable section 7520 interest rate expressed as a decimal number. See § 20.2031–7(d)(2)(iv) of this chapter for an example that illustrates the computation of the present value of an annuity.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor set forth in Table K in § 20.2031–7(d)(6) of this chapter at the appropriate interest rate component for payments made at the end of the specified periods. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the following example:

Example. In July, the donor agreed to pay the annuitant the sum of $10,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each December 31st and June 30th. The annuity is payable until the annuitant's death. On the date of the agreement, the annuitant is 68 years and 5 months old. The donee annuitant's age is treated as 68 for purposes of computing the present value of the annuity. The section 7520 rate on the date of the agreement is 10.6 percent. Under Table S in § 20.2031–7(d)(7) of this chapter, the factor at 10.6 percent for determining the present value of a remainder interest payable at the death of an individual aged 68 is .29691. Converting the remainder factor to an annuity factor, as described above, the annuity factor for determining the present value of an annuity transferred to an individual age 68 is 6.6329 (1.00000 minus .29691 divided by .106). The adjustment factor from Table K in § 20.2031–7(d)(6) of this chapter in the column for payments made at the end of each semiannual period at the rate of 10.6 percent is 1.0258. The aggregate annual amount of the annuity, $10,000, is multiplied by the factor 6.6329 and the product multiplied by 1.0258. The present value of the donee's annuity is, therefore, $68,040.29 ($10,000 × 6.6329 × 1.0258).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained is then multiplied by the adjustment factor in Table J in § 20.2031–7(d)(6) of this chapter at the appropriate interest rate component for payments made at the beginning of specified periods. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraph (d)(2)(iv)(B) of this section.

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual*—(A) *Annuity interests.* The present value of an annuity interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with values from the tables in § 20.2031–7(d)(6) and (d)(7) of this chapter as described in the following example:

Example. The donor transfers $100,000 into a trust and retains the right to receive an annuity from the trust in the amount of

$6,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each June 30th and December 31st. The annuity is payable for 10 years or until the donor's prior death. At the time of the transfer, the donor is 59 years and 6 months old. The donor's age is taken as 60 for purposes of computing the present value of the retained annuity. The section 7520 rate for the month in which the transfer occurred is 9.8 percent. The present value of the donor's retained interest is $35,709.13, determined as follows:

TABLE S value at 9.8 percent, age 60	.21669
TABLE S value at 9.8 percent, age 70	.34762
TABLE 90CM value at age 70	.71357
TABLE 90CM value at age 60	.85537
TABLE B value at 9.8 percent, 10 years	.392624
TABLE K value at 9.8 percent	1.0239

Factor for donor's retained interest at 9.8 percent:

$$\frac{(1.00000-.21669)-(.392624\times(71357/85537)\times(1.00000-.34762))}{.098}=5.8126Fc$$

Present value of donor's retained interest:

($6,000 × 5.8126 × 1.0239)...$35,709.13

(B) *Unitrust interests.* The present value of a unitrust interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with values from the tables in §§ 1.664–4(e)(6) and (e)(7) and § 20.2031–7(d)(7) of this chapter as described in the following example:

Example. The donor who, as of the nearest birthday, is 60 years old, transfers $100,000 to a unitrust on January 1st. The trust instrument requires that each year the trust pay to the donor, in equal semiannual installments on June 30th and December 31st, 6 percent of the fair market value of the trust assets, valued as of January 1st each year, for 10 years or until the prior death of the donor. The section 7520 rate for the January in which the transfer occurred is 9.8 percent. Under Table F(9.8) in § 1.664–4(e)(6) of this chapter, the appropriate adjustment factor is .932539 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 5.595 percent (6% × .932539). The present value of the donor's retained interest is $40,848.00 determined as follows:

TABLE U(1) value at 5.6 percent, age 60	.35375
TABLE U(1) value at 5.6 percent, age 70	.49342
TABLE 90CM value at age 70	71357
TABLE 90CM value at age 60	85537
TABLE D value at 5.6 percent, 10 years	.561979

Factor for donor's retained interest at 5.6 percent:

$$(1.000000-.35375)-(.561979\times(71357/85537)\times(1.000000-.49342))=.40876$$

TABLE U(1) value at 5.4 percent, age 60	.36542
TABLE U(1) value at 5.4 percent, age 70	.50473
TABLE 90CM value at age 70	71357
TABLE 90CM value at age 60	85537
TABLE D value at 5.4 percent, 10 years	.573999

Factor for donor's retained interest at 5.4 percent:

$$(1.000000-.36542)-(.573999\times(71357/85537)\times(1.000000-.50473))=\underset{\text{Difference}\ldots}{\frac{.39742}{0.1134}}$$

Interpolation adjustment:

$$\frac{5.595\%-5.4\%}{0.2\%}=\frac{x}{.01134}$$

$$x=.01106$$

Factor at 5.4 percent, age 60	.39742
Plus: Interpolation adjustment	.01106
Interpolated Factor	.40848

Present value of donor's retained interest:

($100,000 × .40848).....$40,848.00

(3) *Transitional rule.* If the valuation date of a transfer of property by gift is after April 30, 1999, and before July 1, 1999, the fair market value of the interest transferred is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 25.7520–1(b) and 25.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (d)(2) of this section or § 25.2512–5A(e), at the option of the donor. However, with respect to each individual transaction and with respect to all transfers occurring on the valuation date, the donor must use the same actuarial tables (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all transfers made on the same date must be valued based on the same tables).

(4) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in §§ 20.2031–7(d)(6) or (d)(7) of this chapter are included in Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (7–1999). Internal Revenue Service Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. See § 25.2512–5A for publications containing actuarial factors for valuing interests for which the valuation date is before May 1, 1999. If a special factor is required in the case of a completed gift, the Service may furnish the factor to the donor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(e) *Effective dates.* This section applies after April 30, 1999.

§ 25.2512–5T [Removed]

Par. 19. Section 25.2512–5T is removed.

Par. 20. Section 25.7520–1 is amended by revising paragraphs (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 25.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States Census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the mortality component tables will be published in the regulations at that time. For gifts with valuation dates after April 30, 1999, the mortality component table (Table 90CM) is included in § 20.2031–7(d)(7) of this chapter. See § 20.2031–7A of this chapter for mortality component tables applicable to decedent's estates with valuation dates before May 1, 1999.

(c) * * *

(1) *Regulation sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1999.* Section 1.642(c)–6(e)(6) of this chapter contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5 of this chapter. See § 1.642(c)–6A for single life remainder factors applicable to valuation dates before May 1, 1999. Section 1.664–4(e)(6) of this chapter contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section 1.664–4(e)(7) of this chapter contains Table U(1) (unitrust single life remainder factors). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3 of this chapter. See § 1.664–4A for unitrust single life remainder factors applicable to valuation dates before May 1, 1999. Section 20.2031–7(d)(6) of this chapter contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7(d)(7) of this chapter contains Table S (single life remainder factors) and Table 90CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A of this chapter for single life remainder factors and mortality components applicable to valuation dates before May 1, 1999.

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 22 percent for valuation dates after April 30, 1999.* The following documents are available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402:

(i) Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (7–1999). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 of this chapter and a pooled income fund as defined in § 1.642(c)–5 of this chapter. See § 25–2512–5A for publications containing tables for valuation dates before May 1, 1999.

(ii) Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (7–1999). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3 of this chapter. See § 1.664–4A of this chapter for publications containing tables for valuation dates before May 1, 1999.

(iii) Internal Revenue Service Publication 1459, ''Actuarial Values, Book Gimel,'' (7–1999). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12 of this chapter.

(d) *Effective date.* This section applies after April 30, 1989.

§ 25.7520–1T [Removed]

Par. 21. Section 25.7520–1T is removed.

PARTS 1, 20 AND 25—[AMENDED]

Par. 22. In the list below, for each section indicated in the left column, remove the language in the middle column and add the language in the right column:

Section	Remove	Add
1.170A–12(e)(2), following the formula	§ 20.2031–7T	§ 20.2031–7.
1.642(c)–6A(e)(2)(ii), last sentence	§ 1.642(c)–6T(e)(3)(ii)	§ 1.642(c)–6(e)(3)(ii).
1.642(c)–6A(e)(3)	§ 1.642(c)–6T(e)(4)	§ 1.642(c)–6(e)(4).
1.642(c)–6A(e)(4), last sentence	§ 1.642(c)–6T(e)(5)	§ 1.642(c)–6(e)(5).
1.664–1(a)(6), introductory text	§§ 1.664–4T(e), 1.664–4T(e) and 1.664–4A(d) and (e)	§§ 1.664–4(e) and 1.664–4A(d) and (e).
1.664–4(e)(6), second sentence	§ 1.664–4T(e)(7)	paragraph (e)(5) of this section.
1.664–4A(e)(4), fifth sentence	§ 1.664–4T(e)(4)	§ 1.664–4(e)(4).
1.664–4A(e)(4), last sentence	§ 1.664–4T(e)(4)	§ 1.664–4(e)(4).
1.664–4A(e)(5), fourth sentence	§ 1.664–4T(e)(5)	§ 1.664–4(e)(5).
1.664–4A(e)(5), last sentence	§ 1.664–4T(e)(5)	§ 1.664–4(e)(5).
1.7520–1(a)(2)	§ 1.642(c)–6T(e)	§ 1.642(c)–6(e).
20.2031–7A(e)(1), first sentence	§ 20.2031–7T(d)	§ 20.2031–7(d).
20.2055–2(f)(4)	§ 20.2031–7T(d)	§ 20.2031–7(d).
25.2512–5A(e)(1), first sentence	§ 25.2512–5T(d)	§ 25.2512–5(d).
25.7520–1(a)(2)	§ 1.642(c)–6T(e)	§ 1.642(c)–6(e).
25.7520–3(b)(2)(v), *Example 5* (iii)	§ 20.2031–7T(d)(7)	§ 20.2031–7(d)(7).

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved: May 17, 2000.
Jonathan Talisman,
Deputy Assistant Secretary of the Treasury (Tax Policy).
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June 12, 2000

Part III

Nuclear Regulatory Commission

10 CFR Parts 170 and 171
Revision of Fee Schedule; 100% Fee Recovery, FY 2000; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150–AG50

Revision of Fee Schedules; 100% Fee Recovery, FY 2000

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, and annual fees charged to its applicants and licensees. The amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, which mandates that the NRC recover approximately 100 percent of its budget authority in Fiscal Year (FY) 2000, less amounts appropriated from the Nuclear Waste Fund (NWF). The amount to be recovered for FY 2000 is approximately $447.0 million.

EFFECTIVE DATE: August 11, 2000.

ADDRESSES: Copies of comments received and the agency work papers that support these final changes to 10 CFR Parts 170 and 171 may be examined at the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555. Comments received may also be viewed via the NRC's interactive rulemaking website http.// ruleforum.llnl.gov). This site provides the ability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, 301–415–5905; e-mail *CAG@nrc.gov.*

With the exception of restricted information, documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 202–634–3273 or by email to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Glenda Jackson, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone 301–415–6057.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Responses to Comments.
III. Final Action.
IV. Voluntary Consensus Standards.
V. Environmental Impact: Categorical Exclusion.
VI. Paperwork Reduction Act Statement.
VII. Regulatory Analysis.
VIII. Regulatory Flexibility Analysis.
IX. Backfit Analysis.
X. Small Business Regulatory Enforcement Fairness Act.

I. Background

OBRA–90, as amended, requires that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the Department of Energy (DOE) administered Nuclear Waste Fund (NWF). Certain NRC costs related to reviews and other assistance provided to the Department of Energy (DOE) and other Federal agencies are excluded from the fee recovery requirement for FY 2000 by the FY 2000 Energy and Water Development Appropriations Act.

The NRC assesses two types of fees to recover its budget authority. First, license and inspection fees, established at 10 CFR Part 170 under the authority of the Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, recover the NRC's costs of providing special benefits to identifiable applicants and licensees. Examples of the services provided by the NRC for which these fees are assessed are the review of applications for the issuance of new licenses, approvals or renewals, and amendments to licenses or approvals. Second, annual fees, established in 10 CFR Part 171 under the authority of OBRA–90, recover generic and other regulatory costs not recovered through 10 CFR Part 170 fees.

This final rule is based on the current 100 percent fee recovery requirement under OBRA–90. To address fairness and equity concerns related to NRC licensees paying for agency expenses which do not provide a direct benefit to them, the NRC has submitted legislation to the Congress which would reduce the fee recovery amount, beginning in FY 2001. The Senate has passed legislation that would reduce the fee recovery amount to 98 percent for FY 2001, and further reduce the fee recovery amount by an additional two percent per year in FYs 2002 through 2004, and by 4 percent in FY 2005, for a final fee recovery requirement of 88 percent in FY 2005.

Also, in the FY 1999 final fee rule published June 10, 1999 (64 FR 31450), the NRC responded to a comment requesting that NRC designate as small entities, for reduced fee purposes, all those companies with small business certification under the U.S. Small Business Administration's (SBA) Small Disadvantaged Business Program, commonly known as the 8(a) Program. The Commission agreed to give further consideration to the issue raised by this commenter.

The Commission has declined to adopt the suggested approach, for the following reasons. On April 11, 1995 (60 FR 18344), the NRC promulgated a final rule, after notice and comment rulemaking, that revised its size standards. The final rule established the small entity classification applicable to small businesses as follows. Those companies providing services having no more than $5 million in average annual gross receipts over its last three completed fiscal years, or, for manufacturing concerns, having an average of 500 or fewer employees during the preceding 12-month period qualify as small entities (10 CFR 2.810).

The NRC promulgated this rule pursuant to Section 3(a)(2) of the Small Business Act, which permits Federal agencies to establish size standards via notice and comment rulemaking, subject to the approval of the SBA Administrator. Unlike the NRC, the SBA's Standard Industrial Classification (SIC) System establishes size standards based on types of economic activity or industry. The NRC rule, which the SBA approved, established generic size standards for small businesses because NRC's regulatory scheme is not well suited to setting standards for each component of the regulated nuclear industry.

II. Responses to Comments

The NRC published a proposed rule that presented the amendments necessary to revise the licensing, inspection, and annual fees charged to its licensees and applicants for FY 2000 on March 27, 2000 (65 FR 16250). A total of 13 comments were received on the proposed rule. Many of the comments were similar in nature. These comments have been grouped, as appropriate, and addressed as single issues in this final rule.

The comments are as follows:

A. Legal Issues

1. NRC's Interpretations of OBRA–90 and IOAA

Comment. Several commenters again raised questions about the NRC's legal interpretations of OBRA–90 and the IOAA. For example, some commenters argued that OBRA–90 prohibits exemptions from Part 170 fees, and that accordingly the NRC must charge federal agencies, state agencies, and state licensees fees under Part 170 for

specific services rendered. The same commenters claim that the current fee structure denies reactor licensees due process and equal protection under the U.S. Constitution.

Response. These arguments are not new, all having been raised by the same commenters when the fee schedules were revised for FY 1999. In the FY 1999 final fee rule, the NRC carefully set forth both these comments and the NRC's responses to them. The NRC's response explained how the current fee structure fully complies with all statutory and constitutional requirements. Because last year's discussion was sufficiently detailed, and because there have been no new legal developments over the past year that would call for a different resolution of the issues, interested parties are referred to the FY 1999 final fee rule responses to comments (64 FR 31448–50; June 10, 1999).

However, there is one update to the discussion in the June 10, 1999, final rule that outlines actions NRC has taken over the past six years to reduce any residual inequity and unfairness in the current fee structure (64 FR 31450; June 10, 1999). Among those actions has been consistent support for legislation that would address the remaining fairness and equity issues by decreasing the amount of NRC's budget to be recovered through fees. The Senate has passed legislation that would reduce the fee recovery amount by 2 percent per year in FYs 2001 through 2004, and by 4 percent in FY 2005, resulting in a final fee recovery requirement of 88 percent in FY 2005 (S. 1627).

2. Information Provided by NRC in Support of Proposed Rule

Comment. One commenter complained that, in deriving the FY 2000 annual fees by simply escalating last year's fee by 1.4 percent, the NRC has not given ''any consideration'' to whether underlying costs have any rational connection to reactor regulation or any consideration of whether the total assessment is as fair and equitable as is feasible. The commenter also claims that the proposed rule fails to provide ''any explanation and accounting of the expenses that are covered by this charge,'' and thus ''denies the companies a meaningful opportunity to comment.''

Another commenter indicated that, under the provisions of the Administrative Procedure Act, the NRC has not provided sufficient information to enable licensees to evaluate costs. For instance, the NRC should provide detailed cost information associated with each component of reactor regulation and other generic costs. The commenter believes this would provide for more effective feedback and comment and would promote increased Commission efficiency because the costs of services and other agency expenses, such as overhead, would be more visible to stakeholders. The commenter also requested that NRC provide a more detailed account of major research contracts, their purpose, and their costs.

Response. The NRC believes there is nothing obscure about the 1.4 percent increase in annual fees or its relation to reactor regulation. The FY 2000 proposed rule clearly describes the calculation that leads to the 1.4 percent increase (65 FR 16251, 16253–4; March 27, 2000). This calculation is also repeated in this final rule. In addition, the proposed rule announced the availability of the agency's work papers that support these calculations. Furthermore, the NRC has made available in the Public Document Room NUREG–1100, Volume-15, ''Budget Estimates and Performance Plan, Fiscal Year 2000 (February 1999).'' This document discusses the NRC's budget for FY 2000 in detail, including the activities to be performed in each strategic arena. Reactor-related research activities are described under the Nuclear Reactor Safety arena. These explanations satisfy all legal requirements and afford commenters ample information upon which to base their comments.

The fact that the NRC decided to derive the FY 2000 annual fees by means of a percentage increase in no way indicates that the fee was derived without regard to the costs of reactor regulation. To the contrary, the very decision to proceed by percentage increase is based on a consideration of, among other things, whether there has been a substantial change in the magnitude of the budget allocated to a specific class of licensees. The percent change method exists not so the agency can avoid the effort of making the best possible match between fees and services, but rather to give licensees some cost stability. Last year the NRC solicited comment on whether it should retain the percent change method or rebaseline annual fees every year (63 FR 15884; April 1, 1999). The majority of commenters favored continued use of the percent change method because they desired some stability in fees. The Commission has retained this method, with the additional provision that fees will be rebaselined at least every three years.

The total budgeted amount to be recovered in FY 2000 through fees charged to NRC applicants and licensees actually decreased by approximately $2.6 million from the FY 1999 level. The slight increase in annual fees is therefore primarily a result of the absence of a carryover from prior years, a decrease in estimated payments for prior year invoices, and a reduction in the number of licensees. Although inflation ran 2.4 percent over FY 1999, the annual fees are increasing only 1.4 percent.

The NRC emphasizes that, considering inflation, the NRC's budget, in real terms, is down once again—to an all-time low. It represents a 25 percent decrease in the last 7 years alone and staffing levels are their lowest in 20 years. This has all been achieved while the NRC has expended large resources in extraordinary reform efforts, particularly in enforcement and power reactor oversight.

B. Specific Part 170 Issues

1. Project Manager Billings Issues

Comment. Uranium recovery industry commenters strongly opposed the NRC's current billing method for Project Managers (PMs). Many of these comments were directed towards the unfairness of certain types of PM activities being charged to licensees that had little or no apparent connection to the sites the PMs were managing, such as Combined Federal Campaign activities or support to other offices. One commenter stated that indirect PM charges should be captured under Part 171 annual fees versus Part 170 fees due to the inequities of the NRC's current billing system, thereby allowing indirect PM charges to be evenly distributed to all uranium recovery licensees paying annual fees. Another concern was the unequal distribution of PMs to licensee sites, thereby subjecting certain licensees to a disproportionate share of indirect (*e.g.*, administrative) PM costs.

Response. In FYs 1998 and 1999, the NRC shifted cost recovery for certain activities from Part 171 annual fees to Part 170 fees. As part of this effort, in FY 1999, the NRC made a conscious decision to recover the full costs for PMs, with the exception of PM activities that are generic in nature (*e.g.*, rulemaking and preparation of generic guidance documents, *etc.*) and leave time, through Part 170 fees. This decision is consistent with Title V of the IOAA, interpretations of that legislation by the Federal courts, and previous Commission guidance. In summary, these guidelines provide that Part 170 fees may be assessed to persons who are identifiable recipients of ''special benefits'' conferred by specifically identified activities of the NRC. These

special benefits include services rendered at the request of a recipient and all services necessary to the issuance of a required permit, license, certificate, approval, amendment, or other services necessary to assist a recipient in complying with statutory obligations under the Commission's regulations.

With the exception of generic activities and leave time, PM activities are services which the NRC provides to specific, identifiable beneficiaries (*i.e.*, the site or sites to which the PM is assigned). Thus, as the NRC stated in the FY 1999 final rule, it is more appropriate that the costs of these activities be recovered through Part 170 fees assessed to the recipient of the service than through annual fees assessed to all of the licensees in a particular class (64 FR 31448; June 10, 1999). This results in licensees who have ceased operations being charged for the full costs of PMs assigned to their sites. If indirect PM costs were included in the Part 171 annual fee, then only operating licensees, licensees in standby, and power reactor licensees who are in decommissioning or possession only status and having fuel on-site would pay these PM costs.

As indicated in the final FY 1999 fee rule, the NRC readily acknowledges that certain PM activities are not directly related to a specific licensing action or inspection, or even to a specific site. However, these activities are part of the costs to the agency of providing the PM services, and these costs are most appropriately recovered from the licensee benefitting from those services. Day-to-day PM activities to be recovered through Part 170 fees include the general management and oversight of the particular site or sites to which they are assigned, and general activities such as training, travel, general correspondence, staff meetings, coordination with and support to other offices, and processing documents into the NRC's Agencywide Document Access and Management System (ADAMS). A review of the PM time reported in the first two quarters of FY 2000 indicates that approximately 10–15 percent of a PM's time is spent on general or non-site specific administrative duties. The NRC believes it is appropriate to recover the costs for this small percentage of the PM's time from the assigned site or sites as a necessary function in support of the NRC's overall mission.

The NRC stated in the FY 1999 final rule that leave time would be excluded from PM time billed under Part 170. For purposes of Part 170 fees for PMs and resident inspectors, leave time includes approved leave, excused absences, and absences in a duty status. After further review, the NRC has determined that Combined Federal Campaign activities are most appropriately identified as an excused absence for fee billing purposes, and thereby excluded from Part 170 fee assessments. Accordingly, NRC is adjusting those Part 170 invoices that included these charges.

The NRC understands some commenters' concerns about the unequal distribution of licensee sites among PMs in the NRC's uranium recovery program. In the case of PMs assigned to more than one license or site, the PM time that is not directly related to a specific site or to generic activities is prorated to each of the assigned licenses or sites. A site having a fully dedicated PM should bear more of the PM's general and administrative costs, and therefore the distribution of these costs between the licensees in the fee class reflects the proportion of time devoted to one or more sites. As previously noted, this time is a small percentage of the total PM's time.

2. Hourly Rates

Comment. Several uranium recovery commenters stated the hourly rate of $143 for PMs/professional staff was excessive considering that senior-level private consultants in the industry charge far less for comparable services. A reactor licensee called the $3 per hour increase unacceptable, and suggested that NRC help the regulated community by controlling and reducing annual fees, not increasing them to ''pay higher wages.'' Another commenter requested that before issuing the FY 2000 final fee rule, the NRC address the NRC's Office of the Inspector General (OIG) recommendation to evaluate the hourly rate methodology. This commenter believes no substantive justification has been given for formulating hourly rates by using budget data rather than actual data from previous year's billings.

Response. The NRC's hourly rates are established to recover the cost of maintaining a professional employee, such as salaries and benefits and overhead, and to recover general and administrative costs, such as heat, lighting, and supplies. These budgeted costs are incurred whether a professional employee is performing work that is billable under Part 170 or work that is recovered through annual fees. The time spent by a professional employee in performing work that is subject to Part 170 fees is traced to the billable activities and charged at the professional hourly rate to the recipient of the service. Any direct contract support costs incurred in providing the service are also traced and billed directly to the recipient. Because the hourly rate is not intended to be used only for work that is billable under Part 170, the NRC believes it is more appropriate to use budget data than to base the hourly rate calculations on historical Part 170 type billing data.

The NRC is revising the professional hourly rates to $143 for the nuclear materials and nuclear waste program and $144 for the reactor program. As required by OBRA–90, the NRC must recover approximately 100 percent of its budget authority, less the appropriation from the Nuclear Waste Fund, through either fees for direct services (Part 170) or annual fees (Part 171). The professional hourly rates, which are based on budgeted costs, must be established at these levels to meet the fee recovery requirement.

The revised professional hourly rates of $143 and $144 mark a $3 per hour increase over FY 1999. This is primarily attributable to the Government-wide pay increase which went into effect January 2000. This equates to approximately a 2 percent increase over the previous year for professional hourly rates, while at the same time inflation, as measured by the Consumer Price Index, was approximately 2.4 percent.

With regard to the OIG's findings and recommendations, the Commission continues to assert that its fee schedules are in full compliance with the requirements of OBRA–90, IOAA, and OMB Circular A–25. The NRC's methodology for calculating the IOAA fees was upheld by the Court in *Mississippi Power & Light* v. *NRC* [601 F. 2d 223 (5th Cir. 1979) *cert. denied 444 U.S. 1102 (1980)*]. Further, a comprehensive response was published with the OIG report concerning the NRC fee development process, which may be accessed via the NRC's homepage *(http://www.nrc.gov)*. Interested individuals may review the response in detail by selecting ''Reference Library,'' then ''IG Audit Rpts,'' then ''99A–01''.

3. Invoice Information

Comment. Several commenters expressed concern over the lack of appropriate invoice detail regarding quarterly billings for NRC staff services provided to licensees.

Response. The NRC believes that sufficient information is currently provided to licensees or applicants on which to base payment of invoices. The NRC has addressed this issue previously in a similar response to the American Mining Congress (now the National Mining Association) (60 FR 20918; April 28, 1995). The NRC's invoices for full-cost licensing actions and inspections

currently contain information detailing the type of service for which the costs are being billed, the date or date range the service was performed, the number of professional staff-hours expended in providing the service, the hourly rate, and the contractual costs incurred.

A licensee or applicant who does not understand the charges, or who feels it needs more information to interpret a bill, may request additional information from the NRC regarding the specific bill in question. The NRC will provide all available data used to support the bill in response to this type of request. Additionally, if requested, the NRC program staff will provide a best estimate of the hours required to complete a specific licensing action, with the caveat that the actual hours expended may differ from that estimate based on certain circumstances (*e.g.*, timeliness of submittals, quality of products being submitted for review, etc.). However, OMB Circular A–25, which establishes guidelines for Federal agencies to assess fees for Government services, provides that new cost accounting systems need not be created solely for the purpose of determining or estimating full cost. Therefore, the NRC does not currently plan to develop additional systems solely to provide further details to support the fee invoices.

C. Specific Part 171 Issues

1. Percentage Change Methodology

Comment. One commenter stated that, although it agrees that fee stability is ''a reasonable goal,'' and rebaselining might require more resources, the ''industry'' believes annual fees should be rebaselined each year. The commenter believes that annual rebaselining would serve to promote agency efficiency by focusing on the value of the programs and other changes that have an impact on resource requirements. The commenter referenced a recent audit by the OIG which concluded that extended use of the percentage change method may result in a deviation from associating fees with the costs of services provided.

Response. After evaluating all pertinent factors, the Commission has determined that the use of the percentage change method for determining FY 2000 annual fees does not result in a loss of the required ''reasonable relationship'' between fees and the costs of providing services. In the FY 1999 proposed fee rule (64 FR 15884; April 1, 1999), the Commission specifically solicited public comment on whether the NRC should continue to use the percent change method and rebaseline fees every several years, or return to a policy of rebaselining annual fees every year. The majority of the comments received on this issue supported continuing the use of the percent change method, and rebaselining every several years as warranted. These commenters were concerned about fee stability and predictability. Therefore they did not favor annual rebaselining.

Before FY 1999, Commission policy required that annual fees be rebaselined every five years, or earlier if there was a substantial change in the total NRC budget or in the magnitude of the budget allocated to a class of licensees. In FY 1999, based on experience gained as a result of applying the criteria for rebaselining over the previous four years, the Commission implemented a revised policy requiring that future annual fees be rebaselined every three years, or earlier if warranted. The Commission's decision on the appropriate method for establishing annual fees (*i.e.*, rebaselining or percentage change) is made each year after considering the criteria for rebaselining and all relevant facts.

2. Small Entity Fee Increase

Comment. Several comments were received on the proposed 25 percent increase in the small entity annual fees. Some commenters indicated that a 25 percent increase would have negative economic impacts on their businesses. These commenters said it would be difficult for them to recover the increase, and it could force some small companies to give up their licenses. One commenter attributed the reason for the proposed small entity fee increase to the decrease in the number of licensees. This commenter said that businesses faced with reduced sales would not be able to increase prices, but rather would be forced to reduce their budgets, and that this would be an obvious solution for the NRC to follow. Two commenters noted that while the annual fee assessed to small entities would increase by 25 percent, the annual fee for certain other licensees, such as gauge users, would not increase.

Several commenters suggested alternatives to the current basis for the small entity annual fee. One commenter suggested that the fee be based on net receipts or receipts from regulated activities instead of gross receipts. Another recommended that the small entity fee be based on the number of gauges owned or leased. This commenter indicated that there are increased licensing and inspection costs associated with larger numbers of gauges and there would be no additional expense for licensees to provide this information because they already maintain a gauge inventory. A third commenter requested that small entity size standards be established for reactor licensees based on the utility's total capacity, number of employees, customers in the rate base, or a combination of these factors.

Some commenters requested that the NRC establish more tiers or levels of fees, indicating that the spread between the current tiers is too great. One commenter said one company should not be burdened with the same fee as a company with fourteen times the gross receipts. Another commenter said the current lower tier of $350,000 in annual gross receipts should be increased to $1 million to reflect FY 2000 equivalent dollars.

Response. The NRC is increasing the small entity annual fee and the lower tier small entity fee by 25 percent in this final rule. This is the first change to the small entity fee amounts since their introduction in FYs 1991 and 1992. While NRC recognizes the effect this increase may have on some small entities, the NRC believes this action strikes a balance between the requirement of OBRA–90 to collect approximately 100 percent of the NRC's budget authority through fees, and the Regulatory Flexibility Act (RFA) requirement to consider the impact of agency actions on small entities.

The NRC has determined that assessing costs to the materials class of licensees which are attributable to that class, as indicated in the Conference report accompanying OBRA–90, results in a significant impact on a substantial number of small entities. However, the NRC is not required to reduce or eliminate the impact on small businesses, but to evaluate the impact and explain its decisions. The NRC has developed the Regulatory Flexibility Analysis for this final rule (see Appendix A to this document). Given the conflicting goals of OBRA–90 and the RFA, the Commission determined that the impact on small entities should be reduced by establishing a maximum annual fee for licensees who qualify as small entities.

In order to recover approximately 100 percent of the budget as required by law, other licensees must pay for costs not recovered from small entities. With the 25 percent increase to the small entity annual fees, the FY 2000 small entity subsidy to be recovered from other licensees is approximately $5.6 million; without the increase the subsidy would be approximately $6.0 million. The 25 percent increase means that small entities will pay more of the

costs attributable to them, but still benefit from reduced annual fees. For most fee categories, the $2,300 annual fee per license category for small entities is approximately 26 percent less than the $3,400 in average total fees paid by small entities in FY 1991.

In order to put this increase in perspective, it must be recognized that the small entity fee policy represents a subsidy program, for which small entities are paying only a small percentage of the costs attributable to them. The small entity annual fee levels have remained constant since they were established in FY 1991 and FY 1992, despite the fact that some types of NRC activities previously billed separately under Part 170 have been absorbed into the annual fee. Therefore, small entities have benefitted from the additional activities covered by the annual fees, but without the associated expense.

The 25 percent increase in the small entity annual fee is not due to a decrease in the number of licensees as one commenter believes. A decrease in the number of licensees is a contributing factor in the overall 1.4 percent increase in FY 2000 annual fees. However, the 25 percent increase in the small entity annual fee results from changes that have occurred in the types of costs recovered through annual fees and increases to costs since the $1,800 small entity fee was established. When the $1,800 maximum small entity annual fee was established in FY 1991, small entities also paid fees for inspections, amendments, and license renewals, resulting in an average of $3,400 in fees paid by small entities per year. However, since 1991 the inspection, amendment, and renewal fees have been eliminated from Part 170 charges and have been incorporated in the annual fees assessed to the materials class of licensees. As a result of these and other changes, the average total fees paid per year by other materials licensees increased by approximately 25 percent, from $6,700 in FY 1991 to $8,400 in FY 1999. For the same period, the average total fees paid per year by small entities decreased approximately 47 percent, from $3,400 in FY 1991 to $1,800 in FY 1999.

The NRC's size standards, which are codified in 10 CFR 2.810, are outside the scope of this rulemaking. Therefore, commenters' suggestions that the size standards be revised are not being addressed in this final rule. The NRC's receipts-based size standard for small businesses not engaged in manufacturing is based on the most commonly used Small Business Administration (SBA) size standard of $5.0 million in annual gross receipts for these types of businesses. Gross receipts include revenues from sales of products or services, interest, rent, fees, commissions and/or whatever sources derived.

The NRC has considered comments that the fees for small businesses be based on such factors as the number of gauges used, the volume of patients administered to, or receipts from the use of regulated activities in each fiscal year fee rulemaking, beginning in FY 1991 (56 FR 31472; July 10, 1991, at pp. 31511–31512, *et al.*). The NRC has consistently rejected these alternatives because they would not necessarily meet the goal of the RFA to minimize the impact of agency actions on small entities. For example, if the NRC based the reduced annual fee on the number of gauges owned, a large firm with only one gauge would get a reduced fee, while a small business with more than one gauge would pay a larger fee. Similarly, a large medical establishment would pay a reduced fee if only a small part of its business involved nuclear procedures, whereas a small medical facility whose entire business involves nuclear procedures would pay a larger fee. Basing the fees on the small entity size standards ensures that benefits of the reduced fees apply only to small entities.

In FY 1999, approximately 43 percent of the licensees qualifying as small entities for purposes of reduced annual fees qualified for the lower-tier small entity fee. Therefore, because the current lower tier fee significantly reduces the impact of the annual fee for licensees with relatively low gross annual receipts or supporting populations, the NRC does not believe any additional tiers are appropriate.

3. Effects of Shifting Cost Recovery From Part 171 to Part 170

Comment. Some commenters indicated that the NRC's attempt to shift cost recovery from Part 171 to Part 170 is illusory at best and represents no real savings to the licensee. They further expounded that shifting these costs to Part 170 fees has not resulted in an offsetting decrease in Part 171 fees, thereby exacerbating an already unfair and inequitable situation.

Response. It is incorrect to assume that Part 170 have increased with no corresponding drop in Part 171 fees. As required by OBRA–90, the Part 171 annual fee recovery amounts are offset by the estimated Part 170 fee collections. The estimated collections for FY 2000 include a $2.4 million increase in estimated Part 170 fees, from $103.5 million in FY 1999 to $105.9 million for FY 2000. This increase is largely attributable to changes in Commission policy included in the FY 1999 final fee rule, such as billing full cost under Part 170 for PMs, performance assessments, incident investigations, and reviews of reports and other documents that do not require formal or legal approval. However, this increase is offset by other factors, as described in the proposed fee rule (65 FR 16253, 16254; March 27, 2000). To reiterate, as the NRC explained in the FY 1999 proposed and final fee rules (64 FR 15876; April 1, 1999; and 64 FR 31458; June 10, 1999), a $4.1 million carryover from additional FY 1998 collections was applied to FY 1999 collections, thereby reducing the total fee recovery amount for FY 1999. However, this carryover does not exist for FY 2000. The $1.7 million decrease in estimated total collections for FY 2000 is the difference between the $4.1 million carryover from additional 1998 collections and the estimated $2.4 million increase in Part 170 collections for FY 2000 as compared to FY 1999. In addition, the FY 2000 net annual fee billing adjustment, which is for invoices that will not be paid in FY 2000, the small entity subsidy, and payments received in FY 2000 for FY 1999 invoices, is approximately $5.7 million, compared to the FY 1999 adjustment of $3.2 million. As a result of these changes, which are summarized in Table II of this final rule, the total Part 171 billing amount increased from $345.1 million in FY 1999 to $346.7 million in FY 2000. In addition, there are approximately 530 fewer licensees available to pay the annual fees in FY 2000, primarily because Ohio became an Agreement State in August, 1999.

4. Impacts of the Revised Annual Fees on Licensees

Comment. Several commenters stated that the NRC's FY 1999 rebaselining placed a significant financial burden on the uranium recovery industry due to increased fees and that uranium recovery licensees bore a disproportionate share of the cost burden from this process. Many uranium recovery commenters asserted the uranium market is depressed and at a historical low. These commenters claimed that the NRC's current fee structure is excessive and unfair to the uranium recovery industry class of licensee. Furthermore, they indicated that licensees do not have the capability of passing through these additional costs to the consumer, thereby adversely affecting the viability of some companies. A reactor licensee who referred to the challenge of the competitive, unregulated marketplace

for utilities, commented that the cost of regulating the industry is passed on to the consumer. This commenter indicated that businesses do not locate in the company's area, or end up leaving the area, because the electric rates there are among the highest in the State.

Response. The NRC acknowledges the commenters' concern about the depressed state of the uranium industry and that any increase in fees to uranium recovery licensees may pose a significant financial hardship. However, without legislative relief, the NRC is mandated by OBRA–90 to collect approximately 100 percent of its budget authority. As stated in response to similar comments on this issue in the FY 1993 fee rule (58 FR 38667; July 20, 1993), the Commission lacks the expertise or information needed to determine whether, in a market economy, particular licensees can or cannot recapture the costs of annual fees from their customers. The Commission is not a financial regulatory agency and does not have the resources necessary to continuously evaluate purely business factors. The annual fees must have, to the maximum extent practicable, a reasonable relationship to the cost of providing regulatory services in order to meet the requirements of OBRA–90. Therefore, the Commission is not changing its previous decisions against basing fees on licensees' economic status or market conditions, and has only considered the fee impacts it is obligated by law to consider. In the FY 1993 final fee rule, after full consideration of the question, the NRC determined not to establish fees or base any fee exemptions on the alleged inability of a licensee to pass through the costs to its customers (58 FR 38667, 38668; July 20, 1993).

The Commission established its policy regarding rebaselining frequency in the FY 1999 final fee rule (64 FR 31448; June 10, 1999). The Commission determined that future annual fees should be rebaselined every three years or earlier, if warranted. This decision was based on the experience gained as a result of applying the criteria from rebaselining over the previous four years. The Commission's decision on the appropriate method for establishing annual fees (*e.g.*, rebaselining vs percentage change) is made each year after considering all relevant factors. Rebaselining on a periodic basis or when there has been a substantial change in the total NRC budget or the magnitude of the budget allocated to a class of licensees is necessary to meet the statutory criteria that the annual fees be fairly and equitably allocated among licensees or classes of licensees, and, to the maximum extent practicable, have a reasonable relationship to the cost of providing regulatory services.

5. Effects of Decreasing Numbers of Licensees

Comment. Several commenters broached the issue of annual fee increases that result from a decreasing number of licensees available to pay the fees. Some commenters questioned why NRC's budget did not decrease commensurate with the decrease in licensees. One commenter, representing commercial nuclear reactor licensees, stated that a decrease in the number of materials licensees was the only reason given for the 1.4 percent increase in power reactor licensee's annual fees which, in the commenter's view, suggests that the increase is solely attributable to the costs of regulating materials licensees. Therefore, these costs have no relation to nuclear power reactors. The uranium recovery industry expressed apprehension about the decreasing number of licensees in the uranium recovery industry, thereby raising concern over the last remaining licensee in the class supporting the NRC's entire Uranium Recovery Branch singlehandedly.

Response. The NRC acknowledges the commenters' concern regarding the effects a declining licensee base has on the Part 171 fees assessed to the remaining licensees. Given the requirements of OBRA–90, the NRC has no option but to assess annual fees to NRC licensees to recover the budgeted costs not recovered through Part 170 fees and other receipts.

The NRC's fee-based budget for FY 2000 did, in fact, decrease by $2.6 million from FY 1999, as shown in Table II of the proposed rule and this final rule. However, the need for generic efforts and other activities of the agency may not necessarily decrease at the same rate as the decrease in the number of licensees. For example, the NRC's cost to establish a risk-informed, performance-based regulatory framework is not affected by a decrease in the number of licensees. Similarly, the costs to maintain the Emergency Response Center are not affected by the number of licensees. The NRC continually evaluates options to reduce costs without sacrificing its health and safety mission, including costs in those areas where the licensee base is diminishing.

In the years that annual fees have been based on the percent change method (FYs 1996, 1997, 1998, and 2000), there have been decreases in both materials licenses and reactor licenses. For example, in FY 1998, the equivalent of 2.3 fewer reactor licensees were available to pay the annual fees compared to FY 1997. This represented a reduction of approximately 2 percent of the total operating reactors. In FY 2000, there are approximately 530 fewer materials licensees compared to FY 1999, a reduction of approximately 10 percent.

Under the percent change method, which has been endorsed by most of those commenting on the methodology since it was introduced in FY 1995, the number of licensees is only one factor in the determination of the percentage change to the annual fees needed to assure 100 percent fee recovery. This does not mean that the percentage change to the previous year's annual fees is related to a change in the costs of regulating the class of licensees that experienced the decrease in licensees. Rather, the percentage change is based on the factors shown in Table II (*e.g.,* changes to the total fee recovery amount, the estimated collections from Part 170 fees and other receipts, and billing adjustments necessary to meet the 100 percent fee recovery requirement), and the number of licensees paying annual fees compared to FY 1999.

The NRC supports legislative relief with respect to the NRC activities that have no direct relation to the licensees who are assessed the costs as part of their annual fee (*e.g.*, Agreement State program oversight, international programs, etc.). As noted previously, the Senate has passed such legislation. That same legislation would provide the Commission with the authority to charge Part 170 fees to all Federal agencies.

6. Fee Stability

Comment. Several commenters expressed concern over the instability of fees from year to year. As a result, it becomes increasingly difficult for licensees to accurately budget for NRC's annual costs.

Response. To address licensee concerns about fee stability and predictability, the Commission adopted the policy of adjusting the annual fees by the percentage change in the total NRC budget, with adjustments for numbers of licensees in particular fee classes and other necessary adjustments to meet the requirement of recovering approximately 100 percent of the budget through fees. This percentage change method is used only if there has not been a substantial change in the total NRC budget or the magnitude of the budget allocated to a specific class of licensees, in which case the annual fees will be rebaselined. As of FY 1999, the

maximum interval for rebaselining is three years. However, the Commission has stated that it will rebaseline earlier if warranted.

7. Assessment of Annual Fees to Licensees in Standby or Decommissioning

Comment. One commenter indicated that it is inappropriate for the NRC to charge uranium recovery licensees in ''standby'' mode the same annual fees as licensees who are actively operating a facility, especially in light of the fact that regulatory review and inspection efforts by the NRC are minimal for these dormant sites. Similarly, another commenter remarked that the NRC should lessen or discontinue its assessment of annual licensing fees on decommissioned facilities that are simply awaiting NRC approval of reclamation plans.

Response. In the FY 1991 fee rule, the Commission made a determination to assess annual fees to uranium recovery licensees in operation or in standby in order to recover the generic costs and other costs not recovered through Part 170 fees attributable to the uranium recovery class. The Commission stated that this method was practical, equitable, and a fair way to recover NRC costs given the limited number of operating mills and is consistent with the approach taken for other classes of licensees. The Commission further elaborated on this issue in response to a similar comment from the American Mining Congress (now the National Mining Association) in 1995 (60 FR 20918; April 28, 1995). There the Commission asserted it would continue to assess annual fees based on whether a licensee holds a valid license with the NRC that authorizes possession and use of radioactive material, regardless of whether the facility is actively operating or in a standby status. The basic premise for this policy is that the benefit the NRC provides a licensee is the authority to use licensed material. The choice of whether or not to exercise that authority is a business decision of the licensee.

Because of the mandate that the NRC recover approximately 100 percent of its budget through fees, to refrain from charging annual fees to licensees in a standby mode would increase the annual fees for other licensees in the class because the number of licensees assessed annual fees would decrease. Such an approach would raise fairness and equity concerns. Licensees in standby status receive benefit from NRC's generic guidance and rules applicable to their class of licensee. Additionally, any reduction in required licensing reviews and inspections for licensees in a standby mode would be reflected in reduced Part 170 fees assessed to them.

However, the annual fee is waived for those licensees who voluntarily relinquish the authority to operate and have permanently ceased operations, including sites with reclamation or decommissioning plans pending NRC review. Thus, the commenter's remark about the NRC assessing annual fees to uranium recovery sites in decommissioning is incorrect.

8. Relationship Between Benefits and Fees

Comment. Several uranium recovery commenters found a lack of relationship between NRC's regulatory program and the benefits derived by industry, such as a disparity in Part 171 fees versus Part 170 fees and excessive levels of oversight/inspections for operating licensees for what amounts to a relatively benign industry from a health and safety standpoint.

Response. In FYs 1998 and 1999, the NRC considered ways to recover more of its costs through Part 170 fees. The Commission decided in FY 1999, for example, to expand the scope of Part 170 fees to include incident investigations, certain performance assessments and evaluations, reviews of reports and other submittals such as responses to Confirmatory Action Letters, and full cost recovery for time expended by PMs (except time spent on generic activities such as rulemaking, and leave). The NRC believes that the costs for the activities not recovered through Part 170 fees are appropriately included in the Part 171 annual fees. These activities include generic efforts, activities exempted from Part 170 fee recovery based on NRC policy or legal constraints, and certain activities that raise fairness and equity concerns because they do not benefit the licensees who pay the costs. In the FY 1999 final fee rule, the NRC outlined the actions it has taken to address the fairness and equity concerns (64 FR 31448–50; June 10, 1999). The response to comments on the FY 2000 proposed fee rule concerning legal issues (A.1. of this Section) provides an update to the FY 1999 discussion.

The NRC takes issue with the commenters' remark about the uranium recovery industry being subjected to excessive regulatory oversight by the NRC for a relatively low risk operation. The NRC is charged with the responsibility of regulating the nation's civilian radioactive source material supply in a manner that is safe to public health and the environment. Uranium recovery is one of the activities that the NRC regulates under its mandate. The commenters' suggestion that uranium recovery presents a relatively low health and safety risk does not obviate the NRC's responsibility to regulate the industry, nor does it address the potential health, safety, and environmental issues associated with groundwater clean-up, tailings impoundments, facility decommissioning, yellowcake processing and handling, etc. When developing its annual budget, the NRC's Uranium Recovery Branch looks at the level of regulatory effort needed to fulfill its mission and bases its inspections and review efforts accordingly. This budget is closely scrutinized by the NRC's Office for Nuclear Material Safety and Safeguards, the Commission, the Office of Management and Budget, and the U.S. Congress before it is approved to ensure that proper resources are allocated to sufficiently protect public health and safety and the environment, at the most efficient staffing level.

Additionally, the NRC has examined ways to reduce or eliminate inspections associated with uranium recovery facilities. In establishing inspection frequencies, the NRC considers the risk to public health and safety, and the environment. Sites under reclamation are to be inspected once every three years, unless a specific request is received from a licensee for the NRC staff to review elements of construction earlier. Generally, sites on standby status are to be inspected every two to three years. Facilities that are currently in operational status are to be inspected twice a year, with the option for a reduction to once a year made by the NRC based on the site's previous inspection record. Thus, if an operating uranium recovery licensee has a good inspection record and the NRC determines that a reduced number of inspections is warranted, it will eliminate one biannual inspection. Furthermore, the NRC has instituted performance-based licensing for uranium recovery licensees to help streamline licensing and oversight activities, and when implemented properly by the licensee, should result in reduced review efforts by the NRC staff.

These programmatic efficiencies are intended to reduce the amount of resources expended on licensing and inspection activities. However, there are other activities that have required increased resources. For example, three uranium recovery licensees were involved in Atomic Safety Licensing Board administrative hearings over the last several years. These contested

hearings have consumed substantial NRC staff resources. The budgeted resources devoted to contested hearings affect the Part 171 fee base because, for policy and legal reasons, the Commission does not charge Part 170 fees for contested hearings. Commenters have opposed cost recovery under Part 170 for contested hearings.

Comment. Many commenters voiced their displeasure with the inequities of OBRA–90 and encouraged the NRC to continue its efforts in pursuing legislative action to obtain fee relief for the uranium recovery industry.

Response. The FY 1999 fee rule outlines the actions the NRC has taken to address the inequities of the annual fees. As noted previously, the NRC has submitted proposed legislation that would reduce the NRC's fee recovery amount in order to address fairness and equity concerns. The Senate has passed such legislation.

D. Other Issues

1. NRC's Budget

Comment. One commenter, referring to the NRC's FY 2001–2005 Five Year Plan, indicated that NRC's overall budget does not reflect the agency's stated objectives to become more effective and efficient. The commenter believes that changes in NRC's regulatory approach, the industry's good performance, and decreases in licensing actions, generic communications, inspection requirements, and time spent on allegations, should lead to a reduction in FTE, not an increase as projected in the budget plan.

Response. The NRC's budgets, current or future, are not within the scope of this rulemaking. The purpose of this rulemaking is to establish the fees necessary to recover approximately 100 percent of the agency's FY 2000 budget authority as required by OBRA–90. The NRC's budget requests undergo extensive internal examination before they are submitted to the Office of Management and Budget (OMB). After OMB review, the budget requests are submitted to Congress, where they undergo additional scrutiny. This review process assures that the budget reflects the resources necessary for the NRC to carry out its health and safety mission.

While there are decreases in resource needs as the commenter noted, there are also major increases. These increases are needed for efforts such as timely license renewal, license transfers, and risk-informing NRC regulations, all of which have been supported by the industry.

2. NRC's Jurisdiction for In-Situ Leach

Comment. Uranium recovery commenters urged the NRC to relinquish its jurisdiction of in-situ leach (ISL) uranium mining wellfield regulation as outlined in the National Mining Association's (NMA's) 1998 White Paper to the Commission.

Response. The NRC recognizes the commenters' concern regarding NRC's role in ISL wellfield regulation as discussed in the FY 1999 fee rule. In summary, the NRC began examining its role in the regulation of ISL wellfields and the associated groundwater in 1997. The NMA provided its White Paper outlining four major concerns, including one related to in-situ facility regulation. The matter is now before the Commission.

III. Final Action

The NRC is amending its licensing, inspection, and annual fees to recover approximately 100 percent of its FY 2000 budget authority, including the budget authority for its Office of the Inspector General, less the appropriations received from the NWF and the General Fund. For FY 2000, the NRC's budget authority is $470.0 million, of which $19.15 million has been appropriated from the NWF. In addition, $3.85 million has been appropriated from the General Fund for activities related to regulatory reviews and other assistance provided to the DOE and other Federal agencies. The NRC's FY 2000 Appropriations Act states that this $3.85 million appropriation shall be excluded from license fee revenues. Therefore, the NRC is required to collect approximately $447.0 million in FY 2000 through 10 CFR Part 170 licensing and inspection fees and 10 CFR Part 171 annual fees. The total amount to be recovered in fees for FY 2000 is $2.6 million less than the total amount estimated for recovery in the NRC's FY 1999 fee rule.

The NRC estimates that approximately $106.0 million will be recovered in FY 2000 from Part 170 fees and other offsetting receipts. The remaining $341.0 million would be recovered through Part 171 annual fees.

The NRC also estimates a net adjustment for FY 2000 of approximately $5.7 million for the small entity subsidy, for FY 2000 invoices that would not be paid in FY 2000, and for payments received in FY 2000 for FY 1999 invoices. These adjustments are approximately $2.5 million more than in FY 1999. In addition, there are approximately 530 fewer licenses subject to annual fees in FY 2000 than in FY 1999, due primarily to Ohio becoming an Agreement State in August, 1999.

As a result of these changes, the FY 2000 annual fees increased slightly, by approximately 1.4 percent, compared to the FY 1999 actual (prior to rounding) annual fees. As a result of rounding, the FY 2000 annual fees for several fee categories are the same as the final (rounded) FY 1999 annual fees. The change to the annual fees is described in more detail in Section B. The following examples illustrate the changes in annual fees: FY 1999 FY 2000

Class of licensees	FY 1999 annual fee	FY 2000 annual fee
Power Reactors (Including Spent Fuel Storage/Reactor Decommissioning fee)	$2,776,000	$2,815,000
Spent Fuel Storage/Reactor Decommissioning	206,000	209,000
Nonpower Reactors	85,900	87,100
High Enriched Uranium Fuel Facility	3,281,0000	3,327,000
Low Enriched Uranium Fuel Facility	1,100,000	1,116,000
UF_6 Conversion Facility	472,000	478,000
Uranium Mills	131,000	132,000
Typical Materials Licenses:		
Radiographers	14,700	14,900
Well Loggers	9,900	10,100
Gauge Users	2,600	2,600
Broad Scope Medical	27,800	28,100

The final FY 2000 fee rule is a ''major'' final action as defined by the Small Business Regulatory Enforcement Fairness Act of 1996. Therefore, the NRC's fees for FY 2000 will become effective 60 days after publication of the final rule in the **Federal Register**. The NRC will send an invoice for the amount of the annual fee to reactors and major fuel cycle facilities upon publication of the FY 2000 final rule. For these licensees, payment will be due on the effective date of the FY 2000 rule. Those materials licensees whose license anniversary date during FY 2000 falls before the effective date of the final FY 2000 rule will be billed during the anniversary month of the license and continue to pay annual fees at the FY 1999 rate in FY 2000. Those materials licensees whose license anniversary date falls on or after the effective date of the final FY 2000 rule will be billed at the FY 2000 revised rates during the anniversary month of the license and payment will be due on the date of the invoice. However, interest will be waived if payment is received within 30 days from the invoice date.

As announced in FY 1998 rule, as a cost-saving measure, the NRC will no longer mail the final rule to all licensees. However, the NRC will send the final rule to any licensee or other person upon request. To request a copy, contact the License Fee and Accounts Receivable Branch, Division of Accounting and Finance, Office of the Chief Financial Officer, at 301–415–7554, or e-mail us at fees@nrc.gov. In addition to publication in the **Federal Register**, the final rule will be available on the internet at *http://ruleforum.llnl.gov.*

The NRC is also making other changes to 10 CFR Parts 170 and 171 as discussed in Sections A and B below:

A. Amendments to 10 CFR Part 170: Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended

The NRC is revising the hourly rates used to calculate fees and is adjusting the 10 CFR Part 170 fees based on the revised hourly rates. An administrative amendment has also been made to § 170.12(c) to clarify that the site to which a resident inspector is assigned will not be assessed Part 170 fees for time spent by the resident inspector in support of activities at another site. The amendments to 10 CFR Part 170 are as follows:

1. Hourly Rates

The NRC is revising the two professional hourly rates for NRC staff time established in § 170.20. These rates are based on the number of FY 2000 direct program full time equivalents (FTEs) and the FY 2000 NRC budget, excluding direct program support costs and NRC's appropriations from the NWF and the General Fund. These rates are used to determine the Part 170 fees. The hourly rate for the reactor program is $144 per hour ($255,848 per direct FTE). This rate is applicable to all activities for which fees are based on full cost under § 170.21 of the fee regulations. The hourly rate for the nuclear materials and nuclear waste program is $143 per hour ($253,478 per direct FTE). This rate is applicable to all activities for which fees are based on full cost under § 170.31 of the fee regulations. In the FY 1999 final fee rule, these rates were $141 and $140, respectively. The approximately 2 percent increase is primarily due to the Government-wide pay increase in FY 2000.

The method used to determine the two professional hourly rates is as follows:

a. Direct program FTE levels are identified for the reactor program and the nuclear material and waste program.

b. Direct contract support, which is the use of contract or other services in support of the line organization's direct program, is excluded from the calculation of the hourly rates because the costs for direct contract support are charged directly through the various categories of fees.

c. All other direct program costs (*i.e.,* Salaries and Benefits, Travel) represent ''in-house'' costs and are allocated by dividing them uniformly by the total number of direct FTEs for the program. In addition, salaries and benefits plus contracts for non-program direct management and support, and the Office of the Inspector General are allocated to each program based on that program's direct costs. This method results in the following costs which are included in the hourly rates.

TABLE I.—FY 2000 BUDGET AUTHORITY TO BE INCLUDED IN HOURLY RATES

[Dollars in millions]

	Reactor program	Materials program
Direct Program Salaries & Benefits	$103.3M	$29.0M
Overhead Salaries & Benefits, Program Travel and Other Support	$ 53.2M	$15.3M
Allocated Agency Management and Support	$ 98.8	$27.9
Subtotal	$255.3	$72.2
Less offsetting receipts	−1	
Total Budget Included in Hourly Rate	$255.2	$72.2
Program Direct FTEs	997.5	284.9
Rate per Direct FTE	$255,848	$253,478
Professional Hourly Rate (Rate per direct FTE divided by 1,776 hours)	$144	$143

As shown in Table I, dividing the $255.2 million (rounded) budgeted amount included in the hourly rate for the reactor program by the reactor program direct FTEs (997.5) results in a rate for the reactor program of $255,848 per FTE for FY 2000. The Direct FTE Hourly Rate for the reactor program is $144 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE ($255,848) by the number of productive hours in one year (1,776 hours) as set forth in the revised OMB Circular A–76, ''Performance of Commercial Activities.'' Dividing the $72.2 million (rounded) budgeted amount included in the hourly rate for the nuclear materials and nuclear waste program by the program direct FTEs (284.9) results in a rate of $253,478 per FTE for FY 2000. The Direct FTE Hourly Rate for the materials program is $143 per hour (rounded to the nearest whole dollar).

This rate is calculated by dividing the cost per direct FTE ($253,478) by the number of productive hours in one year (1,776 hours).

2. Fee Adjustments

The NRC is adjusting the current Part 170 fees in §§ 170.21 and 170.31 to reflect the changes in the revised hourly rates. The full cost fees assessed under §§ 170.21 and 170.31 are based on the professional hourly rates and any direct program support (contractual services) costs expended by the NRC. Any professional hours expended on or after the effective date of the final rule would be assessed at the FY 2000 hourly rates.

The fees in §§170.21 and 170.31 that are based on the average time to review an application (''flat'' fees) have been adjusted to reflect the increase in the professional hourly rates from FY 1999. The amounts of the materials licensing ''flat'' fees were rounded as follows. Fees under $1,000 are rounded to the nearest $10. Fees that are greater than $1,000 but less than $100,000 are rounded to the nearest $100. Fees that are greater than $100,000 are rounded to the nearest $1,000.

The licensing ''flat'' fees are applicable to fee categories K.1 through K.5 of § 170.21, and fee categories 1.C, 1.D, 2.B, 2.C, 3.A through 3.P, 4.B through 9.D, 10.B, 15.A through 15.E, and 16 of § 170.31. Applications filed on or after the effective date of the final rule will be subject to the revised fees in this final rule.

3. Administrative Amendment

The NRC is amending § 170.12 (c)(1) to clarify that the fees assessed for a resident inspector's time exclude time spent by the resident inspector in support of activities at another site. This provision was inadvertently omitted from the revision of 10 CFR 170 in the FY 1999 fee rule.

4. Other

The NRC solicited public comment in the FY 1999 proposed fee rulemaking (64 FR 15878; April 1, 1999) on whether to include the development of orders, evaluation of responses to orders, development of Notices of Violations (NOVs) accompanying escalated enforcement actions, and evaluation of responses to NOVs in the fees collected for identifiable services under Part 170 in the FY 2000 proposed fee rule. Those commenting on this issue presented arguments both for and against assessing Part 170 fees for these activities. The NRC stated in the final fee rule (64 FR 31452; June 10, 1999), that it would further evaluate this issue before promulgation of the FY 2000 fee rule.

Three of the four commenters who addressed this issue in FY 1999 did not support recovering the costs for these activities under Part 170. These commenters were concerned that assessing these costs to the specific licensees under Part 170 could be viewed as penalizing the licensee when the licensee identifies and corrects violations. One commenter supported Part 170 fee assessment for escalated enforcement actions, indicating that it is inappropriate for one licensee to subsidize oversight for another licensee. This commenter also stated that the perception that these actions serve as an industry-wide deterrent is not borne out.

In addition to concerns raised by the commenters, there are other problems with assessing Part 170 fees for these activities. These problems include the handling of escalated enforcement costs if the enforcement action is reduced to a non-escalated enforcement action or is dropped altogether. Based on the public comments received in FY 1999 and legal and policy concerns (*e.g.*, whether adoption of such a policy would deter licensees from requesting hearings on proposed enforcement actions), the NRC will continue to recover costs for orders and escalated enforcement actions through Part 171 annual fees.

In summary, the NRC is amending 10 CFR Part 170 to:

1. Revise the two hourly rates;

2. Revise the licensing fees to be assessed to reflect the revised hourly rates; and

3. Make an administrative amendment to § 170.12(c) to clarify that the site to which a resident inspector is assigned will not be assessed Part 170 fees for time spent by the resident inspector in support of activities at another site.

B. Amendments to 10 CFR Part 171: Annual Fees for Reactor Licenses, and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC

The NRC is revising the annual fees for FY 2000, increasing the maximum annual fees assessed to those licensees who qualify as small entities, and making several administrative amendments. The amendments are as follows:

1. Annual Fees

The NRC is amending §§ 171.15 and 171.16 to establish the annual fees for FY 2000 to recover approximately 100 percent of the FY 2000 budget authority, less fees collected under 10 CFR Part 170 and funds appropriated from the NWF and the General Fund. In the FY 1995 final rule, the NRC stated that it would stabilize annual fees as follows. Beginning in FY 1996, the NRC would adjust the annual fees only by the percentage change (plus or minus) in NRC's total budget authority, unless there was a substantial change in the total NRC budget authority or the magnitude of the budget allocated to a specific class of licensees. If either case should occur, the annual fee base would be recalculated (60 FR 32225; June 20, 1995). The NRC also indicated that the percentage change would be adjusted based on changes in 10 CFR Part 170 fees and other adjustments as well as on the number of licensees paying the fees. In addition, beginning in FY 1997, the NRC made an adjustment to recognize that all fees billed in a fiscal year are not collected in that year.

In the FY 1999 proposed fee rule (63 FR 15884; April 1, 1999), public comment was solicited on whether the NRC should, in future years, continue to use the percent change method and rebaseline annual fees every several years, as established in FY 1995, or return to a policy of rebaselining annual fees every year. The majority of those commenting on the frequency for rebaselining annual fees supported rebaselining every several years, as warranted. Based on the comments received, licensees have continuing concerns about fee stability. Therefore, in the final FY 1999 fee rule (64 FR 31448; June 10, 1999), the NRC stated that it is continuing the policy of adjusting the annual fees only by the percent change in the NRC's total budget, with additional adjustments for the numbers of licensees paying fees, changes in Part 170 fees, and other adjustments that may be required, unless there is a substantial change in the total NRC budget or the magnitude of the budget allocated to a specific class of licensees, in which case the annual fee base would be reestablished. However, based on experience gained from applying the criteria from FY 1996 to FY 1999, the Commission determined that, in the future, annual fees should be rebaselined at least every three years, or earlier, if warranted.

After evaluating NRC's budget data for FY 2000 and concluding that there has not been a substantial change in the NRC budget or in the magnitude of a specific budget allocation to a class of licensees, the NRC is continuing to stabilize annual fees by adjusting the FY 1999 annual fees by the percent change in the NRC's total budget, with adjustments for the number of licensees paying fees, changes in estimated Part

170 collections and other offsetting receipts, and other changes required to assure that the amounts billed result in the required collections.

The $447.0 million to be recovered through Part 170 and Part 171 fees for FY 2000 is $2.6 million less than the total amount estimated for recovery in the NRC's FY 1999 fee rule. The NRC estimates that approximately $106.0 million will be recovered in FY 2000 from Part 170 fees and other offsetting receipts, compared to $107.7 million in FY 1999, a $1.7 million decrease. As the NRC explained in the FY 1999 proposed and final fee rules (64 FR 15876; April 1, 1999, and 64 FR 31458; June 10, 1999), the amount for FY 1999 included a $4.1 million carryover from additional FY 1998 collections which reduced the total fee recovery amount for FY 1999. This circumstance does not exist for FY 2000. The $1.7 million decrease in estimated collections for FY 2000 is the difference between the $4.1 million reduction available in FY 1999 from FY 1998 collections and an estimated $2.4 million increase in Part 170 collections for FY 2000 compared to FY 1999. The increase in estimated Part 170 collections, from $103.5 in FY 1999 to $105.9 for FY 2000, is largely attributable to changes in Commission policy included in the FY 1999 final fee rule, such as billing full cost under Part 170 for project managers, performance assessments, incident investigations, and reviews of reports and other documents that do not require formal or legal approval.

The remaining $341.0 million ($447.0 million total FY 2000 fee recovery amount less $106.0 million for estimated Part 170 collections and other receipts) is to be recovered through the Part 171 annual fees. The $341.0 million annual fee recovery amount for FY 2000 is approximately $1.0 million less than in FY 1999.

In addition to the slight reduction in the total amount to be recovered through annual fees, the NRC estimates a net annual fee billing adjustment of approximately $5.7 million for FY 2000 resulting from: (1) bills that will not be paid in FY 2000; (2) the small entity subsidy; and (3) payments received in FY 2000 for FY 1999 invoices. The billing adjustment, which is necessary to assure that the ''billed'' amount results in the required collections, is approximately $2.5 million more than in FY 1999.

In addition to these changes, there are approximately 530 fewer licenses subject to annual fees in FY 2000 than in FY 1999, due primarily to Ohio becoming an Agreement State in August 1999. As a result of these changes, the FY 2000 annual fees increased slightly, by approximately 1.4 percent, compared to the FY 1999 actual (prior to rounding) annual fees. As a result of rounding, the FY 2000 annual fees for several fee categories are the same as the final (rounded) FY 1999 annual fees. The effects of these changes on the annual fees are shown in Table II.

TABLE II.—CALCULATION OF THE PERCENTAGE CHANGE TO THE FY 1999 ANNUAL FEES

[Dollars in millions]

	FY 1999	FY 2000
Total Budget	$469.80	$470.00
Less NWF	−17.00	−19.15
Less General Fund (Regulatory reviews, and other assistance to other Federal agencies)	−3.20	−3.85
Total Fee Base	$449.60	$447.00
Less Part 170 Fees	−103.50	−105.90
Less other receipts	−4.20	−0.10
Part 171 Fee Collections Required	$341.90	$341.00
Part 171 Billing Adjustment: [1]		
Small Entity Allowance	5.30	5.60
Estimated Unpaid Current FY Part 171 Invoices	3.40	3.30
Estimated Payments from Prior Year Invoices	−5.50	−3.20
Subtotal	3.20	5.70
Total Part 171 Billing	$345.10	$346.70

[1] These adjustments are necessary to ensure that the ''billed'' amount results in the required collections. Positive amounts indicate amounts billed that will not be collected in FY 2000.

2. Small Entity Annual Fees

The current maximum small entity annual fee and the lower tier small entity annual fee are increased by 25 percent. The maximum small entity annual fee increased from $1,800 to $2,300, and the lower tier small entity fee increased from $400 to $500. The current maximum small entity annual fee was established in FY 1991; the current lower tier small entity annual fee was established in FY 1992. The 25 percent increase is consistent with the increase in NRC fees for other NRC materials licensees since FY 1991. The increase is less than the increase in the average fees paid by small entity licensees in Agreement States during this time.

Between 1991 and 1999, changes in both the external and internal environment have affected NRC's costs and those of its licensees. Increases in the NRC materials license fees, Agreement States' materials license fees, and the Consumer Price Index all indicate that the NRC small entity fee established in 1991 should be revised. In addition, the structure of the fees that NRC charges to its materials licensees changed during the period between 1991 and 1999. In the past, costs for materials license inspections, renewals, and amendments were recovered through Part 170 fees for services. The costs of these activities are now included in the Part 171 annual fees assessed to materials licensees.

While the annual fees increased for most materials licensees as a result of these changes, the NRC's annual fees assessed to small entities have not been adjusted to include the additional costs. As a result, small entities are currently paying a smaller percentage of the total

NRC regulatory costs related to them than they did in FY 1991 and FY 1992 when the small entity fees were established.

Based on the changes that have occurred since FY 1991, the NRC has reanalyzed its maximum small entity annual fee. As part of the reanalysis, the NRC considered the 1999 fees assessed by Agreement States, the NRC's FY 1999 fee structure, and the increase in the Consumer Price Index between FY 1991 and FY 1999. The reanalysis and alternatives considered by the NRC for revising the small entity annual fees are described in the Regulatory Flexibility Analysis, which is Appendix A to this final rule.

In the future, the NRC plans to re-examine the small entity fees each year that annual fees are rebaselined.

3. Administrative Amendments

a. The NRC is revising § 171.5, Definitions, to include Certificates of Compliance (Certificates) issued under Part 76. The NRC issued two Certificates of Compliance under Part 76 to the United States Enrichment Corporation (USEC) for the operation of the gaseous diffusion uranium enrichment plants located at Paducah, Kentucky, and Piketon, Ohio. The definition of Materials License in § 171.5 has been amended to include Part 76 Certificates. This change is an administrative change to codify agency practice in the definitions for 10 CFR Part 171. Section 171.16(a)(1) already provides that annual fees covered by the section apply to person(s) authorized to conduct activities under 10 CFR Part 76 for uranium enrichment. USEC has been subject to annual fees since FY 1997.

b. Section 171.15 is revised as follows:

(1) Paragraphs (b) and (c) of § 171.15 are revised in their entirety to establish the FY 2000 annual fees for operating power reactors, power reactors in decommissioning or possession only status, and Part 72 licensees who do not hold Part 50 licenses. The fees have been established by increasing the FY 1999 actual (prior to rounding) annual fees by approximately 1.4 percent. In the FY 1999 fee rule, the NRC stated it would continue to stabilize annual fees by adjusting the annual fees only by the percentage change (plus or minus) in NRC's total budget authority, adjusted for changes in estimated collections for 10 CFR Part 170 fees, the number of licensees paying annual fees, and other adjustments that may be required, unless there is a substantial change in the total NRC budget or the magnitude of the budget allocated to a specific class of licensees, in which case the annual fee base would be reestablished. The activities comprising the FY 1999 base annual fees and the additional charge (surcharge) are listed in § 171.15(b)(2), (c)(2) and (d)(1) for convenience purposes.

The FY 2000 annual fee for each operating reactor is $2,815,000, which includes the annual fee of $209,000 for spent fuel storage/reactor decommissioning. Each power reactor holding a Part 50 license that is in decommissioning or possession only status and has spent fuel on-site and each independent spent fuel storage Part 72 licensee who does not hold a Part 50 license is subject to the spent fuel storage/reactor decommissioning annual fee of $209,000 in FY 2000.

(2) Paragraph (e) of § 171.15 is revised to establish the FY 2000 annual fee for non-power (test and research) reactors. The fee has been established by increasing the FY 1999 actual (prior to rounding) annual fee by approximately 1.4 percent. The FY 2000 annual fee for each non-power reactor is $87,100. The NRC will continue to grant exemptions from the annual fee to Federally-owned and State-owned research and test reactors that meet the exemption criteria specified in § 171.11(a)(2).

c. Section 171.16 is amended as follows:

(1) Section 171.16(c) covers the fees assessed for those licensees that can qualify as small entities under NRC size standards. A materials licensee may pay a reduced annual fee if the licensee qualifies as a small entity under the NRC's size standards and certifies that it is a small entity using NRC Form 526. This section is revised to reflect the 25 percent increase in the small entity fees. The NRC is maintaining a two-tier fee structure for licensees that qualify as small entities under the NRC's size standards. In general, licensees who qualify as small entities will pay a maximum annual fee of $2,300. A second or lower-tier small entity fee of $500 is in place for those licensees who are considered to be very small entities for the purposes of this regulation.

(2) Section 171.16(d) is revised to establish the FY 2000 annual fees for materials licensees, including Government agencies, licensed by the NRC. The FY 2000 annual fees were determined by increasing the FY 1999 actual (prior to rounding) annual fees by approximately 1.4 percent. After rounding, the FY 2000 annual fees for several categories of materials licenses are the same as in FY 1999. The amount or range of the FY 2000 annual fees for materials licenses is summarized as follows:

MATERIALS LICENSES, ANNUAL FEE RANGES

Category of license	Annual fees
Part 70—High enriched fuel facility.	$3,327,000
Part 70—Low enriched fuel facility.	1,116,000
Part 40—UF_6 conversion facility.	478,000
Part 40—Uranium recovery facilities.	$30,800 to $132,000
Part 30—Byproduct Material Licenses.	$620 to $28,100 [2]
Part 71—Transportation of Radioactive Material.	$2,300 to $67,600

[2] Excludes the annual fee for a few military ''master'' materials licenses of broad-scope issued to Government agencies, which is $363,000

(3) Footnote 1 of § 171.16(d) is amended to provide a waiver of the annual fees for materials licensees, and holders of certificates, registrations, and approvals, who either filed for termination of their licenses or approvals or filed for possession only/storage only licenses before October 1, 1999, and permanently ceased licensed activities entirely by September 30, 1999. All other licensees and approval holders who held a license or approval on October 1, 1999, are subject to the FY 2000 annual fees.

Holders of new licenses issued during FY 2000 are subject to a prorated annual fee in accordance with the current proration provision of § 171.17. For example, those new materials licenses issued during the period October 1, 1999, through March 31, 2000, are assessed one-half the annual fee in effect on the anniversary date of the license. New materials licenses issued on or after April 1, 2000, are not subject to an annual fee for FY 2000. Thereafter, the full annual fee will be due and payable each subsequent fiscal year on the anniversary date of the license. Materials licensees whose annual fees are less than $100,000 are subject to the annual fee in effect on the anniversary date of the license. The anniversary date of the materials license for annual fee purposes is the first day of the month in which the original license was issued.

d. Section 171.19 Payment, is amended as follows:

(1) Section 171.19(b) is revised to update the fiscal year references, and to give credit for partial payments made by certain licensees in FY 2000 toward their FY 2000 annual fees. The NRC anticipates that the first, second, and third quarterly payments for FY 2000 will have been made by operating power reactor licensees and some large materials licensees before the final rule

becomes effective. Therefore, the NRC will credit payments received for those quarterly annual fee assessments toward the total annual fee to be assessed. The NRC will adjust the fourth quarterly invoice to recover the full amount of the revised annual fee or to make refunds, as necessary. Payment of the annual fee is due on the date of the invoice and interest accrues from the invoice date. However, interest will be waived if payment is received within 30 days from the invoice date.

(2) The remainder of this section, although unchanged, is presented for the convenience of the user. As in FY 1999, the NRC will continue to bill annual fees for most materials licenses on the anniversary date of the license (licensees whose annual fees are $100,000 or more would continue to be assessed quarterly). The annual fee assessed will be the fee in effect on the license anniversary date, unless the annual fee for the prior year was less than $100,000 and the revised annual fee for the current fiscal year is $100,000 or more. In this case, the revised amount will be billed to the licensees upon publication of the final rule in the **Federal Register**, adjusted for any annual fee payments already made for that fiscal year based on the anniversary month billing process. For FY 2000, the anniversary date billing process applies to those materials licenses in the following fee categories: 1C, 1D, 2A(2) Other, 2A(3), 2A(4), 2B, 2C, 3A through 3P, 4A through 9D, 10A, and 10B. For annual fee purposes, the anniversary date of the materials license is considered to be the first day of the month in which the original materials license was issued. For example, if the original materials license was issued on June 17 then, for annual fee purposes, the anniversary date of the materials license is June 1 and the licensee will continue to be billed in June of each year for the annual fee in effect on June 1. Materials licensees with anniversary dates in FY 2000 before the effective date of the FY 2000 final rule will be billed during the anniversary month of the license and continue to pay annual fees at the FY 1999 rate in FY 2000. Those materials licensees with license anniversary dates falling on or after the effective date of the FY 2000 final rule will be billed at the FY 2000 revised rates during the anniversary month of their license.

The NRC reemphasizes that the annual fee will be assessed based on whether a licensee holds a valid NRC license or certificate that authorizes possession and use of radioactive material.

In summary, the NRC is revising 10 CFR Part 171 as follows:

1. The percent change method has been used to determine the annual fees for FY 2000. The FY 2000 annual fee for each license fee category have been established by increasing the FY 1999 actual annual fee by approximately 1.4 percent;

2. The maximum small entity annual fee for each fee category is increased from $1,800 to $2,300, and the lower tier small entity fee is increased from $400 to $500; and

3. Certificates of Compliance issued under Part 76 have been added to the definition of Materials License in § 171.5.

IV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is amending the licensing, inspection, and annual fees charged to its licensees and applicants as necessary to recover approximately 100 percent of its budget authority in FY 2000 as is required by the Omnibus Budget Reconciliation Act of 1990, as amended. This action does not constitute the establishment of a standard that contains generally applicable requirements.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental impact assessment has been prepared for the final regulation. By its very nature, this regulatory action does not affect the environment, and therefore, no environmental justice issues are raised.

VI. Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Regulatory Analysis

With respect to 10 CFR Part 170, this final rule was developed pursuant to Title V of the Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701) and the Commission's fee guidelines. When developing these guidelines the Commission took into account guidance provided by the U.S. Supreme Court on March 4, 1974, in *National Cable Television Association, Inc.* v. *United States,* 415 U.S. 36 (1974) and *Federal Power Commission* v. *New England Power Company,* 415 U.S. 345 (1974). In these decisions, the Court held that the IOAA authorizes an agency to charge fees for special benefits rendered to identifiable persons measured by the ''value to the recipient'' of the agency service. The meaning of the IOAA was further clarified on December 16, 1976, by four decisions of the U.S. Court of Appeals for the District of Columbia: *National Cable Television Association* v. *Federal Communications Commission,* 554 F.2d 1094 (D.C. Cir. 1976); *National Association of Broadcasters* v. *Federal Communications Commission,* 554 F.2d 1118 (D.C. Cir. 1976); *Electronic Industries Association* v. *Federal Communications Commission,* 554 F.2d 1109 (D.C. Cir. 1976) and *Capital Cities Communication, Inc.* v. *Federal Communications Commission,* 554 F.2d 1135 (D.C. Cir. 1976). The Commission's fee guidelines were developed based on these legal decisions.

The Commission's fee guidelines were upheld on August 24, 1979, by the U.S. Court of Appeals for the Fifth Circuit in *Mississippi Power and Light Co.* v. *U.S. Nuclear Regulatory Commission,* 601 F.2d 223 (5th Cir. 1979), *cert. denied,* 444 U.S. 1102 (1980). This court held that—

(1) The NRC had the authority to recover the full cost of providing services to identifiable beneficiaries;

(2) The NRC could properly assess a fee for the costs of providing routine inspections necessary to ensure a licensee's compliance with the Atomic Energy Act and with applicable regulations;

(3) The NRC could charge for costs incurred in conducting environmental reviews required by NEPA;

(4) The NRC properly included the costs of uncontested hearings and of administrative and technical support services in the fee schedule;

(5) The NRC could assess a fee for renewing a license to operate a low-level radioactive waste burial site; and

(6) The NRC's fees were not arbitrary or capricious.

With respect to 10 CFR Part 171, on November 5, 1990, the Congress passed Pub. L. 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), which required that, for FYs 1991 through 1995, approximately 100 percent of the NRC budget authority be recovered through the assessment of

fees. OBRA–90 was amended in 1999 to extend the 100 percent fee recovery requirement for the NRC through FY 2000. To comply with this statutory requirement, and in accordance with § 171.13, the NRC is publishing the final amount of the FY 2000 annual fees for reactor licensees, fuel cycle licensees, materials licensees, and holders of Certificates of Compliance, registrations of sealed source and devices and QA program approvals, and Government agencies. OBRA–90, consistent with the accompanying Conference Committee Report, and the amendments to OBRA–90, provide that—

(1) The annual fees be based on the Commission's FY 2000 budget of $470.0 million less the amounts collected from Part 170 fees and the funds directly appropriated from the NWF to cover the NRC's high level waste program;

(2) The annual fees shall, to the maximum extent practicable, have a reasonable relationship to the cost of regulatory services provided by the Commission; and

(3) The annual fees be assessed to those licensees the Commission, in its discretion, determines can fairly, equitably, and practicably contribute to their payment.

In addition, the NRC's FY 2000 appropriations language provides that $3.85 million appropriated from the General Fund for activities related to regulatory reviews and other assistance provided to the Department of Energy and other Federal agencies be excluded from fee recovery.

10 CFR Part 171, which established annual fees for operating power reactors effective October 20, 1986 (51 FR 33224; September 18, 1986), was challenged and upheld in its entirety in *Florida Power and Light Company* v. *United States,* 846 F.2d 765 (D.C. Cir. 1988), cert. denied, 490 U.S. 1045 (1989). Further, the NRC's FY 1991 annual fee rule methodology was upheld by the D.C. Circuit Court of Appeals in *Allied Signal* v. *NRC,* 988 F.2d 146 (D.C. Cir. 1993).

VIII. Regulatory Flexibility Analysis

The NRC is required by the Omnibus Budget Reconciliation Act of 1990 to recover approximately 100 percent of its budget authority through the assessment of user fees. OBRA–90 further requires that the NRC establish a schedule of charges that fairly and equitably allocates the aggregate amount of these charges among licensees.

This final rule establishes the schedules of fees that are necessary to implement the Congressional mandate for FY 2000. The final rule will result in increases in the annual fees charged to licensees and holders of certificates, registrations, and approvals, including those that qualify as a small entity under NRC's size standards in 10 CFR 2.810. The Regulatory Flexibility Analysis, prepared in accordance with 5 U.S.C. 604, is included as Appendix A to this final rule.

The Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121, (SBREFA) was signed into law on March 29, 1996. The SBREFA requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. Therefore, in compliance with the law, Attachment 1 to the Regulatory Flexibility Analysis is the small entity compliance guide for FY 2000.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required for this final rule. The backfit analysis is not required because these final amendments do not require the modification of or additions to systems, structures, components, or the design of a facility or the design approval or manufacturing license for a facility or the procedures or organization required to design, construct or operate a facility.

X. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121, the NRC has determined that this action is a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 170 and 171.

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. The authority citation for Part 170 continues to read as follows:

Authority: 31 U.S.C. 9701, 96 Stat. 1051; sec. 301, Pub. L. 92–314, 86 Stat. 222 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–4381, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205, Pub. L. 101–576, 104 Stat. 2842, (31 U.S.C. 901).

2. In § 170.12, paragraph (c)(1) is revised to read as follows:

§ 170.12 Payment of fees.

* * * * *

(c) *Inspection fees.* (1) Inspection fees will be assessed to recover full cost for each resident inspector (including the senior resident inspector), assigned to a specific plant or facility. The fees assessed will be based on the number of hours that each inspector assigned to the plant or facility is in an official duty status (*i.e.,* all time in a non-leave status), excluding time spent by a resident inspector in support of activities at another site. The hours will be billed at the appropriate hourly rate established in 10 CFR 170.20. Resident inspectors' time related to a specific inspection will be included in the fee assessed for the specific inspection in accordance with paragraph (c)(2) of this section.

* * * * *

3. Section 170.20 is revised to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR Part 55 requalification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the following applicable professional staff-hour rates:

Reactor Program (§ 170.21 Activities)—$144 per hour

Nuclear Materials and Nuclear Waste Program (§ 170.31 Activities)—$143 per hour

4. In § 170.21, the introductory text, Category K, and footnotes 1 and 2 to the table are revised to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses.

Applicants for construction permits, manufacturing licenses, operating licenses, import and export licenses, approvals of facility standard reference designs, requalification and replacement examinations for reactor operators, and special projects and holders of construction permits, licenses, and other approvals shall pay fees for the following categories of services.

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees[1 2]
* * * * * * *	
K. Import and export licenses:	
Licenses for the import and export only of production and utilization facilities or the export only of components for production and utilization facilities issued under 10 CFR Part 110:	
1. Application for import or export of reactors and other facilities and exports of components which must be reviewed by the Commissioners and the Executive Branch, for example, actions under 10 CFR 110.40(b).	
Application—new license	$9,300
Amendment	9,300
2. Application for export of reactor and other components requiring Executive Branch review only, for example, those actions under 10 CFR 110.41(a)(1)–(8).	
Application—new license	5,700
Amendment	5,700
3. Application for export of components requiring foreign government assurances only.	
Application—new license	1,700
Amendment	1,700
4. Application for export of facility components and equipment not requiring Commissioner review, Executive Branch review, or foreign government assurances.	
Application—new license	1,100
Amendment	1,100
5. Minor amendment of any export or import license to extend the expiration date, change domestic information, or make other revisions which do not require in-depth analysis or review.	
Amendment	210

[1] Fees will not be charged for orders issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these types of Commission orders. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., §§ 50.12, 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. Fees for licenses in this schedule that are initially issued for less than full power are based on review through the issuance of a full power license (generally full power is considered 100 percent of the facility's full rated power). Thus, if a licensee received a low power license or a temporary license for less than full power and subsequently receives full power authority (by way of license amendment or otherwise), the total costs for the license will be determined through that period when authority is granted for full power operation. If a situation arises in which the Commission determines that full operating power for a particular facility should be less than 100 percent of full rated power, the total costs for the license will be at that determined lower operating power level and not at the 100 percent capacity.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect at the time the service was provided. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for any topical report, amendment, revision or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

* * * * *

5. Section 170.31 is revised to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

Applicants for materials licenses, import and export licenses, and other regulatory services and holders of materials licenses, or import and export licenses shall pay fees for the following categories of services. This schedule includes fees for health and safety and safeguards inspections where applicable.

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
1. Special nuclear material:	
A. Licenses for possession and use of 200 grams or more of plutonium in unsealed form or 350 grams or more of contained U–235 in unsealed form or 200 grams or more of U–233 in unsealed form. This includes applications to terminate licenses as well as licenses authorizing possession only:	
Licensing and Inspection	Full Cost.
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI):	
Licensing and inspection	Full Cost.
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers: [4]	
Application	$660.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1A: [4]	
Application	$1,300.
E. Licenses or certificates for construction and operation of a uranium enrichment facility.	
Licensing and inspection	Full Cost.
2. Source material:	
A.(1) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, refining uranium mill concentrates to uranium hexafluoride, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode:	
Licensing and inspection	Full Cost.
(2) Licenses that authorize the receipt of byproduct material, as defined in Section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal except those licenses subject to fees in Category 2.A.(1).	
Licensing and inspection	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(1).	
Licensing and inspection	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding:	
Application	$160.
C. All other source material licenses:	
Application	$5,600.
3. Byproduct material:	
A. Licenses of broad scope for the possession and use of byproduct material issued under Parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application	$6,700.
B. Other licenses for possession and use of byproduct material issued under Part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application	$2,500.
C. Licenses issued under §§ 32.72, 32.73, and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 170.11(a)(4). These licenses are covered by fee Category 3D.	
Application	$10,300.
D. Licenses and approvals issued under §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources or devices not involving processing of byproduct material. This category includes licenses issued under §§ 32.72, 32.73, and/or 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 170.11(a)(4).	
Application	$2,400.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units):	
Application	$1,700.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application	$3,300.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application	$3,500.
H. Licenses issued under Subpart A of Part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of Part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter:	
Application	$2,100.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
I. Licenses issued under Subpart A of Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of Part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter:	
Application	$3,200.
J. Licenses issued under Subpart B of Part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under Part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter:	
Application	$1,000.
K. Licenses issued under Subpart B of Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under Part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter:	
Application	$590.
L. Licenses of broad scope for possession and use of byproduct material issued under Parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution:	
Application	$5,600.
M. Other licenses for possession and use of byproduct material issued under Part 30 of this chapter for research and development that do not authorize commercial distribution:	
Application	$2,300.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C:	
Application	$2,400.
O. Licenses for possession and use of byproduct material issued under Part 34 of this chapter for industrial radiography operations:	
Application	$5,900.
P. All other specific byproduct material licenses, except those in Categories 4A through 9D:	
Application	$1,300.
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material:	
Licensing and inspection	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application	$1,700.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application	$2,600.
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies:	
Application	$6,100.
B. Licenses for possession and use of byproduct material for field flooding tracer studies:	
Licensing	Full Cost.
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material:	
Application	$11,400.
7. Medical licenses:	
A. Licenses issued under Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application	$6,200.
B. Licenses of broad scope issued to medical institutions or two or more physicians under Parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application	$4,500.
C. Other licenses issued under Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained teletherapy devices:	
Application	$2,400.
8. Civil defense:	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities:	
Application	$330.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution:	
Application—each device	$5,300.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices:	
Application—each device	$3,800.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution:	
Application—each source	$1,600.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel:	
Application—each source	$540.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers:	
Licensing and inspections	Full Cost.
B. Evaluation of 10 CFR Part 71 quality assurance programs:	
Application	$400.
Inspections	Full Cost.
11. Review of standardized spent fuel facilities:	
Licensing and inspection	Full Cost.
12. Special projects: [5]	
Approvals and preapplication/Licensing activities	Full Cost.
Inspections	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance:	
Licensing	Full Cost.
B. Inspections related to spent fuel storage cask Certificate of Compliance	Full Cost.
C. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under Parts 30, 40, 70, 72, and 76 of this chapter:	
Licensing and inspection	Full Cost.
15. Import and Export licenses:	
Licenses issued under Part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, heavy water, or nuclear grade graphite.	
A. Application for export or import of high enriched uranium and other materials, including radioactive waste, which must be reviewed by the Commissioners and the Executive Branch, for example, those actions under 10 CFR 110.40(b). This category includes application for export or import of radioactive wastes in multiple forms from multiple generators or brokers in the exporting country and/or going to multiple treatment, storage or disposal facilities in one or more receiving countries.	
Application—new license	$9,300.
Amendment	$9,300.
B. Application for export or import of special nuclear material, source material, tritium and other byproduct material, heavy water, or nuclear grade graphite, including radioactive waste, requiring Executive Branch review but not Commissioner review. This category includes application for the export or import of radioactive waste involving a single form of waste from a single class of generator in the exporting country to a single treatment, storage and/or disposal facility in the receiving country.	
Application—new license	$5,700.
Amendment	$5,700.
C. Application for export of routine reloads of low enriched uranium reactor fuel and exports of source material requiring only foreign government assurances under the Atomic Energy Act.	
Application—new license	$1,700.
Amendment	$1,700.
D. Application for export or import of other materials, including radioactive waste, not requiring Commissioner review, Executive Branch review, or foreign government assurances under the Atomic Energy Act. This category includes application for export or import of radioactive waste where the NRC has previously authorized the export or import of the same form of waste to or from the same or similar parties, requiring only confirmation from the receiving facility and licensing authorities that the shipments may proceed according to previously agreed understandings and procedures.	
Application—new license	$1,100.
Amendment	$1,100.
E. Minor amendment of any export or import license to extend the expiration date, change domestic information, or make other revisions which do not require in-depth analysis, review, or consultations with other agencies or foreign governments.	
Amendment	$210.
16. Reciprocity:	
Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.	
Application (initial filing of Form 241)	$1,200.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
Revisions	$200.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for preapplication consultations and reviews and applications for new licenses and approvals, issuance of new licenses and approvals, certain amendments and renewals to existing licenses and approvals, safety evaluations of sealed sources and devices, and certain inspections. The following guidelines apply to these charges:

(a) *Application fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee Category 1C only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses and for renewals and amendments to existing licenses, for preapplication consultations and for reviews of other documents submitted to NRC for review, and for project manager time for fee categories subject to full cost fees (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14) are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment/revision fees.*

Applications for amendments to export and import licenses and revisions to reciprocity initial applications must be accompanied by the prescribed amendment/revision fee for each license/revision affected. An application for an amendment to a license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment unless the amendment is applicable to two or more fee categories in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

[2] Fees will not be charged for orders issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these types of Commission orders. However, fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now in the future) regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in Categories 9A through 9D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect at the time the service is provided, and the appropriate contractual support services expended. For applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for each topical report, amendment, revision, or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

[4] Licensees paying fees under Categories 1A, 1B, and 1E are not subject to fees under Categories 1C and 1D for sealed sources authorized in the same license except for an application that deals only with the sealed sources authorized by the license.

[5] Fees will not be assessed for requests/reports submitted to the NRC:

(a) In response to a Generic Letter or NRC Bulletin that does not result in an amendment to the license, does not result in the review of an alternate method or reanalysis to meet the requirements of the Generic Letter, or does not involve an unreviewed safety issue;

(b) In response to an NRC request (at the Associate Office Director level or above) to resolve an identified safety, safeguards, or environmental issue, or to assist NRC in developing a rule, regulatory guide, policy statement, generic letter, or bulletin; or

(c) As a means of exchanging information between industry organizations and the NRC for the purpose of supporting generic regulatory improvements or efforts.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIAL LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC.

6. The authority citation for Part 171 continues to read as follows:

Authority: Sec. 7601, Pub. L. 99–272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330, as amended by Sec. 3201, Pub. L. 101–239, 103 Stat. 2106 as amended by sec. 6101, Pub. L. 101–508, 104 Stat. 1388, (42 U.S.C. 2213); sec. 301, Pub. L. 92–314, 86 Stat. 222 (42 U.S.C. 2201(w)); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 2903, Pub. L. 102–486, 106 Stat. 3125, (42 U.S.C. 2214 note).

7. In § 171.5, the definition of the term Materials License is revised to read as follows:

§ 171.5 Definitions.

* * * * *

Materials License means a license, certificate, approval, registration or other form of permission issued by the NRC under the regulations in 10 CFR parts 30, 32 through 36, 39, 40, 61, 70, 71, 72, and 76.

* * * * *

8. In § 171.15, paragraphs (b), (c), (d)(1), and (e) are revised to read as follows:

§ 171.15 Annual Fees: Reactor licenses and spent fuel storage/reactor decommissioning.

* * * * *

(b)(1) The FY 2000 annual fee for each operating power reactor which must be collected by September 30, 2000, is $2,815,000. This fee has been determined by adjusting the FY 1999 actual (prior to rounding) annual fee upward by approximately 1.4 percent.

(2) The FY 1999 annual fee was comprised of a base operating power reactor annual fee, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (surcharges). The activities comprising the FY 1999 spent storage/reactor decommissioning base annual fee are shown in paragraph (c)(2)(i) and (ii) of this section. The activities comprising the FY 1999 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 1999 base annual fee for operating power reactors are as follows:

(i) Power reactor safety and safeguards regulation except licensing and inspection activities recovered under Part 170 of this chapter and generic reactor decommissioning activities.

(ii) Research activities directly related to the regulation of power reactors except those activities specifically related to reactor decommissioning.

(iii) Generic activities required largely for NRC to regulate power reactors, *e.g.,* updating Part 50 of this chapter, or operating the Incident Response Center. The base annual fee for operating power reactors does not include generic activities specifically related to reactor decommissioning.

(c)(1) The FY 2000 annual fee for each power reactor holding a Part 50 license that is in a decommissioning or possession only status and has spent fuel on-site and each independent spent fuel storage Part 72 licensee who does not hold a Part 50 license is $209,000. This fee has been determined by increasing the FY 1999 actual (prior to rounding) annual fee by approximately 1.4 percent.

(2) The FY 1999 annual fee was comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section), and an additional charge (surcharge). The activities comprising the FY 1999 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 1999 spent fuel storage/reactor decommissioning base annual fee are:

(i) Generic and other research activities directly related to reactor decommissioning and spent fuel storage; and

(ii) Other safety, environmental, and safeguards activities related to reactor decommissioning and spent fuel storage, except costs for licensing and inspection activities that are recovered under part 170 of this chapter.

(d)(1) The activities comprising the FY 1999 surcharge are as follows:

(i) Low level waste disposal generic activities;

(ii) Activities not attributable to an existing NRC licensee or class of licensees (*e.g.,* international cooperative safety program and international safeguards activities, support for the Agreement State program, and site decommissioning management plan (SDMP) activities); and

(iii) Activities not currently subject to 10 CFR Part 170 licensing and inspection fees based on existing law or Commission policy, *e.g.,* reviews and inspections conducted of nonprofit educational institutions, licensing actions for Federal agencies, and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

* * * * *

(e) The FY 2000 annual fees for licensees authorized to operate a nonpower (test and research) reactor licensed under Part 50 of this chapter have been determined by revising the FY 1999 actual (prior to rounding) annual fee upward by approximately 1.4 percent. The FY 2000 annual fee for each nonpower reactor, unless the reactor is exempted from fees under § 171.11(a), is as follows:

Research reactor—$87,100

Test reactor—$87,100

9. In § 171.16, paragraphs (c), (d), and (e) are revised to read as follows:

§ 171.16 Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals and Government Agencies Licensed by the NRC.

* * * * *

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification with the annual fee payment, the licensee may pay reduced annual fees as shown below. Failure to file a small entity certification in a timely manner could result in the denial of any refund that might otherwise be due.

	Maximum annual fee per licensed category
Small businesses not engaged in manufacturing and small not-for-profit organizations (gross annual receipts):	
$350,000 to $5 million	$2,300
Less than $350,000	500
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees	2,300
Less than 35 employees	500
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 50,000	2,300
Less than 20,000	500
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Less:	
35 to 500 employees	2,300
Less than 35 employees	500

(1) A licensee qualifies as a small entity if it meets the size standards established by the NRC (See 10 CFR 2.810).

(2) A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under this section must file a certification statement with the NRC. The licensee must file the required certification on NRC Form 526 for each license under which it is billed. The NRC will include a copy of NRC Form 526 with each annual fee invoice sent to a licensee. A licensee who seeks to qualify as a small entity must submit the completed NRC Form 526 with the reduced annual fee payment.

(3) For purposes of this section, the licensee must submit a new certification with its annual fee payment each year.

(4) The maximum annual fee a small entity is required to pay is 2,300 for each category applicable to the license(s).

(d) The FY 2000 annual fees for materials licensees and holders of certificates, registrations or approvals subject to fees under this section are shown below. The FY 2000 annual fees, which must be collected by September 30, 2000, have been determined by adjusting the FY 1999 actual (prior to rounding) annual fees upward by approximately 1.4 percent. As a result of rounding, the FY 2000 annual fee for several fee categories is the same as the FY 1999 annual fee. In the FY 1999 final rule, the NRC stated it would stabilize annual fees by adjusting the annual fees only by the percentage change (plus or minus) in NRC's total budget authority

and adjustments based on changes in 10 CFR Part 170 fees, the number of licensees paying the fees, and other required adjustments. The FY 1999 annual fees were comprised of a base annual fee and an additional charge (surcharge). The activities comprising the FY 1999 surcharge are shown for convenience in paragraph (e) of this section.

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1 2 3]
1. Special nuclear material:	
A.(1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material:	
Babcock & Wilcox SNM–42	$3,327,000
Nuclear Fuel Services SNM–124	3,327,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel:	
Combustion Engineering (Hematite) SNM–33	1,116,000
General Electric Company SNM–1097	1,116,000
Siemens Nuclear Power SNM–1227	1,116,000
Westinghouse Electric Company SNM–1107	1,116,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations:	
Framatome Cogema SNM–1168	438,000
(b) All Others:	
General Electric SNM–960	319,000
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI)	([11])
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers	1,200
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in §150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1.A.(2)	3,400
E. Licenses or certificates for the operation of a uranium enrichment facility	2,072,000
2. Source material:	
A.(1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride	478,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
Class I facilities [4]	132,000
Class II facilities [4]	111,000
Other facilities [4]	30,800
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4)	81,700
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2)	12,900
B. Licenses that authorize only the possession, use and/or installation of source material for shielding	630
C. All other source material licenses	11,800
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under Parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	26,300
B. Other licenses for possession and use of byproduct material issued under Part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	6,400
C. Licenses issued under §§32.72, 32.73, and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under Part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 171.11(a)(1). These licenses are covered by fee Category 3D	15,600
D. Licenses and approvals issued under §§32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category includes licenses issued under §§32.72, 32.73 and 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under 10 CFR 171.11(a)(1). This category also includes the possession and use of source material for shielding authorized under Part 40 of this chapter when included on the same license	3,800
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units)	3,500
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	5,800

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1 2 3]
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	15,000
H. Licenses issued under Subpart A of Part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of Part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter	3,300
I. Licenses issued under Subpart A of Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of Part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter	4,700
J. Licenses issued under Subpart B of Part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter	2,100
K. Licenses issued under Subpart B of Part 31 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter	1,800
L. Licenses of broad scope for possession and use of byproduct material issued under Parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution	11,300
M. Other licenses for possession and use of byproduct material issued under Part 30 of this chapter for research and development that do not authorize commercial distribution	5,000
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C	5,300
O. Licenses for possession and use of byproduct material issued under Part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under Part 40 of this chapter when authorized on the same license	14,900
P. All other specific byproduct material licenses, except those in Categories 4A through 9D	2,600
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material	[5] N/A
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	11,500
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	8,500
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies	10,100
B. Licenses for possession and use of byproduct material for field flooding tracer studies	[5] N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material	19,200
7. Medical licenses:	
A. Licenses issued under Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license	15,500
B. Licenses of broad scope issued to medical institutions or two or more physicians under Parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license [9]	28,100
C. Other licenses issued under Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license [9]	5,900
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities	1,200
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	6,100

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	4,400
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	1,900
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	620
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
Other Casks	[6] N/A
B. Quality assurance program approvals issued under 10 CFR Part 71.	
Users and Fabricators	67,600
Users	2,300
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	[12] N/A
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under 10 CFR Parts 30, 40, 70, 72, and 76 of this chapter	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies	363,000
18. Department of Energy:	
A. Certificates of Compliance	[10] 884,000
B. Uranium Mill Tailing Radiation Control Act (UMTRCA) activities	881,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the fiscal year. However, the annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses prior to October 1, 1999, and permanently ceased licensed activities entirely by September 30, 1999. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession only license during the fiscal year and for new licenses issued during the fiscal year will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1A(1) are not subject to the annual fees for Category 1C and 1D for sealed sources authorized in the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of Parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each fiscal year, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the FEDERAL REGISTER for notice and comment.

[4] A Class I license includes mill licenses issued for the extraction of uranium from uranium ore. A Class II license includes solution mining licenses (in-situ and heap leach) issued for the extraction of uranium from uranium ores including research and development licenses. An ''other'' license includes licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. Once NRC issues a license for these categories, the Commission will consider establishing an annual fee for that type of license.

[6] Standardized spent fuel facilities, 10 CFR Parts 71 and 72 Certificates of Compliance, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to the users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under Categories 7B or 7C.

[10] This includes Certificates of Compliance issued to DOE for activities whose costs are not covered by the Nuclear Waste Fund.

[11] See 10 CFR 171.15(c).

[12] See 10 CFR 171.15(c).

(e) The activities comprising the surcharge are as follows:

(1) LLW disposal generic activities;

(2) Activities not directly attributable to an existing NRC licensee or classes of licensees; *e.g.*, international cooperative safety program and international safeguards activities; support for the Agreement State program; site decommissioning management plan (SDMP) activities; and

(3) Activities not currently assessed licensing and inspection fees under 10 CFR Part 170 based on existing law or Commission policy, *e.g.*, reviews and inspections conducted of nonprofit educational institutions and reviews for Federal agencies; activities related to decommissioning and reclamation; and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

10. Section 171.19 is revised to read as follows:

§ 171.19 Payment.

(a) Method of payment. Annual fee payments, made payable to the U.S. Nuclear Regulatory Commission, are to be made in U.S. funds by electronic funds transfer such as ACH (Automated Clearing House) using EDI (Electronic Data Interchange), check, draft, money order, or credit card. Federal agencies

may also make payment by the On-line Payment and Collection System (OPAC's). Where specific payment instructions are provided on the invoices to applicants and licensees, payment should be made accordingly, e.g. invoices of $5,000 or more should be paid via ACH through NRC's Lockbox Bank at the address indicated on the invoice. Credit card payments should be made up to the limit established by the credit card bank, in accordance with specific instructions provided with the invoices, to the Lockbox Bank designated for credit card payments. In accordance with Department of the Treasury requirements, refunds will only be made upon receipt of information on the payee's financial institution and bank accounts.

(b) Annual fees in the amount of $100,000 or more and described in the **Federal Register** document issued under § 171.13 must be paid in quarterly installments of 25 percent as billed by the NRC. The quarters begin on October 1, January 1, April 1, and July 1 of each fiscal year. The NRC will adjust the fourth quarterly invoice to recover the full amount of the revised annual fee. If the amounts collected in the first three quarters exceed the amount of the revised annual fee, the overpayment will be refunded. Licensees whose annual fee for FY 1999 was less than $100,000 (billed on the anniversary date of the license), and whose revised annual fee for FY 2000 would be $100,000 (subject to quarterly billing), would be issued a bill upon publication of the final rule for the full amount of the FY 2000 annual fee, less any payments received for FY 2000 based on the anniversary date billing process.

(c) Annual fees that are less than $100,000 are billed on the anniversary date of the license. For annual fee purposes, the anniversary date of the license is considered to be the first day of the month in which the original license was issued by the NRC. Licensees that are billed on the license anniversary date will be assessed the annual fee in effect on the anniversary date of the license. Materials licenses subject to the annual fee that are terminated during the fiscal year but before the anniversary month of the license will be billed upon termination for the fee in effect at the time of the billing. New materials licenses subject to the annual fee will be billed in the month the license is issued or in the next available monthly billing for the fee in effect on the anniversary date of the license. Thereafter, annual fees for new licenses will be assessed in the anniversary month of the license.

(d) Annual fees of less than $100,000 must be paid as billed by the NRC. Materials license annual fees that are less than $100,000 are billed on the anniversary date of the license. The materials licensees that are billed on the anniversary date of the license are those covered by fee categories 1C, 1.D, 2(A)(2) other, 2A(3), 2A(4), 2B, 2C, 3A through 3P, 4B through 9D, 10A, and 10B.

(e) Payment is due on the invoice date and interest accrues from the date of the invoice. However, interest will be waived if payment is received within 30 days from the invoice date.

Dated at Rockville, Maryland, this 25th day of May, 2000.

For the Nuclear Regulatory Commission.

Jesse L. Funches,

Chief Financial Officer.

Note: This appendix will not appear in the code of federal regulations.

Appendix A to This Final Rule—Regulatory Flexibility Analysis for the Amendments to 10 CFR Part 170 (License Fees) and 10 CFR Part 171 (Annual Fees)

I. Background

The Regulatory Flexibility Act (RFA), as amended, (5 U.S.C. 601 *et seq.*) requires that agencies consider the impact of their rulemakings on small entities and, consistent with applicable statutes, consider alternatives to minimize these impacts on the businesses, organizations, and government jurisdictions to which they apply.

The NRC has established standards for determining which NRC licensees qualify as small entities (10 CFR 2.801). These size standards reflect the Small Business Administration's most common receipts-based size standards and include a size standard for business concerns that are manufacturing entities. The NRC uses the size standards to reduce the impact of annual fees on small entities by establishing a licensee's eligibility to qualify for a maximum small entity fee. The small entity fee categories in § 171.16(c) of this final rule are based on the NRC's size standards.

The Omnibus Budget Reconciliation Act (OBRA–90), as amended, requires that the NRC recover approximately 100 percent of its budget authority, less appropriations from the Nuclear Waste Fund, by assessing license and annual fees. OBRA–90 requires that the schedule of charges established by rule should fairly and equitably allocate the total amount to recovered from NRC's licensees and be assessed under the principle that licensees who require the greatest expenditure of agency resources pay the greatest annual charges. The amount to be collected for FY 2000 is approximately $447.0 million.

Since 1991, the NRC has complied with OBRA–90 by issuing a final rule that amends its fee regulations. These final rules have established the methodology used by NRC in identifying and determining the fees to be assessed and collected in any given fiscal year.

In FY 1995, the NRC announced that, in order to stabilize fees, annual fees would be adjusted only by the percentage change (plus or minus) in NRC's total budget authority, adjusted for changes in estimated collections for 10 CFR Part 170 fees, the number of licensees paying annual fees, and as otherwise needed to assure the billed amounts resulted in the required collections. The NRC indicated that if there was a substantial change in the total NRC budget authority or the magnitude of the budget allocated to a specific class of licensees, the annual fee base would be recalculated.

In FY 1999, the NRC concluded that there had been significant changes in the allocation of agency resources among the various classes of licensees and established rebaselined annual fees for FY 1999. The NRC stated in the final FY 1999 rule that to stabilize fees it would continue the policy established in FY 1995 to adjust the annual fees by the percent change method, unless there was a substantial change in the total NRC budget or the magnitude of the budget allocated to a specific class of licensees, in which case the annual fee base would be reestablished.

After evaluating budget data for FY 2000, the NRC has concluded that there has not been a substantial change in the total NRC budget authority or the magnitude of the budget allocated to a specific class of licensees since FY 1999. Therefore, the NRC's FY 2000 annual fees have been determined by the percent change method based on FY 1999 annual fees. As a result, the FY 2000 annual fees for all licenses will increase by about 1.4 percent.

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) is intended to reduce regulatory burdens imposed by Federal agencies on small businesses, nonprofit organizations, and governmental jurisdictions. SBREFA also provides Congress with the opportunity to review agency rules before they go into effect. Under this legislation, the NRC annual fee rule is considered a ''major'' rule and must be reviewed by Congress and the Comptroller General before the rule becomes effective. SBREFA also requires that an agency prepare a guide to assist small entities in complying with each rule for which final regulatory flexibility analysis is prepared. This Regulatory Flexibility Analysis and the small entity compliance guide (Attachment 1) have been prepared for the FY 2000 fee rule as required by law.

II. Impact on Small Entities

The fee rule results in substantial fees being charged to those individuals, organizations, and companies that are licensed by the NRC, including those licensed under the NRC materials program. The comments received on previous proposed fee rules and the small entity certifications received in response to previous final fee rules indicate that NRC licensees qualifying as small entities under the NRC's size standards are primarily materials licensees. Therefore, this analysis will focus on the economic impact of the

annual fees on materials licensees. About 20 percent of these licensees (approximately 1,200 licensees for FY 1999) have requested small entity certification in the past.

The commenters on previous fee rulemakings consistently indicated that the following results would occur if the proposed annual fees were not modified.

1. Large firms would gain an unfair competitive advantage over small entities. Commenters noted that small and very small companies (''Mom and Pop'' operations) would find it more difficult to absorb the annual fee than a large corporation or a high-volume type of operation. In competitive markets, such as soils testing, annual fees would put small licensees at an extreme competitive disadvantage with their much larger competitors because the proposed fees would be the same for a two-person licensee as for a large firm with thousands of employees.

2. Some firms would be forced to cancel their licenses. A licensee with receipts of less than $500,000 per year stated that the proposed rule would, in effect, force it to relinquish its soil density gauge and license, thereby reducing its ability to do its work effectively. Other licensees, especially well-loggers, noted that the increased fees would force small businesses to get rid of the materials license altogether. Commenters stated that the proposed rule would result in about 10 percent of the well-logging licensees terminating their licenses immediately and approximately 25 percent terminating their licenses before the next annual assessment.

3. Some companies would go out of business.

4. Some companies would have budget problems. Many medical licensees noted that, along with reduced reimbursements, the proposed increase of the existing fees and the introduction of additional fees would significantly affect their budgets. Others noted that, in view of the cuts by Medicare and other third party carriers, the fees would produce a hardship and some facilities would experience a great deal of difficulty in meeting this additional burden.

Since annual fees for materials licenses were first established, approximately 3,000 license, approval, and registration terminations have been requested. Although some of these terminations were requested because the license was no longer needed or licenses or registrations could be combined, indications are that other termination requests were due to the economic impact of the fees.

To alleviate the significant impact of the annual fees on a substantial number of small entities, the NRC considered the following alternatives, in accordance with the RFA, in developing each of its fee rules since 1991.

1. Base fees on some measure of the amount of radioactivity possessed by the licensee (*e.g.*, number of sources).

2. Base fees on the frequency of use of the licensed radioactive material (*e.g.*, volume of patients).

3. Base fees on the NRC size standards for small entities.

Commenters on the FY 2000 proposed fee rule (65 FR 16250; March 27, 2000), indicated that the same impacts, or variants of these impacts, would occur as a result of the proposed rule, especially in relation to the NRC's proposed 25 percent increase in small entity fees. Commenters also suggested the same alternatives, or variants of these alternatives, to basing fees on the NRC size standards for small entities that have been previously suggested and considered by the NRC. For a complete discussion of the impacts and alternatives suggested by commenters in response to the FY 2000 proposed fee rule, please see Section III, C, 2 of the Supplementary Information section of this final rule.

The NRC has again reexamined its previous evaluations of these alternatives, particularly in light of the 25 percent increase in the maximum small entity fees. The NRC continues to believe that establishment of a maximum fee for small entities based on its size standards is the most appropriate and effective option for reducing the impact of its fees on small entities.

III. Maximum Fee

The RFA and its implementing guidance do not provide specific guidelines on what constitutes a significant economic impact on a small entity. Therefore, the NRC has no benchmark to assist it in determining the amount or the percent of gross receipts that should be charged to a small entity. In developing the maximum small entity annual fee in FY 1991, the NRC examined its 10 CFR Part 170 licensing and inspection fees and Agreement State fees for those fee categories which were expected to have a substantial number of small entities. Six Agreement States; Washington, Texas, Illinois, Nebraska, New York, and Utah were used as benchmarks in the establishment of the maximum small entity annual fee in 1991. Because small entities in those Agreement States were paying the fees, the NRC concluded that these fees did not have a significant impact on a substantial number of small entities. Therefore, those fees were considered a useful benchmark in establishing the NRC maximum small entity annual fee.

The NRC maximum small entity fee was established as an annual fee only. In addition to the annual fee, NRC small entity licensees were required to pay amendment, renewal, and inspection fees. In setting the small entity annual fee, NRC ensured that the total amount small entities paid annually would not exceed the maximum paid in the six benchmark Agreement States.

Of the six benchmark states, the maximum Agreement State fee of $3,800 in Washington was used as the ceiling for the total fees. Thus, the NRC's small entity fee was developed to ensure that the total fees paid by NRC small entities would not exceed $3,800. Given the NRC's 1991 fee structure for inspections, amendments, and renewals, a small entity annual fee established at $1,800 allowed the total fee (small entity annual fee plus yearly average for inspections, amendments, and renewal fees) for all categories to fall under the $3,800 ceiling.

In 1992, the NRC introduced a second, lower tier to the small entity fee in response to concerns that the $1,800 fee, when added to the license and inspection fees, still imposed a significant impact on small entities with relatively low gross annual receipts. For purposes of the annual fee, each small entity size standard was divided into an upper and lower tier. Small entity licensees in the upper tier continued to pay an annual fee of $1,800 while those in the lower tier paid an annual fee of $400.

Between 1991 and 1999, changes in both the external and internal environment have impacted NRC costs and those of its licensees. The upper and lower tier maximum small entity annual fees did not change in those years. Increases in the NRC materials license fees, Agreement States' materials license fees, and the Consumer Price Index all indicate that the NRC small entity fee established in 1991 should be revised. In addition to these increases, the structure of the fees that NRC charges to its materials licensees changed during the period between 1991 and 1999. Costs for materials license inspections, renewals, and amendments, which were previously recovered through Part 170 fees for services, are now included in the Part 171 annual fees assessed to materials licensees.

While the annual fees increased for most materials licensees as a result of these changes, the NRC's annual fees assessed to small entities have not been adjusted to include the additional costs. As a result, small entities are currently paying a smaller percentage of the total NRC regulatory costs related to them than they did in FY 1991 and FY 1992 when the small entity fees were established. The amount of the small entity subsidy paid by other licensees for these regulatory costs was $4.3 million in FY 1991. With the addition of the lower tier small entity fee in FY 1992, the small entity subsidy increased to $5.4 million, or about $2,700 for each of the 2000 small entities in FY 1992. Although the number of small entities had declined to approximately 1,200 by 1999, the FY 1999 small entity subsidy was $5.3 million, or about $4,400 for each small entity.

Based on the changes that have occurred since FY 1991, the NRC has reanalyzed its maximum small entity annual fee. As part of the reanalysis, the NRC considered the 1999 fees assessed by Agreement States, the NRC's FY 1999 fee structure, and the increase in the Consumer Price Index between FY 1991 and FY 1999. The reanalysis and alternatives considered by the NRC for revising the small entity annual fees are described below.

A. Analysis of Maximum Small Entity Annual Fee

The analysis included a review of the fee structures in Agreement States to determine what fees they currently assess small entities. To maintain consistency and to facilitate direct comparisons between 1991 and 1999, the analysis focused on the fee categories used in 1991 and included fees imposed by the six benchmark Agreement States used in 1991 and five other Agreement States with the highest number of licenses.

The eleven states selected were: California, Texas, New York, Florida, Illinois, Tennessee, Maryland, Georgia, Washington,

Utah, and Nebraska. Seven NRC fee categories were selected for review based on the number of small entities present in the category and inclusion of the category in the 1991 review. The fee categories selected were: 3M—Research and Development, 3N—Services, 3O—Industrial Radiography, 3P—Gauges and Other Industrial Uses, 5A—Well Logging, 7A—Teletherapy, and 7C—Nuclear Medicine. Together these categories comprise 80 percent of NRC's small entity licensees for FY 1999.

Among the eleven Agreement States reviewed, the fee structures varied both in terms of the fee amounts and the services included in the fees. Of the eleven states, only Georgia and Washington provide a separate small entity fee for qualified licensees. The remaining nine states do not identify small entities in their fee structure and therefore assess the same fee to all licensees regardless of their size.

Increases in the materials license fees since 1991 for the eleven Agreement States selected ranged from 10 percent in New York to 218 percent in Utah (see Table 1). Of particular note are the increases in the States of Washington, Georgia, and Utah. Washington and Utah are two of the original states benchmarked in 1991. Georgia and Washington are the two Agreement States reviewed that have a separate annual fee for small entities.

The structure of the total fees per year in Georgia is similar to that used to determine the total fees paid by NRC small entity licensees in 1991. In Georgia, this fee increased by 64 percent from 1991 to 1999. The increase in Georgia is directly comparable to the NRC context since Georgia uses the same two-tier structure for its small entity annual fees.

Washington's maximum fee assessed to small entities increased by 25 percent, from approximately $3,800 in 1991 to approximately $4,700 in 1999. The $4,700 fee is charged for an Industrial Radiography license. Washington had the highest maximum fee in 1991 and it was this fee that provided the basis for the maximum fees assessed to NRC small entity licensees.

Utah had the lowest maximum fee of the six benchmark states in 1991 . By 1999, Utah's maximum fee had increased by 218 percent, from $440 to $1,400. As in Washington, the maximum fee is charged for an Industrial Radiography license.

Table 1 shows the increases in the maximum total fees paid by small entities in the selected Agreement States from 1991 to 1999. Data is not presented in the Table for the State of California because California does not use fee categories that are directly mapped to NRC fee categories. California charges a base fee plus a fee based on the number of millicuries handled. In addition, because the FY 1991 fees for the State of Maryland were not available, only the maximum fee for FY 1999 is shown in the Table. The change in the maximum fee paid by NRC small entity licensees over the same period is included for purposes of comparison. This fee decreased by 47 percent while fees in the Agreement States were increasing. The reason for this decrease is discussed in B. below.

TABLE 1

Percentage change in the maximum total fee assessed to small entities annually

State	Maximum fee 1991	Maximum fee 1999	Percent change
Utah	$440	$1,400	218
Nebraska	1,456	2,925	101
Texas	2,100	4,230	101
Tennessee	2,000	4,000	100
Georgia	1,650	2,700	64
Florida	1,925	2,657	38
Illinois	2,000	2,733	37
Washington	3,760	4,699	25
New York	1,000	1,100	10
Maryland	(1)	1,350	(1)
NRC Small Entity	3,400	1,800	(−47)

1 Not available.

The increases in the fees assessed to small entities in Agreement States between 1991 and 1999 suggest that the cost to support radioactive materials licensees has increased over time. Because small entities in Agreement States are currently paying the increased fees, it can be inferred that the fees do not have a significant impact on them.

B. Analysis of Changes in the NRC Small Entity Fee Structure

When NRC established its small entity annual fee in 1991, the fee was viewed as one component of the total annual costs that would be assessed to small entities. Table 2 presents the composition of the 1991 total annual cost for small entities.

TABLE 2

Total fees assessed to NRC small entities in 1991

Fees	Selected fee categories						
	Teletherapy 7A	Nuclear medicine 7C	Research & development 3M	Services 3N	Industrial radiography 3O	Gauges 3P	Well logging 5A
Annualized Inspection Fee 1	$920	$420	$200	$140	$920	$180	$210
Amendment Fee 2	340	340	630	320	390	300	430
Annualized Renewal Fee 3	130	170	40				
Subtotal	1,390	930	870	590	1,590	560	960
Annual Fee for Small Entity	1,800	1,800	1,800	1,800	1,800	41,500	1,800

TABLE 2—Continued

Total fees assessed to NRC small entities in 1991

Fees	Selected fee categories						
	Teletherapy 7A	Nuclear medicine 7C	Research & development 3M	Services 3N	Industrial radiography 3O	Gauges 3P	Well logging 5A
Total Fees (Rounded)	3,200	2,700	2,700	2,400	3,400	2,100	2,800

[1] NRC charged a separate fee for inspections under Part 170. The inspection frequency, defined as years between inspections, varies with each category of license. To annualize the inspection fee, the fee charged per inspection was divided by the inspection frequency.
[2] NRC charged a fee for each amendment to a license. In determining the total annual cost, one amendment per year was assumed.
[3] In 1991 NRC issued materials licenses for a five-year period. At the end of this period each licensee paid a fee under Part 170 to renew the license. Because the licensee paid this fee once every five years, in calculating the total annual cost, the renewal fee was annualized by dividing by five.
[4] The FY 1991 annual fee of $1,500 for category 3P was less than the $1,800 small entity annual fee. Therefore, small entities in this category paid the $1,500 annual fee, not $1,800.

Since 1991, NRC's Part 170 inspection, renewal, and amendment fees for materials licenses have been eliminated and the costs of those services included in the annual fee. Although the annual fee now covers the costs for inspections, renewals, and amendments, the small entity fee itself remained unchanged. As a result, the maximum NRC fees paid by small entities has declined by 47 percent, from $3,400 in 1991 to $1,800 in 1999. This decrease occurred while the average total non-small entity annual fee for other NRC materials licenses increased by 25 percent and the average maximum annual fee for small entity licensees in Agreement States increased by 54 percent.

Table 3 compares the total fees (annual, inspection, renewal, and amendment) assessed to NRC materials licensees in 1991 with the total fees (annual) assessed to these licensees in 1999. In five of the seven categories the fee increases were over 20 percent. Of particular note are the increases in categories 7C—Nuclear Medicine, 3O—Industrial Radiography, and 3P—Gauges. These categories contain 67 percent of the small entity licenses invoiced for FY1999. The average fee increase for these three categories is 31 percent, compared to the 25 percent average for the seven categories reviewed.

TABLE 3

Comparison between total NRC annual fees for selected categories for 1991 and 1999

NRC fees	Teletherapy 7A	Nuclear Medicine 7C	Research & Development 3M	Services 3N	Industrial Radiography 3O	Gauges 3P	Well Logging 5A	Average
1991 Annual Fee	$9,700	$3,500	$4,000	$4,400	$9,300	$1,500	$7,000	$5,600
1991 Other Fees:								
Annualized Inspection Fee	920	420	200	140	920	180	200	.....
Amendment Fee	340	340	630	320	390	300	430	.....
Annualized Renewal Fee	130	170	40	130	280	80	320	.....
Total Other Fees	1,390	930	870	590	1,590	560	950	.....
Total Fee in 1991 (Rounded)	11,100	4,400	4,900	5,000	10,900	2,100	8,000	6,700
Total (Annual) Fee In 1999	15,300	5,800	5,000	5,200	14,700	2,600	9,900	8,400
Fee Increase from 1991 to 1999	38%	32%	2%	4%	35%	24%	24%	25%

Table 4 compares the 1991 fees for amendments and inspections with the cost to provide these services in 1999. The cost was determined by multiplying the average hours to complete amendments and inspections by the hourly rate. The 1999 cost for amendments is on average 60 percent higher than the amendment fee assessed in 1991; inspection costs are 260 percent higher. These services are provided to all licensees, both small entities and non-small entities. However, under the current fee structure these costs are recovered only from annual fees assessed to non-small entities. Because the small entity annual fee has remained static, it does not reflect any increases in NRC's costs since 1991.

TABLE 4

Comparison of NRC inspection and amendment costs in 1991 and 1999

	Amendments			Inspections		
	1991	1999	Increase (percent)	1991	1999	Increase (percent)
7A—Teletherapy	$340	$450	32	$920	$3,200	248
7C—Nuclear Medicine	340	520	53	830	3,100	273

TABLE 4—Continued

Comparison of NRC inspection and amendment costs in 1991 and 1999

	Amendments			Inspections		
	1991	1999	Increase (percent)	1991	1999	Increase (percent)
3M—Research & Development	630	710	13	800	2,300	188
3N—Services	320	690	116	550	2,700	391
3O—Industrial Radiography	390	780	100	920	3,300	259
3P—Gauges	300	390	30	920	2,200	139
5A—Well Logging	430	950	121	640	2,700	322
Average	400	640	60	800	2,900	263

Given NRC's 100 percent cost recovery requirement, the portion of annual fees not recovered from small entities is passed to other NRC licensees. The increasing disparity between the small entity fee and the cost of NRC services included in the annual fee calls for a more equitable distribution of the NRC costs to these licensees. An increase in the small entity fee would mitigate the cost differences and would permit small entities to assume a greater portion of NRC costs attributable to them. If everything else remains the same, an increase in the small entity fee would result in a decrease in the small entity subsidy paid by other licensees.

C. Analysis of Increases in the Consumer Price Index

On a national level the cost of goods and services increased between 1991 and 1999. According to the U.S. Department of Labor, Bureau of Labor Statistics, the Consumer Price Index (CPI) increased 28.8 points, from 136.2 in 1991 to 165.0 for the first half of 1999, an increase of 21 percent. This index is an accepted economic indicator of price changes in the US economy. The 21 percent increase in the CPI is evidence that costs in NRC's external environment have increased. Obviously, NRC's cost of providing services to its licensees will be impacted by these increases.

D. Alternatives for Revising the Maximum Annual Fee

1. Increase Small Entity Fees Using the 1991 Methodology

Following the reasoning used in the 1991 process, the maximum annual fee for small entities could be revised to reflect the current maximum fees charged by Agreement States and the changes in the NRC fee structure since 1991. The maximum Agreement State fee assessed to small entities in 1999 is $4,700. Therefore, the maximum value for NRC's small entity fee could be set at $4,700.

This method would allow the NRC to recover from small entities 48 percent of the total amount of the small entity annual fee invoices. Although this method is defensible, because it is based on sound reasoning used in the original establishment of the small entity fees that have been in place since 1991, it is based on an external fee that is outside NRC's direct control.

2. Increase the Small Entity Fee Using the Average Increase in NRC Materials License Fees From 1991 to 1999

From 1991 to 1999 total NRC fees for materials licenses increased, on average, by 25 percent. This percentage could be applied to the existing small entity fee to give a new small entity fee of $2,300.

This method is a simple and obvious means of applying the rates of increase in NRC fees since FY 1991 to the small entity fees. This method does not consider the changes to the total fees paid by small entities since FY 1991 and does not incorporate changes in the composition of the total fees assessed to small entities per year by Agreement States. However, it does rely on the increases to the total fees paid by other NRC materials licensees since FY 1991. This method could also provide a sustainable and simple means of determining whether NRC's small entity fees should be revised in the future.

3. Add the 1991 Amendment, Renewal, and Inspection Costs to the Existing Small Entity Fee and Increase the Sum by the Average Increase in NRC Materials License Fees From 1991 to 1999

The small entity fee could be increased by loading the existing small entity annual fee of $1,800 with the amendment, renewal, and inspection costs used in 1991 and increasing the total by 25 percent. This method not only incorporates the average increase in NRC fees but it bases the increase on the total annual costs that were assessed to small entities in 1991.

To revise the small entity fee using this method, a category must be selected as the 1991 base. The total annual cost for this category, as presented in Table 3, will then be increased by the NRC average of 25 percent. Five possible approaches to selecting the 1991 base were explored.

Method 3A—Maximum Fee Category in the Benchmark States

Method 3A uses the Industrial Radiography category as the base. This category had the maximum fee in the Agreement States benchmarked in 1991. The total NRC fee assessed to the Industrial Radiography category in 1991 was $3,400. Increasing this fee by 25 percent gives a new small entity fee of $4,300.

Method 3B—Highest Number of Small Entities Present

Method 3B uses the fee category with the highest number of small entities. In FY 1999, Category 3P, Gauges and Other Industrial Uses, had 30 percent of all NRC small entity licensees. This was the highest number of small entities present in a single category. In 1991, the total fees for Category 3P was $2,100. A 25 percent increase in this fee would set the small entity fee at $2,600.

Method 3C—Highest Number of Upper Tier Small Entities Present

Method 3C uses Category 7C, Nuclear Medicine as the base. This category has the highest number of upper tier small entities and is considered a viable base because the small entity annual fee originally established in FY 1991 was the upper tier fee. In 1991, Category 7C had a total fee of $2,700; this base would give a new small entity fee of $3,400.

Method 3A yields a 45 percent recovery of the invoiced amounts from small entities, the highest recovery rate under Method 3. However, the Industrial Radiography category contains only 7 percent of all NRC small entity licensees in 1999 and arguably does not affect a significant number of the small entities. Method 3B addresses this issue and uses Category 3P, the category with the highest number of small entities. However, the 3P Category also has the lowest 1991 total cost and results in a recovery rate of 34 percent from small entities, the lowest under Method 3. Method 3C uses Category 7C, Nuclear Medicine, and is preferable to both Methods 3A and 3B in that it yields a 37 percent recovery rate from small entities and contains 30 percent of the small entity licensees.

Methods 3A, 3B and 3C are all based on the selection of a single fee category as the 1991 base. Using the fee from a specific fee category as the base fee can implicitly make the category a benchmark. This increases the risk of challenges to the fee if significant changes occur in the benchmark category.

Method 3D—Weighted Average of the Total Fees in the Seven Categories

Method 3D uses the number of upper tier small entities in each category to weight the total fee assessed to each category in 1991. The weighted-average of $2,700 is then used as the base. This gives a new small entity fee of $3,400.

Method 3E—Average of the Total Fees for the Seven Categories

Method 3E uses the average total fee for the categories reviewed as the base fee. The average total fee of $2,800 is then increased by 25 percent to give a new small entity fee of $3,500.

Both Methods 3D and 3E use averages to determine the base fee and this reduces the risks associated with Methods 3A, 3B and 3C. Both methods yield the same recovery rate of 37 percent and can be considered equally acceptable from a monetary perspective.

Because Method 3D uses a weighted average, the number of small entities in each of the seven categories are factored into the selection process while smoothing the impact of the highest and lowest fee categories.

While Methods 3D and 3E would consider the total fees paid by small entities in FY 1991 and would increase the amounts recovered from small entities thereby reducing the small entity subsidy paid by other licensees, the percentage increase under either of these methods would be larger than the average percentage increase in the total fees assessed to other NRC materials licensees since FY 1991.

IV. Conclusion

Based on the results of the reanalysis, the NRC is increasing the maximum small entity annual fee by 25 percent, based on the percentage increase since FY 1991 in the average total fees paid per year by other NRC materials licensees. As a result, the maximum small entity annual fee increases from $1,800 to $2,300. By increasing the maximum annual fee for small entities from $1,800 to $2,300, the annual fee for many small entities is reduced while at the same time materials licensees, including small entities, would pay for most of the costs attributable to them. The costs not recovered from small entities are allocated to other materials licensees and to power reactors.

While reducing the impact on many small entities, the maximum annual fee of $2,300 for small entities may continue to have a significant impact on materials licensees with annual gross receipts in the thousands of dollars. Therefore, the NRC is continuing to provide a lower-tier small entity annual fee for small entities with relatively low gross annual receipts. The lower-tier small entity fee also applies to manufacturing concerns, and educational institutions not State or publicly supported, with less than 35 employees. The NRC is increasing the lower tier small entity fee by the same percentage increase to the maximum small entity annual fee. This 25 percent increase results in the lower tier small entity fee increasing from $400 to $500.

In the future, the NRC plans to re-examine the small entity fees each year that annual fees are rebaselined. As part of the re-examination, the NRC will consider the percentage increase in fees paid by other NRC materials licensees since the last rebaselining to determine if the maximum small entity annual fees should be revised.

Please see Section III, C, 2 of the Supplementary Information section of this final rule for a discussion of the comments received on the increase in small entity fees, including the suggestion that the NRC establish addition tiers or levels of fees.

The NRC continues to believe that the 10 CFR Part 170 application fees, or any adjustments to these licensing fees during the past year, do not have a significant impact on small entities.

V. Summary

The NRC has determined that the 10 CFR Part 171 annual fees significantly impact a substantial number of small entities. A maximum fee for small entities strikes a balance between the requirement to collect 100 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. On the basis of its regulatory flexibility analyses, the NRC concludes that a maximum annual fee of $2,300 for small entities and a lower-tier small entity annual fee of $500 for small businesses and not-for-profit organizations with gross annual receipts of less than $350,000, small governmental jurisdictions with a population of less than 20,000, small manufacturing entities that have less than 35 employees and educational institutions that are not State or publicly supported and have less than 35 employees reduces the impact on small entities. At the same time, these reduced annual fees are consistent with the objectives of OBRA–90. Thus, the fees for small entities maintain a balance between the objectives of OBRA–90 and the RFA.

Attachment 1 to Appendix A

U.S. Nuclear Regulatory Commission, Small Entity Compliance Guide, Fiscal Year 2000

Contents

Introduction
NRC Definition of Small Entity
NRC Small Entity Fees
Instructions for Completing NRC Form 526

Introduction

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires all Federal agencies to prepare a written guide for each ''major'' final rule as defined by the Act. The NRC's fee rule, published annually to comply with the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), requires the NRC to collect approximately 100 percent of its budget authority each year through fees. This rule is considered a ''major'' rule under this law. This compliance guide has been prepared to assist NRC material licensees comply with the FY 2000 fee rule.

Licensees may use this guide to determine whether they qualify as a small entity under NRC regulations and are eligible to pay reduced FY 2000 annual fees assessed under 10 CFR Part 171. The NRC has established two tiers of separate annual fees for those materials licensees who qualify as small entities under NRC's size standards.

Licensees who meet NRC's size standards for a small entity must complete NRC Form 526 to qualify for the reduced annual fee. This form accompanies each annual fee invoice mailed to materials licensees. The completed form, the appropriate small entity fee, and the payment copy of the invoice, should be mailed to the U.S. Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch, to the address indicated on the invoice. Failure to file a small entity certification in a timely manner may result in the denial of any refund that might otherwise be due.

NRC Definition of Small Entity

The NRC has defined a small entity for purposes of compliance with its regulations (10 CFR 2.810) as follows:

1. Small business—a for-profit concern that provides a service or a concern not engaged in manufacturing with average gross receipts of $5 million or less over its last 3 completed fiscal years;

2. Manufacturing industry—a manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months;

3. Small organization—a not-for-profit organization which is independently owned and operated and has annual gross receipts of $5 million or less;

4. Small governmental jurisdiction—a government of a city, county, town, township, village, school district or special district with a population of less than 50,000;

5. Small educational institution—an educational institution supported by a qualifying small governmental jurisdiction, or one that is not state or publicly supported and has 500 or fewer employees.[1]

NRC Small Entity Fees

In 10 CFR 171.16 (c), the NRC has established two tiers of small entity fees for licensees that qualify under the NRC's size standards. The NRC is increasing these fees by 25 percent. The FY 2000 small entity fees are as follows:

[1] An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

	Maximum annual fee per licensed category
Small business not engaged in manufacturing and small not-for profit organizations (gross annual receipts):	
$350,000 to $5 million	$2,300
Less than $350,000	500
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees	2,300
Less than 35 employees	500
Small governmental jurisdictions (including publicly supported educational institutions) (population):	
20,000 to 50,000	2,300
Less than 20,000	500
Educational Institutions that are not State or publicly supported, and have 500 employees or less:	
35 to 500 employees	2,300
Less than 35 employees	500

To pay a reduced annual fee, a licensee must use NRC Form 526, enclosed with the fee invoice, to certify that it meets NRC's size standards for a small entity. Failure to file NRC Form 526 in a timely manner may result in the denial of any refund that might otherwise be due.

Instructions for Completing NRC Form 526

1. File a separate NRC Form 526 for each annual fee invoice received.

2. Complete all items on NRC Form 526 as follows:

a. The license number and invoice number must be entered exactly as they appear on the annual fee invoice.

b. The Standard Industrial Classification (SIC) Code should be entered if it is known.

c. The licensee's name and address must be entered as they appear on the invoice. Name and/or address changes for billing purposes must be annotated on the invoice. Correcting the name and/or address on NRC Form 526 or on the invoice does not constitute a request to amend the license. Any request to amend a license is to be submitted to the respective licensing staffs in the NRC Regional or Headquarters Offices.

d. Check the appropriate size standard under which the licensee qualifies as a small entity. Check one box only. Note the following:

(1) The size standards apply to the licensee, not the individual authorized users listed in the license.

(2) Gross annual receipts as used in the size standards includes all revenue in whatever form received or accrued from whatever sources, not solely receipts from licensed activities. There are limited exceptions as set forth at 13 CFR 121.104. These are: the term receipts excludes net capital gains or losses, taxes collected for and remitted to a taxing authority if included in gross or total income, proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS), and amounts collected for another by a travel agent, real estate agent, advertising agent, or conference management service provider.

(3) A licensee who is a subsidiary of a large entity does not qualify as a small entity.

(4) The owner of the entity, or an official empowered to act on behalf of the entity, must sign and date the small entity certification.

The NRC sends invoices to its licensees for the full annual fee, even though some entities qualify for reduced fees as a small entity. Licensees who qualify as a small entity and file NRC Form 526, which certifies eligibility for small entity fees, may pay the reduced fee, which for a full year is either $2,300 or $500 depending on the size of the entity, for each fee category shown on the invoice. Licensees granted a license during the first six months of the fiscal year and licensees who file for termination or for a possession only license and permanently cease licensed activities during the first six months of the fiscal year pay only 50 percent of the annual fee for that year. Such an invoice states the ''Amount Billed Represents 50% Proration.'' This means the amount due from a small entity is not the prorated amount shown on the invoice but rather one-half of the maximum annual fee shown on NRC Form 526 for the size standard under which the licensee qualifies, resulting in a fee of either $1150 or $250 for each fee category billed instead of the full small entity annual fee of $2,300 or $500.

A new small entity form (NRC Form 526) must be filed with the NRC each fiscal year to qualify for reduced fees for that fiscal year. Because a licensee's ''size,'' or the size standards, may change from year to year, the invoice reflects the full fee and a new Form must be completed and returned for the fee to be reduced to the small entity fee. LICENSEES WILL NOT BE ISSUED A NEW INVOICE FOR THE REDUCED AMOUNT. The completed NRC Form 526, the payment of the appropriate small entity fee, and the ''Payment Copy '' of the invoice should be mailed to the U.S. Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch at the address indicated on the invoice.

If you have questions about the NRC's annual fees, please call the license fee staff at 301–415–7554, e-mail the fee staff at fees@nrc.gov, or write to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Office of the Chief Financial Officer.

False certification of small entity status could result in civil sanctions being imposed by the NRC under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et seq.* NRC's implementing regulations are found at 10 CFR Part 13.

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June 12, 2000

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2000–7471; Notice No. 00–04]

RIN 2120–AG94

Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes to establish a new requirement for fire protection of powerplant installations. This proposal would require that components within a designated fire zone must be fireproof if, when exposed to or damaged by fire, they could pose a hazard to the airplane. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

DATES: Send your comments on or before August 11, 2000.

ADDRESSES: Address your comments to Dockets Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–7471 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA has received your comments, please include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2000–7471.'' We will date-stamp the postcard and mail it back to you.

You also may submit comments electronically to the following Internet address: *http://dms.dot.gov.*

You may review the public docket containing comments to this proposed regulation at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at this address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. In addition, you may review the public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael K. McRae, Propulsion/Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, FAA, Northwest Mountain Region, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone (425) 227–2133; facsimile (425) 227–1320; e-mail: mike.mcrae@faa.gov.

SUPPLEMENTARY INFORMATION:

How Do I Submit Comments to this NPRM?

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

We will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

How Can I Obtain a Copy of This NPRM?

You may download an electronic copy of this document using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339); the Government Printing Office (GPO)'s electronic bulletin board service (telephone: 202–512–1661); or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: 800–322–2722 or 202–267–5948).

Internet users may access recently published rulemaking documents at the FAA's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or the GPO's web page at *http://www.access.gpo.gov/nara.*

You may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591; or by calling 202–267–9680. Communications must identify the docket number of this NPRM.

Any person interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular 11–2A, ''Notice of Proposed Rulemaking Distribution System,'' which describes the application procedure.

Background

What Are the Relevant Airworthiness Standards in the United States?

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14 Code of Federal Regulations (CFR) part 25. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What Is ''Harmonization'' and How Did It Start?

Although part 25 and JAR–25 are very similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial additional costs to manufacturers and operators. These additional costs, however, frequently do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are

usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to ''harmonize'' their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

Both the FAA and the JAA consider ''harmonization'' of the two sets of standards a high priority.

What Is ARAC and What Role Does It Play in Harmonization?

After initiating the first steps towards harmonization, the FAA and JAA soon realized that following the traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language ''recommended'' by ARAC. If the FAA accepts an ARAC recommendation, the agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

What Is the Status of the Harmonization Effort Today?

Despite the work that ARAC has undertaken to address harmonization, there remain a large number of regulatory differences between part 25 and JAR–25. The current harmonization process is extremely costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to conclude the harmonization program as quickly as possible to alleviate the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry [including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)] proposed an accelerated process to reach harmonization. These representatives recommended that the FAA and JAA harmonize differences between parallel part 25 and JAR–25 standards by accepting the more ''stringent'' of the two standards. ''Stringent,'' in this case, indicates the relative higher level of safety, or greater applicability to modern technology, between a part 25 standard and the parallel JAR–25 standard.

Aviation industry groups further refined their proposed process by suggesting that the 42 part 25 standards that already have been tasked to ARAC for harmonization be divided into three categories:

Category 1: Envelope—For these standards, parallel part 25 and JAR–25 standards would be compared, and harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be ''enveloped'' into the other standard. In some cases, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may necessitate that each authority revises its current standard to incorporate more stringent provisions of the other.)

Category 2: Completed or near complete—For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

Category 3: Harmonize—For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR–25 standards cannot be ''enveloped'' (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

What Is the ''Fast Track Harmonization Program''?

In light of the general agreement among the affected industries and authorities to expedite the harmonization program, and a willingness to consider ''enveloping'' of parallel standards, the FAA and JAA in March 1999 agreed upon a method to achieve these goals. This method, which the FAA has titled ''The Fast Track Harmonization Program,'' is aimed at expediting the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but approximately 80 additional standards for part 25 airplanes.

The FAA initiated the Fast Track program on November 26, 1999 (64 FR 66522), by re-tasking ARAC to accomplish the following:

- Review a list of part 25/JAR–25 standards (approximately 120 parallel pairs) identified by industry, FAA, and JAA as having differences that should be harmonized in order to establish one single set of standards that represent the highest level of safety.
- Identify changes necessary to the standards to harmonize part 25 and JAR–25.
- Submit to the FAA a technical report on each standard and recommend what the requirements of the harmonized standard should be.

The FAA then considers the recommendations submitted by ARAC and initiates rulemaking action, as appropriate, based on those recommendations.

As implemented, the Fast Track program achieves its aims by:

- Considering the fundamentals of the industry proposals,

• Defining a process for expeditiously adopting the harmonized requirements,

• Maintaining an emphasis on using ARAC in making a group decision on the harmonization proposal, and

• Incorporating an improved ARAC rulemaking process that does not overburden the FAA and industry due to additional workload.

Discussion of the Proposal

How Does This Proposed Regulation Relate to ''Fast Track''?

This proposed regulation results from the recommendations of ARAC submitted under the FAA's Fast Track Harmonization Program. (It was submitted as a Category 2 item.) In this notice, the FAA proposes to amend 14 CFR § 25.1183 (''Flammable fluid-carrying components'') to establish a new requirement for fire protection of powerplant installations.

What Are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.1183(a) is:

''(a) Except as provided in paragraph (b) of this section, each line, fitting, and other component carrying flammable fluid in any area subject to engine fire conditions, and each component which conveys or contains flammable fluid in a designated fire zone must be fire resistant, except that flammable fluid tanks and supports in a designated fire zone must be fireproof or be enclosed by a fireproof shield unless damage by fire to any non-fireproof part will not cause leakage or spillage of flammable fluid. Components must be shielded or located to safeguard against the ignition of leaking flammable fluid. An integral oil sump of less than 25-quart capacity on a reciprocating engine need not be fireproof nor be enclosed by a fireproof shield.

(b) Paragraph (a) of this section does not apply to—

(1) Lines, fittings, and components which are already approved as part of a type certificated engine; and

(2) Vent and drain lines, and their fittings, whose failure will not result in, or add to, a fire hazard.''

The current text of JAR–25.1183 is identical to § 25.1183, but contains an additional paragraph 25.1183(c) that states:

''(c) All components, including ducts, within a designated fire zone must be fireproof if, when exposed to or damaged by fire, they could—

(1) Result in fire spreading to other regions of the airplane; or

(2) Cause unintentional operation of, or inability to operate, essential services or equipment.''

What Is the Proposed Action?

The FAA proposes to add a new § 25.1183(c), which would require that all components (including ducts) within a designated fire zone be fireproof if, when exposed to or damaged by fire, they could:

• Result in fire spreading to other regions of the airplane, or

• Cause unintentional operation of, or inability to operate, essential services or equipment.

The FAA considers that the addition of this paragraph to part 25 is necessary in order to harmonize the actual wording of part 25 with the JAR on this particular issue, and to clarify the intent of the part 25 regulation. The addition of § 25.1183(c) in part 25 will align the U.S. regulations with their European counterparts, and the wording of both airworthiness standards would be exactly parallel in this aspect.

Furthermore, the addition of § 25.1183(c) will provide some additional assurance that all ''components'' that need to be fireproof will be identified and qualified during certification. Adoption of this proposal is intended to benefit the public interest by standardizing the requirements, concepts, and procedures contained in the U.S. and European airworthiness standards without reducing the current level of safety.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The FAA acknowledges that this proposed requirement might be considered redundant to other existing part 25 sections, including the following:

1. *Section 25.1181 (''Designated fire zones; regions included''):* This section identifies which areas of the powerplant installation are considered ''fire zones,'' including the engine power section, the engine accessory section, the auxiliary power unit (APU) compartment, etc. It also requires that each of these fire zones meet the fire protection requirements of:

• Section 25.867 (pertaining to components of the nacelles); and

• Section 25.1185 through § 25.1203 (pertaining to flammable fluids, drainage/ventilation of fire zones, means of fuel shutoff, fire extinguishing systems and agents, fire detection systems, etc.).

2. *Section 25.1191 (''Firewalls''):* This section requires that each engine, APU, fuel-burning heater, and other components and areas of the (turbine) engine be isolated from the rest of the airplane by firewalls or other equivalent means. Additionally, it requires that each firewall be fireproof, ''leakproof'' (so that no hazardous quantity of air, fluid, or flame can pass from the compartment), sealed (so that all openings are sealed with close fitting fireproof fasteners), and protected against corrosion.

3. *Section 25.901(c) (''Powerplant, General—Installation''):* This section requires that each powerplant and APU installation be designed so that no single failure, malfunction, or combination of failures will jeopardize the safe operation of the airplane. (It also specifies that the failure of structural elements need not be considered if the probability of such failure is determined to be extremely remote.)

While these regulations may seem redundant *in effect* to the proposed new paragraph 25.1183(c), the FAA considers it beneficial to clarify the objective of these rules by the addition of the new paragraph.

Further, the only difference between these current sections and the proposed new § 25.1183(c) is that the new paragraph would address fire protection specifically at the ''component level,'' whereas the other requirements, listed above, address fire protection at the ''zone level'' or the ''installation level.''

In order to actually meet the ''zone level'' or ''installation level'' objectives currently within part 25, the components of the installation must be sufficiently fireproof to comply with the proposed § 25.1183(c). Hence, the FAA considers that the proposed ''component level'' requirement is met inherently by meeting the current, more general ''zone level'' requirements of § 25.1181 and § 25.1191, and the ''installation level'' requirements of § 25.901(c). For example, to comply with either the proposed § 25.1183(c) or the existing § 25.901(c), even when a duct is completely contained within a fire zone, if the duct is not fireproof, any airflow that would result from burnthrough of that duct must be considered when establishing the ''critical airflow conditions'' for compliance with § 25.1195(b). The fire detection, flammable fluid shutoff, and fire extinguishing means for the affected fire zone are some of the ''essential services or equipment'' of particular interest when showing compliance with the proposed § 25.1183(c).''

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The proposed amendment would neither add any new or different objective to the current regulations, nor

change the way that any current certification practice is applied. Instead, the intent of the new paragraph is to clarify and codify the way that the FAA traditionally has applied the related rules. Specifying the fire protection requirement at all three levels—zone, installation, and component—in the regulations will help to ensure that, by looking at the same problem in numerous ways, an applicant will not overlook anything during design development and certification.

What Other Options Have Been Considered and Why Were They Not Selected?

The only alternative to this proposed action that the ARAC (Working Group) considered was to delete JAR 25.1183(c). However, ARAC did not recommend this for the following reasons:

First, as noted above, the current § 25.1181 and § 25.1191 concern requirements for protecting *zones* in the airplane against fire, while the current § 25.901(c) concerns requirements for protecting the *installation* of each powerplant and auxiliary power unit against fire. On the other hand, the proposed § 25.1183(c) specifies requirements for protecting *components* on the airplane against fire. ARAC recognized that compliance with the proposed ''component-level'' requirement is met, in effect, by complying with the ''zone-level'' requirements of § 25.1181 and § 25.1191 and the ''installation-level'' requirements of § 25.901(c). However, ARAC considered (and the FAA agrees) that specifying in 14 CFR the fire protection requirement at all three levels—component, zone, and installation—will help to clarify (and codify) the intent of the current regulations, and ensure that nothing gets overlooked during design development.

Second, adopting § 25.1183(c) would have no significant additional impact on the cost of type certification, since it is consistent with standard design practices currently used to meet other part 25 regulations relevant to powerplant installation fire protection. In other words, the requirements of proposed § 25.1183(c) essentially are met already when an applicant properly demonstrates compliance with § 25.1181, § 25.1191, § 25.901(c), and other part 25 [subpart E (''Powerplant'')] regulations. Adopting the proposal would neither reduce nor increase the requirements beyond those that exist in the currently published regulations.

Finally, adopting the proposal would eliminate an identified Significant Regulatory Difference (SRD) between the wording of part 25 and JAR–25, without affecting currently accepted industry design practices. The benefits of eliminating an SRD such as this are that more consistent interpretations of the rules can be expected, and the relations between regulatory authorities may be improved.

Is Existing FAA Advisory Material Adequate?

There currently is no formal advisory material specifically concerning § 25.1183. FAA Advisory Circular 20–135, ''Powerplant Installation and Propulsion System Component Fire Protection Test Methods, Standards, and Criteria,'' does reference § 25.1183 in some of its guidance. At this time, however, the FAA does not consider that further guidance material is needed.

What Regulatory Analyses and Assessments Has the FAA Conducted?

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that this proposed rule has benefits, but no costs, and that the rule is not a ''significant regulatory action'' as defined in the Executive Order nor ''significant'' as defined in DOT's Regulatory Policies and Procedures. Further, this proposed rule would not have a significant economic impact on a substantial number of small entities, would reduce barriers to international trade, and would not impose an Unfunded Mandate on state, local, or tribal governments, or on the private sector.

(DOT) Order 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposed rule does not warrant a full evaluation, a statement to that effect and the basis for it is included in the proposed regulation. Accordingly, the FAA has determined that the expected impact of this proposed rule is so minimal that the proposed rule does not warrant a full evaluation. The FAA provides the basis for this minimal impact determination below.

Currently, airplane manufacturers must satisfy both the 14 CFR and the European JAR standards to certificate transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create, to the maximum possible extent, a single set of certification requirements accepted in both the United States and Europe. These efforts are referred to as harmonization. This proposed rule results from the FAA's acceptance of an ARAC harmonization working group's recommendation. Members of the ARAC working group agreed that this proposed rule would impose no additional cost to U.S. manufacturers of part 25 aircraft.

Specifically, this proposal would add JAR–25.1183 (c) to 14 CFR § 25.1183. As discussed in the preamble, the FAA has concluded that the only difference between the current sections and the proposed § 25.1183(c) is that the new paragraph would address fire protection specifically at the ''component level,'' whereas the existing requirements address fire protection at the ''zone level'' or the ''installation level.'' The FAA believes that adopting this proposal would neither reduce nor increase the requirements beyond those that exist in the current FAA published regulations.

As this proposal neither increases nor decreases certification requirements beyond those already in existence, the FAA believes there would be no cost associated with this proposal to part 25 manufacturers. The FAA has not attempted to quantify the benefits of this proposal beyond identifying the expected harmonization benefit. The

adoption of this proposal would eliminate an identified SRD between the wording of the FAR and the JAR. The elimination of the SRD may provide for a more consistent interpretation of the rules and, thus, is an element of the potentially large cost savings of harmonization.

The FAA requests that current or potential part 25 manufacturers who believe that the rule would result in a cost increase to provide the basis of such information to the docket.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) of 1980, as amended, establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the sale of the business, organizations, and governmental jurisdictions subject to regulation. To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that the rule will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this proposed rule would not have a significant economic impact on a substantial number of small entities for two reasons:

First, the net effect of the proposed rule is minimum regulatory cost relief. The proposed rule requires that new transport category aircraft manufacturers meet just the ''more stringent'' European certification requirement, rather than both the United States and European standards. Airplane manufacturers already meet or expect to meet this standard as well as the existing FAR requirement.

Second, all United States transport-aircraft category manufacturers exceed the Small Business Administration small entity criteria of 1,500 employees for aircraft manufacturers. United States part 25 airplane manufacturers include: Boeing, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation.

Given that this proposed rule is only minimally cost-relieving and that there are no small entity manufacturers of part 25 airplanes, the FAA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of the proposed rule and has determined that it supports the Administration's free trade policy because this rule would use European international standards as the basis for U.S. standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act) (2 U.S.C. 1532–1538), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule 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 (adjusted annually for inflation) in any one year. This proposed rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any year; therefore, the requirements of the Act do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action 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, the FAA has determined that this notice of proposed rulemaking would not have federalism implications.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3507(d)], the FAA has determined there are no requirements for information collection associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposal has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. It has been determined that the proposal is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate

aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the use of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Powerplant fire protection, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

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

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

2. Amend § 25.1183 by adding a new paragraph (c) to read as follows:

§ 25.1183 Flammable fluid-carrying components.

* * * * *

(c) All components, including ducts, within a designated fire zone must be fireproof if, when exposed to or damaged by fire, they could—

(1) Result in fire spreading to other regions of the airplane; or

(2) Cause unintentional operation of, or inability to operate, essential services or equipment.

Issued in Renton, Washington, on June 1, 2000.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–14483 Filed 6–9–00; 8:45 am]

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Monday,

June 12, 2000

Part V

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 474

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Petroleum-Equivalent Fuel Economy Calculation; Final Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 474

[Docket No. EE–RM–99–PEF]

RIN 1904–AA40

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Petroleum-Equivalent Fuel Economy Calculation

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is revising its regulations on electric vehicles to provide a petroleum-equivalency factor (PEF) and procedures for calculating the petroleum-equivalent fuel economy of electric vehicles. The petroleum-equivalent fuel economy values of an automobile manufacturer's electric vehicles may be included in the calculation of that manufacturer's corporate average fuel economy (CAFE), according to regulations prescribed by the Environmental Protection Agency and the Department of Transportation.

EFFECTIVE DATE: This final rule is effective July 12, 2000.

ADDRESSES: Written comments received in response to the notice of proposed rulemaking, a transcript of oral comments presented at the public hearing on August 17, 1999, and supporting technical information described in the notice of proposed rulemaking are filed at the DOE Freedom of Information Reading Room under docket number EE–RM–99–PEF. You may read and copy any of this docket material at: DOE Freedom of Information Reading Room, Room 1E–190, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142. Hours: 9 a.m.–4 p.m., Monday through Friday except Federal holidays.

Additional background materials are also available at the DOE Freedom of Information Reading Room. Copies of the hearing transcript and written comments received regarding the withdrawn February 4, 1994, proposed rule are filed under Docket No. EE–RM–94–101. Earlier materials related to the calculation of the PEF are contained in Docket No. EE–RM–93–301.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Mr. Rogelio Sullivan, U.S. Department of Energy, Office of Transportation Technologies, EE–32, Rm 5G–046, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–8042.

Legal Information: Mr. Eugene Margolis, U.S. Department of Energy, Office of General Counsel, GC–72, Rm 6B–256, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9526.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
A. Requirements of the Motor Vehicle Information and Cost Savings Act, as amended
B. PEF Development Process
C. PEF Calculation Procedures
1. General Form of the PEF Equation
2. Gasoline-Equivalent Energy Content of Electricity Factor
3. ''Fuel Content'' Factor
4. Petroleum-Powered Accessory Factor
5. Driving Pattern Factor
6. Use of the PEF
7. Sample Calculations
III. Public Comments Received on the Notice of Proposed Rulemaking and DOE's Responses
IV. Procedural Requirements

I. Background

In 1975, Congress mandated fuel economy standards for automobiles produced in or imported into the United States in an effort to conserve energy through improvements in the efficiency of motor vehicles. The new law required that every manufacturer or importer of automobiles in the United States meet a corporate average fuel economy standard for the fleet of vehicles produced or imported in any model year. Although certain classes of electric vehicles qualify as ''automobiles'' under the law, they do not consume ''fuel'' as defined in the law. Therefore, inclusion of electric vehicles in a manufacturer's corporate average fuel economy is impossible without a method for expressing the electrical energy consumption rate as an equivalent consumption rate of gasoline. Congress directed the Secretary of Energy to establish a method for determining the petroleum-equivalent fuel economy of electric vehicles.

Congress anticipated that allowing manufacturers to include the expected high equivalent ''fuel economy'' of electric vehicles in corporate average fuel economy calculations would provide an incentive for vehicle manufacturers to produce and sell electric vehicles. Congress anticipated that the existence of such an incentive would help to accelerate the commercialization of electric vehicles.

DOE published a notice of proposed rulemaking (NOPR) on July 14, 1999 (64 FR 37905), describing a revised petroleum-equivalency factor (PEF) and supporting rationale. DOE solicited public comments on the proposed rule and received comments from five organizations representing a cross section of stakeholders. DOE considered these comments carefully before preparing today's final rule. A summary of the comments and DOE's responses are provided in section III of this document. DOE believes that the final rule presented today is responsive to Congressional intent, addresses stakeholder comments and concerns with the proposed rule, is consistent with the regulatory treatment of other types of alternative fuel vehicles, and is straightforward to understand and implement.

Administrative responsibilities for the corporate average fuel economy program are assigned to the Department of Transportation and the Environmental Protection Agency under the Motor Vehicle Information and Cost Savings Act (49 U.S.C., Subtitle VI, Part C). The Secretary of Transportation is responsible for prescribing the corporate average fuel economy standard and enforcing the penalties for failure to meet these standards. The Administrator of the Environmental Protection Agency is responsible for establishing test procedures, for testing the efficiency of vehicles subject to corporate average fuel economy standards, and for calculating a manufacturer's corporate average fuel economy value. DOE is responsible for developing and promulgating the petroleum-equivalency factor, the key component in the calculation of petroleum-equivalent fuel economy values for electric vehicles.

II. Discussion

A. Requirements of the Motor Vehicle Information and Cost Savings Act, as Amended

Section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act (49 U.S.C. 32904(a)(2)) requires DOE to determine the petroleum-equivalent fuel economy values for electric vehicles, taking into account the following parameters:

(i) The approximate electric energy efficiency of the vehicles considering the vehicle type, mission, and weight;

(ii) The national average electricity generation and transmission efficiencies;

(iii) The need of the Nation to conserve all forms of energy, and the relative scarcity and value to the Nation of all fuel used to generate electricity; and

(iv) The specific driving patterns of electric vehicles as compared with those of petroleum-fueled vehicles.

Section 503(a)(3) also provides for revision of such values if necessary.

B. PEF Development Process

The development process of the PEF and the rationale were presented in detail in the notice of proposed rulemaking, and are not repeated in full here. Section C provides a brief description of each of the terms in the PEF equation. Section III also provides an abbreviated discussion of several of the key issues underlying DOE's rationale.

C. PEF Calculation Procedures

The PEF is based on the existing regulatory approach at 49 U.S.C. 32905 for determining the petroleum-equivalent fuel economy of alternative fueled vehicles. The calculation procedure converts the measured electrical energy consumption of an electric vehicle into a raw gasoline-equivalent fuel economy value, and then divides this value by 0.15 to arrive at a final petroleum-equivalent fuel economy value which may then be included in the calculation of the manufacturer's corporate average fuel economy. Two additional factors are present in the equation, but these will usually have a value of unity and thus will not influence the value of the PEF. The terms comprising the PEF and the procedure for applying the PEF are described in greater detail below.

1. General Form of the PEF Equation

The general form of the PEF equation is:

$PEF = E_g * 1/0.15 * AF * DPF$

where:

E_g = Gasoline-equivalent energy content of electricity factor
1/0.15 = ''Fuel content'' factor
AF = Petroleum-fueled accessory factor
DPF = Driving pattern factor

The development of these factors is described below.

2. Gasoline-Equivalent Energy Content of Electricity Factor

When comparing gasoline vehicles with electric vehicles, it is essential to consider the efficiency of the respective ''upstream'' processes in the two fuel cycles. A full description of the differences in the processes is beyond the scope of this rulemaking, but the critical difference is that a gasoline vehicle burns its fuel on-board the vehicle, and an electric vehicle burns its fuel (the majority of electricity in the U.S. is generated at fossil fuel burning powerplants) off-board the vehicle. In both cases, the burning of fuels to produce work is the least efficient step of the respective energy cycles.

Therefore, the PEF includes a term for expressing the relative energy efficiency of the full energy cycles of gasoline and electricity. This term, the gasoline-equivalent energy content of electricity factor, abbreviated as E_g, is defined as:

E_g = gasoline-equivalent energy content of electricity = $(T_g * T_t * C) T_p$

where:

T_g = U.S. average fossil-fuel electricity generation efficiency = 0.328
T_t = U.S. average electricity transmission efficiency = 0.924
T_p = Petroleum refining and distribution efficiency = 0.830
C = Watt-hours of energy per gallon of gasoline conversion factor = 33,705 Wh/gal
E_g = (0.328 * 0.924 * 33705)/0.830 = 12,307 Wh/gal

The derivation of these values is straightforward but lengthy and is therefore not discussed in this notice. Details on the assumptions, calculations, and data sources used to derive these values are described in materials contained in Docket No. EE–RM–99–PEF, which may be reviewed at the DOE Freedom of Information Reading Room, at the address and times stated above.

3. ''Fuel Content'' Factor

The fuel content factor has a value of 1/0.15 and is included in the PEF for the reasons described in the notice of proposed rulemaking and the responses to comments section of this notice. Briefly, these reasons are:

(i) Consistency with existing regulatory and statutory procedures;

(ii) Provision of similar treatment to manufacturers of all types of alternative fuel vehicles; and

(iii) Simplicity and ease of use.

The fuel content factor value of 1/0.15 is equivalent to a multiple of 6.67.

4. Petroleum-Powered Accessory Factor

A minority of electric vehicles, primarily those that may be operated in colder climates, may be equipped with auxiliary petroleum-powered accessories, such as cabin heater/defroster systems. DOE addresses the possible use of such petroleum-powered accessories in the PEF calculations by incorporating an Accessory Factor (AF). This factor reduces the PEF by ten percent when an electric vehicle is equipped with any petroleum-powered accessories. This results in two possible accessory factor values:

Petroleum-powered accessories installed?	Accessory factor (AF) value
No	1.00
Yes	0.90

DOE recognizes that there are many variables affecting the actual energy efficiency penalty of petroleum-powered accessories, but believes that the ten percent penalty is a reasonable representative value. DOE has prepared a supporting technical analysis of the magnitude of the actual energy efficiency penalty of petroleum-powered accessories, and placed this analysis in the docket. Because this approach penalizes electric vehicles equipped with petroleum-powered accessories, it provides an incentive for manufacturers to develop vehicles with electrically-powered accessories.

5. Driving Pattern Factor

Congress required that DOE consider the potential that electric vehicles may be used differently than gasoline vehicles, primarily due to its shorter range and longer ''refueling'' times. However, to meet the definition of an ''automobile'' at 40 CFR part 600 and be eligible for inclusion in the calculation of a manufacturer's corporate average fuel economy, a vehicle must be ''manufactured primarily for use on public streets, roads, or highways.'' Thus, DOE believes that electric vehicles eligible for inclusion in CAFE will offer capabilities (perhaps excepting driving range) similar to those of conventional vehicles. For these reasons, DOE is setting the value of the Driving Pattern Factor (DPF) at unity (1.00).

6. Use of the PEF

The value of the PEF is equal to the product of the values of the gasoline-equivalent energy content of electricity (E_g), the fuel content factor of 1/0.15, the petroleum-fueled accessory factor (AF), and the driving pattern factor (DPF):

$PEF = E_g * 1/0.15 * AF * DPF$

substituting values,

PEF = (12,307 Wh/gal)*(1/0.15)*(1.00 *or* 0.90)*(1.00)

or,

PEF = 82,049 Wh/gal (if no petroleum-powered accessories are installed)
PEF = 73,844 Wh/gal (if any petroleum-powered accessories are installed)

Dividing the PEF by the combined (city and highway) energy consumption of an electric vehicle yields the petroleum-equivalent fuel economy of that electric vehicle in miles per gallon:

mpg = PEF (Wh/gal) ÷ combined [electrical] energy consumption (Wh/mile)

7. Sample Calculations

Sample calculations of the petroleum-equivalent fuel economy of hypothetical electric vehicles are presented in the Appendix of the rule.

III. Public Comments Received on the Notice of Proposed Rulemaking and DOE's Responses

The Department encouraged public participation in this rulemaking. DOE, in the NOPR, urged individual vehicle manufacturers, fuel producers and providers, trade associations, vehicle owners and operators, States or other governmental entities, and other affected or interested parties to submit written comments on the proposal and/or to testify at a hearing held on August 17, 1999, in Washington, DC.

You may review the written comments and the hearing transcript, as well as other docket material in the DOE Freedom of Information Reading Room at the address shown at the beginning of this rulemaking. The materials are filed under docket number EE–RM–99–PEF.

DOE received written comments on the proposed rule from five organizations:

1. Alliance of Automobile Manufacturers (AAM—representing BMW, DaimlerChrysler, Fiat, Ford, General Motors, Isuzu, Mazda, Nissan, Toyota, Volkswagen, and Volvo);
2. California Air Resources Board (CARB);
3. Electric Vehicle Association of the Americas (EVAA);
4. Georgia Power; and
5. Virginia Power

EVAA also testified at the public hearing. The common thread through most of the comments was the strong desire to have the final rule in place as soon as possible. Commentors also suggested that DOE only consider changes to the proposed rule if such changes would not delay issuance of the final rule.

Following are summaries of the comments received and DOE's responses. In most cases, similar comments have been grouped together and given a single response. Additional supporting analyses may be found in the docket.

Comment 1: EVAA, Georgia Power, and Virginia Power generally support DOE's revised approach. The PEF value of 81,407 Wh/gal [in the proposed rule] is acceptable, with the modifications described in the provided comments. EVAA specifically believes that the proposed PEF aligns EVs with other alternative fuel vehicles for fuel economy purposes. (EVAA, Georgia Power, Virginia Power)

Response: DOE acknowledges the general support for the revised approach and consistent treatment of Alternative Fuel Vehicles. DOE values the opinions of these informed stakeholders. The suggested modifications are discussed below.

Comment 2: Publishing a final rule should be the top priority—don't delay publication of the final rule.

- The Alliance supports the proposal as is and urges that it be finalized at the earliest possible time. (AAM)
- DOE should make the simple corrections suggested before publication of the final rule. (EVAA, Georgia Power, Virginia Power)
- DOE should attempt to address the larger issues (such as explicitly quantifying the relative scarcity of fuels), but only if it will not delay the publication of a final rule. (EVAA, Georgia Power, Virginia Power)

Response: DOE agrees that under present conditions, timely publication of a final rule is a higher priority than technical hair splitting. DOE will still make several adjustments to the final rule, as described below.

Comment 3: Publish the final rule rapidly; fine-tune it later. DOE should establish a schedule in the final rule for addressing items that could not be quickly resolved at this time. (Georgia Power, Virginia Power)

Response: The NOPR explicitly states (§ 474.5) that DOE will perform a review five years after publication of the final rule to determine whether any updates and/or revisions are necessary. DOE anticipates that better data on many aspects of EV use will be available by that time.

Comment 4: Incorporate a scarcity factor in the equation as required by law. DOE's own analysis shows scarcity and energy security advantages for electricity and that fuels used to produce electricity are abundant, and that reserves of nuclear and renewables are essentially unlimited. By not including a scarcity factor, DOE is not being responsive to this requirement of the Act and is failing to credit electricity for use of these abundant resources. (EVAA, Georgia Power, Virginia Power)

Response: The final rule is based on the relevant factors in Section 503 (a)(3) of the Motor Vehicle Information and Cost Saving Act, including the relevant scarcity of fuel used to generate electricity. As described in the NOPR, DOE performed a careful and thorough analysis of the present and projected availability of energy resources. This analysis showed that fuels (raw resources) used to produce electricity are abundant, as are the raw resources used to produce gasoline and diesel fuel (in fact, ''proved reserves'' of all of these energy resources tend to increase over time as new resources are discovered and better recovery techniques are developed). Since all of these fuels are abundant, the concept of ''relative scarcity'' is difficult to quantify objectively, and in DOE's judgement, should not be an appropriate guiding factor in the rulemaking at this time.

The commentors' claim that electricity is the only vehicle fuel that can be produced from nuclear or renewable sources is incorrect. For example, both hydrogen and ethanol can be produced totally from nuclear and/or renewable sources.

The 1/0.15 factor used in the equation is not intended to be a scarcity factor *per se,* but it does result in a very substantial adjustment to the raw calculated energy efficiency of electric vehicles. It is included to reward electric vehicles' benefits to the Nation relative to petroleum-fueled vehicles, in a manner consistent with the regulatory treatment of other types of alternative fueled vehicles and the authorizing legislation.

Comment 5: Georgia Power and Virginia Power support the use of the 1/0.15 factor in simplifying the calculation, but DOE should provide a technical basis for its application to EVs, or else modify the factor accordingly. (Georgia Power, Virginia Power)

Response: DOE agrees that the replacement of the previously proposed ''scarcity factor'' with the 1/0.15 factor does make the calculation considerably simpler, but this was not the only reason DOE replaced the scarcity factor with the 1/0.15 factor approach.

In the NOPR, DOE describes its assessment of the technical basis for the application of a factor of 1/0.15 to the measured fuel economy of liquid-alternative fueled vehicles (e.g., M85 fueled vehicles) under existing law (64 F.R. 37907). The NOPR also observes that the law applies the same 1/0.15 factor to gaseous-alternative fueled vehicles, even though there is not an obvious technical basis for doing so.

DOE determined that the most equitable and viable approach would be to apply the same 1/0.15 factor to electric vehicles in order to maintain consistency with the existing regulatory treatment of other types of alternative fueled vehicles.

All alternative fuels offer the intrinsic benefit of being substitutes for petroleum, on which nearly 100 percent of the Nation's transportation depends. In other words, any alternative fuel helps the Nation avoid having all of its transportation ''eggs'' in the petroleum

''basket.'' Each mile driven in an alternative fuel vehicle offsets approximately one mile driven in a petroleum-fueled vehicle.

Comment 6: Assigning one fuel content factor (1/0.15) to all alternative fuel vehicles is inappropriate since ''the fuel efficiency benefits of electric vehicles far exceed those of other alternative fuel vehicles.'' DOE should use a fuel content factor that more accurately represents electric vehicle benefits in comparison to other alternative fuels. (CARB)

Response: The efficiency of EVs varies widely as a function of motor and drivetrain efficiency, driving cycle, and the round-trip efficiency of the battery. The energy source which offers the greatest benefits depends on many factors, and the energy source that offers the greatest benefit to one set of users may not be the most beneficial for a different set of users or the general public. These benefits may vary by geography, fuel and generating method.

As noted in the NOPR, DOE invested considerable time and effort in attempting to develop a method that could rigorously account for the advantages to the Nation offered by electric vehicles compared to conventional vehicles, but was unable to identify a method that was sufficiently objective, robust, and consistent with established policy directions.

Thus, DOE stands by its proposal to provide electric vehicles the same reported-fuel-efficiency incentive (the 1/0.15 factor) that other alternative fuel vehicles currently enjoy.

Although electric vehicles and other alternative fuel vehicles will have its energy-equivalent fuel economy adjusted by the same incentive factor, electric vehicles will still enjoy favorable regulatory treatment under DOE's proposal. This is because EVs are specifically exempt from caps on the amount that alternative fuel vehicles are allowed to contribute to raising a manufacturer's overall CAFE (49 U.S.C. 32906(a)).

Comment 7: The U.S. Average Electricity Generation factor (T_g = 0.328) is based only on fossil fuel generation, and does not account for the efficiencies of nuclear or renewable energy generation. Counting the efficiency of these sources relative to fossil fuel generation as 100 percent, the E_g factor should be equal to about 0.53. (EVAA says 0.40 to 0.53 depending on treatment of the nuclear component). (EVAA, Georgia Power, Virginia Power)

Response: DOE reminds the commentors that the E_g factor represents relative efficiency, *not* resource abundance. There are two reasons why DOE chose to use conversion efficiencies for electricity that reflect the typical efficiencies of fossil fuel-fired powerplants. First, existing nuclear and hydroelectric plants are now operated at essentially full capacity. Since no significant additions to U.S. nuclear or hydro-electric capacity are planned, any increase in electricity demand that results from expanded production and use of electric vehicles is very likely to be met by fossil fuel-fired powerplants. Second, although the fuel supply for nuclear, hydro, and renewable generated electricity is plentiful, the process for converting the raw fuel or physical energy to electricity is, in most cases, less efficient than fossil fuel plants. Further, no energy conversion process is 100 percent efficient.

Since several comments were provided on this issue, DOE took a closer look at the relative efficiency of nuclear vs. fossil fuel generation. Nuclear power plants generate steam at lower temperatures than fossil power plants, reducing their relative thermodynamic efficiency. Typically, nuclear plants generate steam at a maximum cycle temperature of about 575 Kelvin (~575 °F), while fossil plants generate steam at temperatures of about 825 Kelvin (~1025 °F). Thus, assuming both cycles reject heat to the surroundings at 294 Kelvin (70 °F), their respective theoretical limiting Carnot efficiencies ($1—(T_L/T_H)$) is 49 percent for nuclear and 64 percent fossil. The E_g factor uses the actual average fossil fuel-to-electricity conversion efficiency, which is 32.8 percent. Scaling the nuclear Carnot efficiency by the same ratio suggests that nuclear plants achieve conversion efficiencies on the order of 25 percent. While this is a very crude analysis, it is likely that a more rigorous analysis would yield qualitatively similar results.

Therefore, including the nuclear component in the calculation of the E_g factor would likely cause the factor to change *downward,* not upward as suggested by the commentors.

Data on the ''efficiency'' of hydroelectric generation are somewhat difficult to obtain, though hydroelectric generation efficiency may be higher than typical fossil fuel-fired powerplants. This is because hydroelectric power generation is based on principles of momentum and/or pressure transfer and not combustion and heat transfer. Without suitable data, and without taking a significant amount of additional time for detailed analysis, DOE notes that the relatively small amount of relatively high-efficiency hydroelectric generation tends to offset the larger amount of relatively less-efficient nuclear power generation. Thus, the two trends tend to cancel each other and the efficiency of fossil generation would continue to dominate.

Therefore, DOE has continued to use the value of E_g = 0.328 in light of: (1) the commentors' clear desire to place a higher priority on timely publication of a final rule, than on performing additional technical analyses; and (2) since the fossil generation component will dominate the marginal electrical generation efficiency for many years.

Comment 8: The U.S. Average Electricity Transmission and Distribution Efficiency factor T_t places a unique and unfair additional penalty on electric vehicles since fuel distribution efficiency is not included in the mileage calculations for any other vehicle energy source. DOE should assign a value of unity to the T_t factor. (Georgia Power, Virginia Power)

Response: As the commentors note, the T_t factor is required by the authorizing legislation. DOE is aware of the potential for such a factor to unfairly penalize EVs; this is the reason why DOE added the U.S. Petroleum Refining and Distribution factor T_p (= 0.830) in the denominator of the E_g factor equation to offset the T_t (= 0.924) factor in the numerator.

Note that T_p includes refining as well as distribution in order to include most of the corresponding steps in the energy chain—just as the equation attempts to do with the electric energy chain. Note that raw resource extraction (mining, drilling, etc.) is not counted. Data that can be used to measure the ''efficiency'' of these processes is difficult to obtain, and varies widely depending on the characteristics of the individual site. DOE believes that the relative difference in ''efficiency'' of resource extraction (i.e., energy expended in recovery relative to the energy content of the resource recovered) between *individual* sites of one type (e.g., coal mines) is probably greater than the difference in the *average* efficiency of different extraction processes (e.g., mining vs. pumping).

Together, the ratio of the factor's T_t / T_p (= 1.113) *increases* the assigned petroleum-equivalent fuel economy of EVs. Therefore, the T_t factor is not an ''unfair penalty'' on EVs, but is in fact a benefit for EVs.

Comment 9: The energy content of a gasoline factor, C = 33,440 Wh/gal, is inconsistent with the ''accepted actual value'' [''physical constant'' in EVAA's oral comments] used by other DOE programs. DOE should use the value of 33,705 Wh/gal (115,000 Btu/gal ÷ 3.412 Btu/Wh) that is reported by the

Alternative Fuels Data Center. (EVAA, Georgia Power, Virginia Power)

Response: DOE disagrees that a single ''actual'' value for the energy content of gasoline exists. Gasoline is a varying blend of hundreds of components, and thus the energy content of individual batches of gasoline varies by several percentage points from grade-to-grade and from brand-to-brand. The energy content also varies regionally, seasonally, and over the long-term in response to changes in available feedstock, regulatory requirements, and economic pressures.

DOE agrees, however, that a consistent ''average'' value should be used across government programs. Since the PEF is attempting to compare the energy efficiency of electric vehicles to the fuel economy of conventional vehicles as measured by the EPA, the energy content of gasoline value used in the PEF should match the energy content of the gasoline used by EPA in testing the fuel economy of gasoline vehicles.

However, EPA has not provided a value for the energy content of its testing gasolines. Therefore, DOE will use the value of 33,705 Wh/gal, obtained by dividing the 115,000 Btu/gal value reported by the Alternative Fuel Data Center, by the (rounded) conversion factor of 3.412 Btu/Wh.

Comment 10: Develop a technical basis for the accessory factors used when the vehicle has petroleum-fueled accessories installed. (CARB, Georgia Power, Virginia Power)

Response: On the basis of the comments received and DOE's additional analysis of the impact of petroleum-fueled accessories, DOE has decided to replace the two accessory factors with a single accessory factor that would be applied if an electric vehicle includes any petroleum-powered accessories. The value of this single accessory factor will be 0.9, i.e., a 10 percent penalty.

A technical analysis of the magnitude of this penalty is now included in the docket. DOE notes that many variables affect the actual energy efficiency impact of petroleum-powered accessories on EVs, including accessory sizing (e.g., heater capacity) and the efficiency of both the vehicle and the accessory. To be truly accurate, it would be necessary to measure the actual consumption of the accessories installed in each vehicle and project this consumption over a suitable duty cycle for the vehicle. This process would add significant complexity, would place a substantial burden on automobile manufacturers and the EPA, and would provide few policy benefits not obtainable with the fixed accessory factor.

DOE expects that very few electric vehicles will be equipped with petroleum-powered accessories, as such accessories contradict many of the motivations and attractions that lead customers to purchase electric vehicles.

Comment 11: DOE should encourage the Environmental Protection Agency (EPA) to rely on the test procedures established by CARB for the testing and certification of EVs (these procedures are based on SAE J1634). The CARB procedures are consistent with current industry practice. (AAM, EVAA)

Response: As the comments suggest, EPA rather than DOE is responsible for selecting and implementing the EV test procedures. DOE suggests that EVAA and AAM offer their recommendations on test procedures directly to EPA.

Comment 12: The 55 percent urban and 45 percent highway weighting factors proposed do not represent the way that electric vehicles are used, particularly, those EVs that are designed for non-highway and/or neighborhood use. (CARB)

Response: There are actually two issues raised by this comment. The first is that the weightings do not reflect the usage patterns of at least a portion of EVs. The second issue, which is not stated but is implied, is that DOE should adjust the factors to accommodate limited performance EVs.

DOE agrees that there are some EVs that perform differently and will be used differently from conventional automobiles. DOE also anticipates that a limited number of customers with suitable ''mission requirements'' will purchase and operate limited performance EVs as replacements for conventional automobiles. However, DOE notes that to be included in CAFE calculations, a vehicle must meet the definition of an automobile at 40 CFR part 600, which states that such a vehicle must be ''manufactured primarily for use on public streets, roads, or highways.'' Limited performance EVs (such as neighborhood electric vehicles) that cannot keep up with highway traffic clearly do not meet this requirement and are categorically ineligible for inclusion in CAFE unless 40 CFR part 600 is appropriately amended.

DOE believes that Congress intended the PEF to be an incentive for manufacturers to produce roadworthy electric vehicles that provide an alternative to conventional petroleum-powered automobiles.

As for the weightings themselves, EPA defines these weightings. DOE used the 55 percent urban and 45 percent highway weighting factors in the sample calculations because these are the factors used by EPA for conventional vehicles. The paragraph in the NOPR that describes the ''city'' and ''highway'' test procedures and the 55/45 percent apportioning of energy consumption values is intended only as an example of how to apply the PEF to determine the petroleum-equivalent fuel economy of an electric vehicle. The 55/45 percent weightings could change if EPA's CAFE calculation procedures are changed in the future.

DOE also notes that the preceding arguments provide a compelling justification for setting the value of the Driving Pattern Factor in the PEF to unity (1.00).

Comment 13: Review how changes in EV driving range and infrastructure availability might affect driving patterns of EVs in the future. (CARB)

Response: As noted in the preceding response, electric vehicles eligible for inclusion in a manufacturer's CAFE calculation must be competitive with conventional vehicles. This strongly suggests that the Driving Pattern Factor should be equal to unity.

DOE intends to monitor developments related to EVs and their use closely. Consideration of modifications to the Driving Pattern Factor and/or the PEF, in general, will be made at the 5-year review specified in the § 474.5.

IV. Procedural Requirements

A. Environmental Protection Agency Review

Pursuant to section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 766(a)), DOE submitted a copy of this rulemaking to the Administrator of the Environmental Protection Agency for the Administrator's concurrence. The Administrator has concurred.

B. National Environmental Policy Act Review

This rulemaking has been reviewed in accordance with the requirements of the DOE National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), and the DOE regulations in 10 CFR part 1021. This rulemaking amends 10 CFR part 474 so that electric vehicles receive similar treatment to what Congress has required for other alternative fuel vehicles under 49 U.S.C. 32905. The Department has determined that this rule is covered by Categorical Exclusion in paragraph A5 to subpart D, 10 CFR part 1021 (rulemaking, interpreting or amending an existing regulation, no change in environmental effect). Accordingly, neither an environmental assessment nor an environmental impact statement is required.

C. Regulatory Review

Today's final rule has been determined not to be a ''significant regulatory action,'' as defined in section 3(f) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the final rule is published. This requirement (which appears in section 603) does not apply if the agency certifies that the rule will not, if promulgated, have a ''significant economic impact on a substantial number of small entities.''

DOE certifies that this action will not have a significant economic impact on a substantial number of small entities. It is directed at vehicle manufacturers that will be concerned with a mix of petroleum and electric fueled vehicles in their annual production. None of these manufacturers is a small entity.

E. Federalism Review

Executive Order 13132 (64 FR 43255, August 4, 1999) requires that regulations or rules be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then Executive Order 13132 requires agencies to engage in intergovernmental consultation and take other steps before promulgating such a regulation or rule. This action and 10 CFR part 474 serve only to provide a method of interpreting 40 CFR part 600 (Fuel Economy of Motor Vehicles) for electric vehicles. The action does not involve any substantial direct effects on States or other considerations stated in Executive Order 13132.

F. ''Takings'' Assessment Review

It has been determined that pursuant to Executive Order 12630 (52 FR 8859, March 18, 1988) this final rule would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

G. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on executive agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting a clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity to timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. The final rule published today does not contain any Federal mandate, so these requirements do not apply.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Congressional Notification

Consistent with the Small Business Regulatory Enforcement Fairness Act of 1996, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will note the Office of Management and Budget's determination that this rule does not constitute a ''major rule'' under that Act 5 U.S.C. 801, 804.

K. Review under the Paperwork Reduction Act

DOE has determined that this rule does not contain any new or amended record keeping, reporting, or other type of collection of information subject to clearance by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 10 CFR Part 474

Corporate average fuel economy, Electric (motor) vehicle, Electric power, Energy conservation, Fuel Economy, Motor vehicles, Research.

Issued in Washington, DC, on May 25, 2000.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE revises Part 474 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below:

PART 474—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM; PETROLEUM-EQUIVALENT FUEL ECONOMY CALCULATION

Sec.

474.1 Purpose and scope.
474.2 Definitions.
474.3 Petroleum-equivalent fuel economy calculation.
474.4 Test procedures.
474.5 Review and update.
Appendix to Part 474—Sample Petroleum-Equivalent Fuel Economy Calculations

Authority: 49 U.S.C. 32901 *et seq.*

§ 474.1 Purpose and Scope.

This part contains procedures for calculating a value for the petroleum-equivalent fuel economy of electric vehicles, as required by 49 U.S.C. 32904(a)(2). The petroleum-equivalent fuel economy value is intended to be used by the Environmental Protection Agency in calculating corporate average fuel economy values pursuant to regulations at 40 CFR Part 600—Fuel Economy of Motor Vehicles.

§ 474.2 Definitions.

For the purposes of this part, the term:

Combined energy consumption value means the weighted average of the Urban Dynamometer Driving Schedule and the Highway Fuel Economy Driving Schedule energy consumption values (weighted 55/45 percent, respectively), as determined by the Environmental Protection Agency in accordance with 40 CFR parts 86 and 600.

Electric vehicle means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electrical energy storage devices, provided that:

(1) Recharge energy must be drawn from a source off the vehicle, such as residential electric service; and

(2) The vehicle must comply with all provisions of the Zero Emission Vehicle definition found in 40 CFR 88.104–94(g).

Highway Fuel Economy Driving Schedule energy consumption value means the average number of watt-hours of electrical energy required for an electric vehicle to travel one mile of the Highway Fuel Economy Driving Schedule, as determined by the Environmental Protection Agency.

Petroleum equivalency factor means the value specified in § 474.3(b) of this part, which incorporates the parameters listed in 49 U.S.C. 32904(a)(2)(B) and is used to calculate petroleum-equivalent fuel economy.

Petroleum-equivalent fuel economy means the value, expressed in miles per gallon, that is calculated for an electric vehicle in accordance with § 474.3(a) of this part, and reported to the Administrator of the Environmental Protection Agency for use in determining the vehicle manufacturer's corporate average fuel economy.

Petroleum-powered accessory means a vehicle accessory (e.g., a cabin heater, defroster, and/or air conditioner) that:

(1) Uses gasoline or diesel fuel as its primary energy source; and

(2) Meets the requirements for fuel, operation, and emissions in 40 CFR part 88.104–94(g).

Urban Dynamometer Driving Schedule energy consumption value means the average number of Watt-hours of electrical energy required for an electric vehicle to travel one mile of the Urban Dynamometer Driving Schedule, as determined by the Environmental Protection Agency.

§ 474.3 Petroleum-equivalent fuel economy calculation.

(a) The petroleum-equivalent fuel economy for an electric vehicle is calculated as follows:

(1) Determine the electric vehicle's Urban Dynamometer Driving Schedule energy consumption value and the Highway Fuel Economy Driving Schedule energy consumption value in units of Watt-hours per mile;

(2) Determine the combined energy consumption value by averaging the Urban Dynamometer Driving Schedule energy consumption value and the Highway Fuel Economy Driving Schedule energy consumption value using a weighting of 55 percent urban/45 percent highway; and

(3) Calculate the petroleum-equivalent fuel economy by dividing the appropriate petroleum-equivalency factor (depending on whether any petroleum-powered accessories are installed; see paragraph (b) of this section) by the combined energy consumption value, and round to the nearest 0.01 miles per gallon.

(b) The petroleum-equivalency factors for electric vehicles are as follows:

(1) If the electric vehicle does not have any petroleum-powered accessories installed, the value of the petroleum equivalency factor is 82,049 Watt-hours per gallon.

(2) If the electric vehicle has any petroleum-powered accessories installed, the value of the petroleum-equivalency factor is 73,844 Watt-hours per gallon.

§ 474.4 Test procedures.

(a) The electric vehicle energy consumption values used in the calculation of petroleum-equivalent fuel economy under § 474.3 of this part will be determined by the Environmental Protection Agency using the Highway Fuel Economy Driving Schedule and Urban Dynamometer Driving Schedule test cycles at 40 CFR parts 86 and 600.

(b) The ''Special Test Procedures'' provisions of 40 CFR 86.090–27 may be used to accommodate any special test procedures required for testing the energy consumption of electric vehicles.

§ 474.5 Review and Update

The Department will review Part 474 five years after the date of publication as a final rule to determine whether any updates and/or revisions are necessary. DOE will publish a notice in the **Federal Register** soliciting stakeholder input in this review. The Department will publish the findings of the review and any resulting adjustments to Part 474 in the **Federal Register**.

Appendix to Part 474—Sample Petroleum-Equivalent Fuel Economy Calculations

Example 1: An electric vehicle is tested in accordance with Environmental Protection Agency procedures and is found to have an Urban Dynamometer Driving Schedule energy consumption value of 265 Watt-hours per mile and a Highway Fuel Economy Driving Schedule energy consumption value of 220 Watt-hours per mile. The vehicle is not equipped with any petroleum-powered accessories. The combined electrical energy consumption value is determined by averaging the Urban Dynamometer Driving Schedule energy consumption value and the Highway Fuel Economy Driving Schedule energy consumption value using weighting factors of 55 percent urban, and 45 percent highway:

combined electrical energy consumption value = (0.55 * urban) + (0.45 * highway) = (0.55 * 265) + (0.45 * 220) = 244.75 Wh/mile

Since the vehicle does not have any petroleum-powered accessories installed, the value of the petroleum equivalency factor is 82,049 Watt-hours per gallon, and the petroleum-equivalent fuel economy is:

(82,049 Wh/gal) (244.75 Wh/mile) = 335.24 mpg

Example 2: The vehicle from Example 1 is equipped with an optional diesel-fired cabin heater/defroster. For the purposes of this example, it is assumed that the electrical efficiency of the vehicle is unaffected.

Since the vehicle has a petroleum-powered accessory installed, the value of the petroleum equivalency factor is 73,844 Watt-hours per gallon, and the petroleum-equivalent fuel economy is:

(73,844 Wh/gal) (244.75 Wh/mile) = 301.71 mpg

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June 12, 2000

Part VI

Environmental Protection Agency

Federal Agency Hazardous Waste Compliance Docket; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6713–9]

Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency.

ACTION: Notice of twelfth update of the Federal Agency Hazardous Waste Compliance Docket, pursuant to CERCLA section 120(c).

SUMMARY: Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires the Environmental Protection Agency (EPA) to establish a Federal Agency Hazardous Waste Compliance Docket. The docket is to contain certain information about Federal facilities that manage hazardous waste or from which hazardous substances have been or may be released. (As defined by CERCLA section 101(22), a release is any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.) CERCLA requires that the docket be updated every six months, as new facilities are reported to EPA by Federal agencies. The following list identifies the Federal facilities to be included in this twelfth update of the docket and includes facilities not previously listed on the docket and reported to EPA since the last update of the docket, 63 FR 64806, November 23, 1998, which was current as of February 1, 1998. SARA, as amended by the Defense Authorization Act of 1997, specifies that, for each Federal facility that is included on the docket during an update, evaluation shall be completed in accordance with a reasonable schedule. Such site evaluation activities will help determine whether the facility should be included on the National Priorities List (NPL) and will provide EPA and the public with valuable information about the facility. In addition to the list of additions to the docket, this notice includes a section that comprises revisions (that is, corrections and deletions) of the previous docket list. This update contains 39 additions and 16 deletions since the previous update, as well as numerous other corrections to the docket list. At the time of publication of this notice, the new total number of Federal facilities listed on the docket is 2,205.

DATES: This list is current as of December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Electronic versions of the docket may be obtained at http://www.epa.gov/oeca/fedfac/oversight/oversight.html.

SUPPLEMENTARY INFORMATION:

Table of Contents

1.0 Introduction
2.0 Revisions of the Previous Docket
3.0 Process for Compiling the Updated Docket
4.0 Facilities Not Included
5.0 Information Contained on Docket Listing

1.0 Introduction

Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 United States Code (U.S.C.) 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), required the establishment of the Federal Agency Hazardous Waste Compliance Docket. The docket contains information on Federal facilities that is submitted by Federal agencies to the U.S. Environmental Protection Agency (EPA) under sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937, and under section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA section 3010 requires waste generators and transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA section 3016 requires Federal agencies to submit biennially to EPA an inventory of hazardous waste sites that the Federal agencies own or operate. CERCLA section 103(a) requires that the National Response Center (NRC) be notified of a release. CERCLA section 103(c) requires reporting to EPA the existence of a facility at which hazardous substances are or have been stored, treated, or disposed of and the existence of known or suspected releases of hazardous substances at such facilities.

The docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a risk to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public.

The initial list of Federal facilities to be included on the docket was published on February 12, 1988 (53 FR 4280). Updates of the docket have been published on November 16, 1988 (54 FR 46364); December 15, 1989 (54 FR 51472); August 22, 1990 (55 FR 34492); September 27, 1991 (56 FR 49328); December 12, 1991 (56 FR 64898); July 17, 1992 (57 FR 31758); February 5, 1993 (58 FR 7298); November 10, 1993 (58 FR 59790); April 11, 1995 (60 FR 18474); June 27, 1997 (62 FR 34779); and November 23, 1998 (63 FR 64806). This notice constitutes the twelfth update of the docket.

Today's notice is divided into three sections: (1) Additions, (2) deletions, and (3) corrections. The additions section lists newly identified facilities that have been reported to EPA since the last update and that now are being included on the docket. The deletions section lists facilities that EPA is deleting from the docket. The corrections section lists changes in information about facilities already listed on the docket.

The information submitted to EPA on each Federal facility is maintained in the docket repository located in the EPA Regional office of the Region in which the facility is located (see 53 FR 4280 (February 12, 1988) for a description of the information required under those provisions). Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each facility. Contact the following docket coordinators for information on Regional docket repositories:

Gerado Millan-Ramos (HBS),US EPA Region 1,#1 Congress St., Suite 1100,Boston, MA 02114–2023,(617) 918–1377

Helen Shannon (ERRD),US EPA Region 2,290 Broadway, 18th Floor,New York, NY 10007–1866,(212) 637–4260

Alida Karas (ERRD),US EPA Region 2,290 Broadway,New York, NY 10007–1866,(212) 637–4276

Todd Richardson (3HS50),US EPA Region 3,841 Chestnut Bg.,Philadelphia, PA 19107,(215) 814–5264

Ann Cole (4WD–FFB),US EPA Region 4,61 Forsyth St., SW,Atlanta, GA 30303,(404) 562–9638

Alan Gebien (SE–5J),US EPA Region 5,77 W. Jackson Blvd.,Chicago, IL 60604,(312) 886–1304

Philip Ofosu (6SF–RA),US EPA Region 6,1445 Ross Avenue,Dallas, TX 75202–2733,(214) 665–3178

D. Karla Asberry (FFSC),US EPA Region 7,726 Minnesota Avenue,Kansas City, KS 66101,(913) 551–7595
Stan Zawistowski (EPR–F),US EPA Region 8,999 18th Street, Suite 500,Denver, CO 80202–2466,(303) 312–6255
Avonda East (SFD–8–2),US EPA Region 9,75 Hawthorne Street,San Francisco, CA 94105,(415) 744–2468
Mark Ader (ECL–115),US EPA Region 10,1200 Sixth Avenue,Seattle, WA 98101,(206) 553–1808
Monica Lindeman (ECL, SACU2),US EPA Region 10,1200 Sixth Avenue,Seattle, WA 98101,(206) 553–5113

2.0 Revisions of the Previous Docket

Following is a discussion of the revisions of the previous docket, including additions, deletions, and corrections.

2.1 Additions

Today, 39 facilities are being added to the docket, primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA sections 3005, 3010, or 3016 or CERCLA section 103). SARA, as amended by the Defense Authorization Act of 1997, specifies that, for each Federal facility that is included on the docket during an update, evaluation shall be completed in accordance with a reasonable schedule.

Of the 39 facilities being added to the docket, 0 are facilities that have reported to the NRC the release of a reportable quantity (RQ) of a hazardous substance. Under section 103(a) of CERCLA, a facility is required to report to the NRC the release of a hazardous substance in a quantity that equals or exceeds the established RQ. Reports of releases received by the NRC, the U.S. Coast Guard (USCG), and EPA are transmitted electronically to the Transportation Systems Center at the U.S. Department of Transportation (DOT), where they become part of the Emergency Response Notification System (ERNS) database. ERNS is a national computer database and retrieval system that stores information on releases of oil and hazardous substances. Facilities being added to the docket and facilities already listed on the docket for which an ERNS report has been filed are identified by the notation ''103(a)'' in the ''Reporting Mechanism'' column.

It is EPA's policy generally not to list on the docket facilities that are small-quantity generators (SQG) and that have never generated more than 1,000 kilograms (kg) of hazardous waste in any single month. If a facility has generated more than 1,000 kg of hazardous waste in any single month (that is, if the facility is an episodic generator), it will be added to the docket. In addition, facilities that are SQGs, but that have reported releases under CERCLA section 103 or hazardous waste activities pursuant to RCRA section 3016 will be listed on the docket and will undergo site evaluation activities, such as a PA and, when appropriate, an SI. All such facilities will be listed on the docket, whether or not they are SQGs pursuant to RCRA. As a result, some of the facilities that EPA is adding to the docket today are SQGs that had not been listed on the docket but that have reported releases or hazardous waste activities to EPA under another reporting provision.

In the process of compiling the documents for the Regional repositories, EPA identified a number of facilities that had previously submitted PA reports, SI reports, Department of Defense (D0D) Installation Restoration Program (IRP) reports, or reports under another Federal agency environmental restoration program, but do not appear to have notified EPA under CERCLA section 103. Section 120(c)(3) of CERCLA requires that EPA include on the docket, among other things, information submitted under section 103. In general, section 103 requires persons in charge of a facility to provide notice of certain releases of hazardous substances. The reports under various Federal agency environmental restoration programs may contain information regarding releases of hazardous substances similar to that provided pursuant to section 103. EPA believes that CERCLA section 120(c) authorizes the agency to include on the docket a facility that has provided information to EPA through documents such as a report under a Federal agency environmental restoration program, regardless of the absence of section 103 reporting. Therefore, some of the facilities that EPA is adding today are being placed on the docket because they have submitted the documents described above that contain reports of releases of hazardous substances.

EPA also includes privately owned, government-operated (POGO) facilities on the docket. CERCLA section 120(c) requires that the docket contain information submitted under RCRA sections 3005, 3010, and 3016 and CERCLA section 103, all of which impose duties on operators as well as owners of facilities. In addition, other subsections of CERCLA section 120 refer to facilities ''owned or operated'' by an agency or other instrumentality of the Federal government. That terminology clearly includes facilities that are operated by the Federal government, even if they are not owned by it. Specifically, CERCLA section 120(e), which sets forth the duties of the Federal agencies after a facility has been listed on the NPL, refers to the Federal agency that ''owns or operates'' the facility. In addition, the primary basis for assigning responsibility for conducting PAs and SIs, as required when a facility is listed on the docket, is Executive Order 12580, which assigns that responsibility to the Federal agency having ''jurisdiction, custody, or control'' over a facility. An operator may be deemed to have jurisdiction, custody, or control over a facility.

2.2 Deletions

Today, 16 facilities are being deleted from the docket for various reasons, such as incorrect reporting of hazardous waste activity, change in ownership, and exemption as an SQG under RCRA (40 Code of Federal Regulations [CFR] Part 262.44). Facilities being deleted no longer will be subject to the requirements of CERCLA section 120(d).

2.3 Corrections

Changes necessary to correct the previous docket were identified by both EPA and Federal agencies. The changes needed varied from simple changes in addresses or spelling to corrections of the recorded name and ownership of a facility. In addition, some changes in the names of facilities were made to establish consistency in the docket. Many new entries are simply corrections of typographical errors. For each facility for which a correction has been entered, the original entry (designated by an ''O''), as it appeared in the February 12, 1988 notice or subsequent updates, is shown directly below the corrected entry (designated by a ''C'') for easy comparison.

3.0 Process for Compiling the Updated Docket

In compiling the newly reported facilities for the update being published today, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—ERNS, the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Information System (RCRIS), and the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS)—that contain information about Federal facilities submitted under the four provisions listed in CERCLA section 120(c).

Extensive computer checks compared the current docket list with the information obtained from the databases identified above to determine which facilities were, in fact, newly reported and qualified for inclusion on the update. In spite of the quality assurance efforts EPA has undertaken, state-owned or privately owned facilities that are not operated by the Federal government may have been included. Such problems are caused by procedures historically used to report and track data on Federal facilities; EPA is working to resolve them. Representatives of Federal agencies are asked to write to EPA's docket coordinator at the following address if revisions of this update information are necessary: Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Enforcement Office (Mail Code 2261A), U.S. Environmental Protection Agency 401 M Street, S.W., Washington, D.C. 20460.

4.0 Facilities Not Included

As explained in the preamble to the original docket (53 FR 4280), the docket does not include the following categories of facilities (note, however, that any of these types of facilities may, when appropriate, be listed on the NPL):

- Facilities formerly owned by a Federal agency and now privately owned will not be listed on the docket. However, facilities that are now owned by another Federal agency will remain on the docket and the responsibility for conducting PAs and SIs will rest with the current owner.
- SQGs that have never produced more than 1,000 kg of hazardous waste in any single month and that have not reported releases under CERCLA section 103 or hazardous waste activities under RCRA section 3016 will not be listed on the docket.
- Facilities that are solely transporters, as reported under RCRA section 3010, will not be listed on the docket.

5.0 Information Contained on Docket Listing

As discussed above, the update information below is divided into three separate sections. The first section is a list of new facilities that are being added to the docket. The second section is a list of facilities that are being deleted from the docket. The third section comprises corrections of information included on the docket. Each facility listed for the update has been assigned a code(s) that indicates a more specific reason(s) for the addition, deletion, or correction. The code key precedes the lists.

SARA, as amended by the Defense Authorization Act of 1997, specifies that, for each Federal facility that is included on the docket during an update, evaluation shall be completed in accordance with a reasonable schedule. Therefore, all facilities on the additions list to this twelfth docket update must submit a PA and, if warranted, an SI to EPA. The PA must include existing information about a site and its surrounding environment, including a thorough examination of human, food-chain, and environmental targets, potential waste sources, and migration pathways. From information in the PA or other information coming to EPA's attention, EPA will determine whether a follow-up SI is required. An SI augments the data collected in a PA. An SI may reflect sampling and other field data that are used to determine whether further action or investigation is appropriate. This policy includes any facility for which there is a change in the identity of the responsible Federal agency. The reports should be submitted to the Federal facilities coordinator in the appropriate EPA Regional office.

The facilities listed in each section are organized by state and then grouped alphabetically within each state by the Federal agency responsible for the facility. Under each state heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and the correction code(s).

The statutory provisions under which a facility reported are listed in a column titled ''Reporting Mechanism.'' Applicable mechanisms are listed for each facility: for example 3010, 3016, and 103(c).

The complete list of Federal facilities that now make up the docket and the list of facilities classified as no further remedial action planned (NFRAP) are not being published today. However, the lists are available to interested parties and can be obtained by calling the HQ Docket Coordinator at (202) 564–2468. As of today, the total number of Federal facilities that appear on the docket is 2,205.

Dated: June 5, 2000.

Craig E. Hooks,

Director, Federal Facilities Enforcement Office.

Docket Revisions

Categories of Revisions for Docket Update by Correction Code

Categories for Deletion of Facilities

(1) Small-Quantity Generator

(2) Not Federally Owned

(3) Formerly Federally Owned

(4) No Hazardous Waste Generated

(5) (This correction code is no longer used.)

(6) Redundant Listing/Site on Facility

(7) Combining Sites Into One Facility/ Entries Combined

(8) Does Not Fit Facility Definition

(9) (This correction code is no longer used.)

(10) (This correction code is no longer used.)

(11) (This correction code is no longer used.)

(12) (This correction code is no longer used.)

(13) (This correction code is no longer used.)

(14) (This correction code is no longer used.)

Categories for Addition of Facilities

(15) Small-Quantity Generator With Either a RCRA 3016 or CERCLA 103 Reporting Mechanism

(16) One Entry Being Split Into Two/ Federal Agency Responsibility Being Split

(17) New Information Obtained Showing That Facility Should Be Included

(18) Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility

(19) Sites Were Combined Into One Facility

(19A) New Facility

Categories for Corrections of Information About Facilities

(20) Reporting Provisions Change

(20A) Typo Correction/Name Change/ Address Change

(21) Changing Responsible Federal Agency (New Responsible Federal Agency Has 18 Months to Submit PA)

(22) Changing Responsible Federal Agency and Facility Name (New Responsible Federal Agency Has 18 Months to Submit PA)

(23) New Reporting Mechanism Added at Update

(24) Reporting Mechanism Determined to Be Not Applicable After Review of Regional Files

Note: Further information on definitions of categories can be obtained by calling the HQ Docket Coordinator at (202) 564–2468.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12 ADDITIONS

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
FS-TONGASS NF: BOHEMIA BASIN EXPLORATION CAMPS.	E SIDE YAKOBY ISLAND, N END LISLANSKY STRAIT.	HOONAH	AK	99829	AGRICULTURE	103c	19A
BLM-SOURDOUGH LITTLE BEAR CAMP.	RICHARDSON HWY 35 MI N OF GLENNALLEN.	GLENNALLEN	AK	99588	INTERIOR	103c	19A
FWS-ALASKA MARITIME NWR: TIGALDA ISLAND AWS.	30 MI E OF KUTAN 54°04′48″ N, 165°03′27″ W.	AKUTAN	AK	99553	INTERIOR	103c	19A
NPS-CAPE KRUSENSTERN NM: MULGRAVE AFS.	30 MI NW OF KOTZEBUE 67°35′00″ N, 163°59′00″ W 188 NORTHWEST ARCTIC.	KOTZEBUE	AK	99752	INTERIOR	103c	19A
NPS-KATMAI NP: BROOKS CAMP.	30 MI W OF CY, NAKNEK LAKE.	KING SALMON	AK		INTERIOR		19A
NPS-NOATAK NP&P: BURIAL LAKE MILITARY CAMP 7 LANDFILL.	T12S R31 W NORTH BOUNDARY, UMIAT MERIDIAN (IN NORTH SLOPE BOROUGH) 68°26′00″ N, 159°10′00″ W 188 NORTHWEST ARCTIC.	NOATAK	AK	99761	INTERIOR	103c	19A
NPS-NOATAK NP&P: DESPERATION LAKE MILITARY CAMP AND LANDFILL.	T34N R1W&R1E ON SEC LINE, KATEEL RIVER MERIDIAN 68°19′40″ N, 158°44′53″ W 188 NORTHWEST ARCTIC.	NOATAK	AK	99761	INTERIOR	103c	19A
NPS-NOATAK NP&P: FENIAK LAKE MILITARY CAMP & LANDFILL.	T33N R2E&R3E ON SEC LINE, KATEEL RIVER MERIDIAN (IN NORTH SLOPE BOROUGH) 68°15′07″ N, 158°18′38″ W 188 NORTHWEST ARCTIC.	NOATAK	AK	99761	INTERIOR	103c	19A
FDA NATIONAL CENTER FOR TOXICOLOGICAL RESEARCH.	3900 NCTR RD	JEFFERSON	AR	72079	HEALTH AND HUMAN SERVICES.	3010	19A
EL DORADO NATIONAL FOREST.	R14–T14N R10E–T13N R19E–T9N.	EL DORADO	CA	95623	AGRICULTURE	103c	19A
LOS ANGELES AIR FORCE BASE.	2400 E EL SEGUNDO BLVD.	EL SEGUNDO	CA	90245	AIR FORCE	3010	19A
LOS ANGELES AIR FORCE BASE.	2400 PACIFIC AVE	SAN PEDRO	CA	90731	AIR FORCE	3010	19A
US BORDER PATROL STATION.	225 KENNEY	EL CAJON	CA	92020	JUSTICE	103c	19A
FORT LOGAN NATIONAL CEMETERY.	SHERIDAN AND HAMPDEN AVENUE.	DENVER	CO	80236	VETERANS AFFAIRS	103c	19A
US COAST GUARD ACADEMY.	MOHEGAN AVE	NEW LONDON	CT	06320	TRANSPORTATION	3005, 3010	19A
FS-NATIONAL TREE SEED LAB.	RIGGINS MILL RD	DRY BRANCH	GA	31020	AGRICULTURE	3010	19A
VA MEDICAL CENTER	1 FREEDOM WAY	AUGUSTA	GA	30904	VETERANS AFFAIRS	3010	19A
US COAST GUARD COMMUNICATIONS CENTER.	900 FERRY STREET	MARSHFIELD	MA	02050	TRANSPORTATION	103c	19A
US COAST GUARD SUPPORT CENTER.	427 COMMERCIAL ST	BOSTON	MA	02109	TRANSPORTATION	3010	19A
US EPA REGION 3 CHEMICAL METALS SITE.	2001 & 2103 ANNAPOLIS RD.	BALTIMORE	MD	21230	EPA	3010	19A
NIH ANIMAL CENTER	ELMER SCHOOL ROAD	POOLESVILLE	MD	20837	HEALTH AND HUMAN SERVICES.	3010	19A
FS-BALDWIN ADMIN SITE.	650 N MICHIGAN AVE	BALDWIN	MI	49304	AGRICULTURE	3010	19A
DEFENSE REUTILIZATION & MARKETING SERVICES.	74 N WASHINGTON	BATTLE CREEK	MI	49017	DEFENSE	3010	19A
172ND AIRLIFT WING	141 MILITARY DRIVE	JACKSON	MS	39208	AIR FORCE	3010	19A
BIA BRANCH OF ROADS CHEU.	371 HWY BLK 6 SHOP 7 MI S.	FARMINGTON	NN	87499	INTERIOR	3010	19A
BIA CHINLE BOARDING SCHOOL.	HWY 191 15 MI N OF CHINLE.	MANY FARMS	NN	86538	INTERIOR	3010	19A
BIA TUBA CITY INDIAN MEDICAL CENTER.	T C 167 N MAIN ST	TUBA CITY	NN	86045	INTERIOR	3010	19A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12 ADDITIONS—Continued

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
FRANKLIN D ROOSEVELT LIBRARY.	511 ALBANY POST RD	HYDE PARK	NY	12538	GENERAL SERVICES ADMINISTRATION.	3010	19A
PBS DLA DNSC VOORHEESVILLE DEPOT.	5850 DEPOT RD	ALTAMONT	NY	12009	GENERAL SERVICES ADMINISTRATION.	3010	19A
LTA, MARION ENGR. DEPOT EAST.	½ MILE EAST OF PATTON PIKE.	MARION	OH	43302	ARMY	103c, 3010	19A
FORMER LORDSTOWN ORDNANCE DEPOT.	5232 TOD SW NO 11	WARREN	OH	44481	GENERAL SERVICES ADMINISTRATION.	3010	19A
BRADFORD ISLAND LANDFILL.	T2N R7E S22 S22 SW¼, WILLAMETTE MERIDIAN.	CASCADE LOCKS	OR	97014	CORPS OF ENGINEERS, CIVIL.	103c	19A
FORMER BADLANDS BOMBING RANGE (IMPACT AREA).	15 MILES NORTH OF KYLE.	KYLE	SD	57752	AIR FORCE	103c	19A
FORMER BLACK HILLS ARMY DEPOT.	IGLOO	IGLOO	SD	57735	AGRICULTURE	103c	19A
US COAST GUARD SHORE SIDE DETACHMENT PAR.	700 COAST GUARD RD	BUCHANAN	TN	38222	TRANSPORTATION	3010	19A
DEPARTMENT OF COMMERCE.	PO BOX 6–F16	ARLINGTON	VA	22202	COMMERCE	103c	19A
GODDARD SPACE FLIGHT CENTER WALLOPS FLIGHT FACILITY–ISLAND.	ROUTE 803	WALLOPS ISLAND	VA	23337	NASA	3010, 103a, 103c, 3016	16
FLAMINGO BAY ARMY TEST AREAS FORMER FT. SEGARRA.	WATER ISLAND	ST. THOMAS	VI		INTERIOR	103c	19A
SUNDANCE PM–1 SITE	7 MILES NORTH OF SUNDANCE.	SUNDANCE	WY	82729	AIR FORCE	103c	19A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12 CORRECTIONS

	Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
C	DEWLINE SITE LIZ-2: POINT LAY LLRS.	KASEGALIK LAGOON CHUKCHI SEA.	POINT LAY	AK +	99579	AIR FORCE	3010, 103c, 3016	20A
O	DEWLINE SITE LIZ-2.	KASEGALIK LAGOON-CHUKCHI SEA.	POINT LAY	AK	99766	AIR FORCE	3010, 103c, 3016	
C	FWS-ALASKA MARITIME NWR:GREAT SITKIN ISLAND.	51° 59′ 05″ N, 176° 06′ 26″ W, 25 MI NE OF ADAK.	ADAK	AK	98546	INTERIOR	103c	20A
O	FWS-ALASKA MARITIME NWR: GREAT SITKIN ISLAND.	25 MI NE OF ADAK	ADAK	AK	99500	INTERIOR	103c	
C	BLM-RED DEVIL MINE WASTE POND.	S6 MI DOWN KUSKOKWIM RVR FR SLEETMUTE T19N R44W S6, 61° 45′ 50″ N, 157° 17′ 26″ W.	RED DEVIL	AK	99656	INTERIOR	3016, 103c	20A
O	BLM-RED DEVIL MINE WASTE PONDS.	T19N R44W S6 SE, 61° 10′ 12″ N, 149° 56′ 40″ W.	BETHEL	AK	99559	INTERIOR	3016, 103c	
C	FORMER NAVAL ARCTIC RESEARCH LABORATORY BARROW.	MAIN ST, 4 MI N OF CY, 71° 19′ 42″ N, 156° 40′ 18″ W.	BARROW	AK	99723	NAVY	103c, 3010	20A
O	BARROW NAVAL ARCTIC RESEARCH LABORATORY.	MAIN ST, 4 MI N OF CY.	BARROW	AK	99723	NAVY	103c, 3010	
C	REDSTONE ARSENAL.	USAMICOM DRSMI-KL.	REDSTONE ARSENALAL.	35898	ARMY	3005, 3010, 3016, 103c, 103a.	20A.	
O	REDSTONE ARSENAL MISSILE COMMAND.	CMDR USAMICOM DRSMI-K.	HUNTSVILLE	AL	35898	ARMY3005, 3010, 3016, 103c, 103a.	.	
C	OUTLYING LANDING FIELD BARIN.	2 MILES EAST OF CITY.	FOLEY	AL	36535	NAVY	103c	20A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12 CORRECTIONS—Continued

	Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
O	BARIN OUTLYING LANDING FIELD.	.....	FOLEY	AL		NAVY	103c	
C	USAG FORT HUACHUCA.	ATZS EHB	FORT HUACHUCA ..	AZ	85613	ARMY	3010, 3016, 103c, 103a, 3005.	20A
O	FORT HUACHUCA ..	RCRA UNITS	FORT HUACHUCA ..	AZ	85613	ARMY	3010, 3016, 103c, 103a, 3005.	
C	STANFORD #2	W/2W/2SW/4 SECTION 31.	YUMA	AZ	86322	INTERIOR	103c	20A
O	STANFORD #2	YAVAPAI COUNTY	YUMA	AZ	86322	INTERIOR	103c	
C	AIR FORCE PLANT 42.	20TH ST E & AVES O & M.	PALMDALE	CA	93550	AIR FORCE	3005, 3010, 3016, 103c.	20A
O	PLANT #42 (ROCKWELL INTERNATIONAL).	2501 E AVE. P	PALMDALE	CA	93550–0678	AIR FORCE	3005, 3010, 3016, 103c.	
C	BLM-KERN VALLEY SANITARY LANDFILL.	T25S, R33E, N½ SW¼ SEC 35, MDM.	KERNVILLE	CA	93238	INTERIOR	103c, 3016	20A
O	BLM-KERN VALLEY LANDFILL.	T25S, R33E, SEC 35, N½ SW¼ MDM.	KERN COUNTY	CA		INTERIOR	103c, 3016.	
C	NAVAL WEAPONS STATION SEAL BEACH DETACHMENT FALLBROOK.	700 AMMUNITION RD.	FALLBROOK	CA	92028	NAVY	103c, 3016, 103a	20A
O	FALLBROOK ANNEX, NAVAL WEAPONS STATION SEAL BEACH.	AMMUNITION RD ...	FALLBROOK	CA	92058	NAVY	103c, 3016, 103a.	
C	NAVAL POSTGRADUATE SCHOOL.	1 UNIVERSITY CIR	MONTEREY	CA	93943	NAVY	3010, 3016, 103a, 103c.	20A
O	MONTEREY NAVAL POSTGRADUATE SCHOOL.	DEL MONTE AVE ...	MONTEREY	CA	93943	NAVY	3010, 3016, 103a, 103c.	
C	U.S. CAPITOL COMPLEX.	U.S. CAPITOL BUILDING.	WASHINGTON	DC	20515	ARCHITECT OF THE CAPITOL.	3010	21
O	U.S. CAPITOL COMPLEX.	U.S. CAPITOL BUILDING.	WASHINGTON	DC	20515	INTERIOR	3010.	
C	CENTRAL INTELLIGENCE AGENCY HQ.	ROUTE 123	WASHINGTON	DC	20505	CIA	3010	20, 20A
O	CENTRAL INTELLIGENCE AGENCY HEADQUARTERS.	ROUTE 123	LANGLEY	VA	22043	CIA	3010, 103c.	
C	DOVER AIR FORCE BASE.	436 SPTG/CEVR 600 CHEVRON AVENUE.	DOVER	DE	19902	AIR FORCE	3005, 3010, 3016, 103c, 103a.	20A
O	DOVER AIR FORCE BASE.	436 SUG/CC	DOVER AFB	DE	19902	AIR FORCE	3005, 3010, 3016, 103c, 103a.	
C	FORMER ORLANDO NAVAL TRAINING CENTER-CSO.	2850 SEABEE STREET.	ORLANDO	FL	32803	NAVY	103c	20A
O	ORLANDO NAVAL TRAINING CENTER.	8 STREET/NTC	ORLANDO	FL	30213	NAVY	103C, 3010, 103a.	
C	NAVAL AIR STATION KEY WEST.	BLDG A827; BOCA CHICA KEY.	KEY WEST	FL	33040	NAVY	3005, 3010, 3016, 103c, 103a.	20A
O	KEY WEST NAVAL AIR STATION-BOCA CHICA.	NAVAL AIR STATION.	KEY WEST	FL	33042	NAVY	3005, 3010, 3016, 103c, 103a.	
C	DOBBINS AIR RESERVE BASE.	94 SPTG/CEV	DOBBINS AIR FORCE BASE.	GA	30069	AIR FORCE	3016, 103c, 3010	20A
O	DOBBINS AIR FORCE BASE.	94 CSG/DE	MARIETTA	GA	30069	AIR FORCE	3016, 103c, 3010.	
C	USA FORT GORDON & HQ USA SIGNAL CENTER.	HQ U.S. ARMY SIGNAL CENTER.	FORT GORDON	GA	30905	ARMY	3005, 3010, 3016, 103c, 103a.	20A
O	FORT GORDON AND NATIONAL SIGNAL CENTER.	ATZHFE EC	FORT GORDON	GA	30905	ARMY	3005, 3010, 3016, 103c, 103a.	
C	BLM-BLUE DOME UNAUTHORIZED DUMP.	HWY 28, T10N R30E S30.	BLUE DOME	ID	83464	INTERIOR	103c, 3016	20A
O	BLM-BLUE DOME UNAUTHORIZED DUMP.	T10NR30ESEC30	BLUE DOME	ID	83464	INTERIOR	103c, 3016.	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12 CORRECTIONS—Continued

	Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
C	BLM-REEDER FLYING SERVICE AIRSTRIP #2.	T9S R12E S13 W½ SE ¼.	BUHL	ID	83316	INTERIOR	103c	20A
O	BLM-REEDER FLYING SERVICE AIRSTRIP#2.	T9SR12ESEC13	BUHL	ID	83316	INTERIOR	103c.	
C	BLM-GRACE ILLEGAL DUMP.	T10S R39E S24 NE SE NE.	GRACE	ID	83241	INTERIOR	103c	20A
O	BLM-GRACE ILLEGAL DUMP.	T10S,R39E,SEC24	GRACE	ID	83241	INTERIOR	103c.	
C	BLM-HAMMETT DUMP.	T5S R9E S28 SE NE	HAMMETT	ID	83627	INTERIOR	103c	20A
O	BLM-HAMMETT DUMP.	T5S,R9E,SEC28	HAMMETT	ID	83627	INTERIOR	103c.	
C	BLM-PESTCIDE DUMP REYNOLDS.	T2S R3W S31	REYNOLDS	ID	83650	INTERIOR	103c	20A
O	BLM-PESTICIDE DUMP SITE, REYNOLDS.	T2SR3W SEC31	REYNOLDS	ID	83650	INTERIOR	103c.	
C	FERMI NATIONAL ACCELERATOR LABORATORY.	KIRK RD & PINE ST PO BOX 500.	BATAVIA	IL	60510	ENERGY	3005, 3010, 3016, 103c.	20A
O	FERMI NATIONAL ACCELERATOR LABORATORY.	ROUTE 16 & 59 KANE COUNTY.	BATAVIA	IL	60510	ENERGY	3005, 3010, 3016, 103c.	
C	FORMER NAVAL AIR STATION GLENVIEW.	FORMER NAVAL AIR STATION GLENVIEW.	GLENVIEW	IL	60026	NAVY	3005, 3010, 3016, 103c.	20A
O	GLENVIEW NAVAL AIR STATION.	NAVAL AIR STATION.	GLENVIEW	IL	60026	NAVY	3005, 3010, 3016, 103c.	
C	NAVAL TRAINING CENTER GREAT LAKES.	2601 PAUL JONES STREET.	GREAT LAKES	IL	60088	NAVY	3005, 3010, 3016, 103c.	20A
O	GREAT LAKES NAVAL TRAINING CENTER.	PUBLIC WORKS CENTER NTC SCE, BLDG 1A.	GREAT LAKES	IL	60008	NAVY	3005, 3010, 3016, 103c.	
C	GRISSOM AIR RESERVE BASE.	434 SPTG/CEV	GRISSOM AFB	IN	46971	AIR FORCE	3005, 3010, 3016, 103c, 103a.	20A
O	GRISSOM AIR FORCE BASE.	305TH CSG/DE	GRISSOM AFB	IN	46971	AIR FORCE	3005, 3010, 3016, 103c, 103a.	
C	INDIANA ARMY AMMUNITION PLANT.	11452 HWY 62	CHARLESTOWN	IN	47111	ARMY	3005, 3010, 3016, 103c.	20A
O	INDIANA ARMY AMMUNITION PLANT.	HIGHWAY 62 CLARK COUNTY.	CHARLESTOWN	IN	47111	ARMY	3005, 3010, 3016, 103c.	
C	NAVAL SURFACE WARFARE CENTER CRANE DIVISION	300 HWY 361 BLDG 3260 CODE 095	CRANE	IN	47522	NAVY	3005, 3010, 3016, 103c, 103a	20A
O	CRANE NAVAL WEAPONS SUPPORT CENTER	BLDG 2516 CODE 092V MARTIN COUNTY	CRANE	IN	47522	NAVY	3005, 3010, 3016, 103c, 103a	
C	MCCONNELL AIR FORCE BASE	2801 S ROCK RD	WICHITA	KS	67210	AIR FORCE	3005, 3010, 3016, 103c.	20A
O	MCCONNELL AIR FORCE BASE	384 CSG/DE	WICHITA	KS	67221	AIR FORCE	3005, 3010, 3016, 103c.	
C	FORT RILEY 1ST INFANTRY DIV (M).	BLDG 330 DICKMAN AVENUE	FORT RILEY	KS	66442	ARMY	3005, 3010, 3016, 103c, 103a	20A
O	FORT RILEY 1ST INFANTRY DIV (M)	BLDG 330	FORT RILEY	KS	66442	ARMY	3005, 3010, 3016, 103c, 103a	
C	HQ,101ST AIRBORNE DIV. (AASLT) FT.CAMPBELL	ATTN AFZB–DPW–E–P	FORT CAMPBELL	KY	42223	ARMY	3005, 3010, 3016, 103c.	20A
O	FORT CAMPBELL	AFZB–FE–ECE	FORT CAMPBELL	KY	42223	ARMY	3005, 3010, 3016, 103c.	
C	USAARMC & FORT KNOX	US HWY 32 WEST	FORT KNOX	KY	40121	ARMY	3005, 3010, 3016, 103a, 103c.	20A
O	ARMOR SCHOOL AND CENTER AT FORT KNOX	HWY 31 W	FORT KNOX	KY	40121	ARMY	3005, 3010, 3016, 103a, 103c	
C	FORMER NAVAL ORDNANCE STATION LOUISVILLE	118 ROCHESTER DR.	LOUISVILLE	KY	40214	NAVY	3005, 3010, 3016, 103c.	20A
O	LOUISVILLE NAVAL ORDNANCE STATION	SOUTHSIDE DR. MDS 42	LOUISVILLE	KY	40214	NAVY	3005, 3010, 3016, 103c.	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12 CORRECTIONS—Continued

	Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
C	HANSCOM FIELD/ HANSCOM AIR FORCE BASE	3245 ABG/CC ENVIRONMENTAL SITE 66CES4/ CEVR 12TH GRENIER STREET	HANSCOM AFB	MA	01731	AIR FORCE	3005, 3010, 3016, 103c, 103a	20A
O	HANSCOM AIR FORCE BASE.	3245 ABG/DEEV	BEDFORD	MA	01731	AIR FORCE	3005, 3010, 3016, 103c, 103a.	
C	BELTSVILLE AGRICULTURAL RESEARCH CENTER	BUILDING 003 BARC–WEST 10300 BALTIMORE AVENUE	BELTSVILLE	MD	20705	AGRICULTURE	3010, 3016, 103c, 103a.	20A
O	BELTSVILLE AGRICULTURAL RESEARCH CENTER	BLDING 003 BARC–WEST	BELTSVILLE	MD	20705	AGRICULTURE	3010, 3016, 103c, 103a.	
C	ANDREWS AIR FORCE BASE	PERIMETER RD	ANDREWS AFB	MD	20762	AIR FORCE	3005, 3010, 3016, 103c.	20A
O	ANDREWS AIR FORCE BASE	1776 ABW/CC	ANDREWS AFB	MD	20331	AIR FORCE	3005, 3010, 3016, 103c.	
C	ABERDEEN PROVING GROUND (EDGEWOOD AREA)	STEPA–SH–ER	ABERDEEN	MD	21010	ARMY	3005, 3010, 3016, 103c, 103a	20A
O	ABERDEEN PROVING GROUND	ATTN STEAP–FE–M	ABERDEEN	MD	21005	ARMY	3005, 3010, 3016, 103c, 103a	
C	NAVAL SECURITY GROUP ACTIVITY WINTER HARBOR.	10 FABBRI GREEN STE 10.	WINTER HARBOR ..	ME	04693	NAVY	3010, 103c	20A
O	WINTER HARBOR NAVAL SECURITY GROUP ACTIVITY.	RT 186	WINTER HARBOR ..	ME	04693	NAVY	3010, 103c.	
C	K.I. SAWYER AIR FORCE BASE.	410 CES DEEV	GWINN	MI	49843	AIR FORCE	3005, 3010, 3016, 103c.	20A
O	K.I. SAWYER AIR FORCE BASE.	410 CSG/DE	GWINN	MI	49843	AIR FORCE	3005, 3010, 3016, 103c.	
C	NAVAL AND MARINE CORPS RESERVE CENTER BRIDGETON.	10810 LAMBERT INTERNATIONAL BLVD.	BRIDGETON	MO	63044	NAVY	3010	20, 20A
O	BRIDGETON MARINE CORPS.	10810 NATURAL BRIDGE RD.	BRIDGETON	MO	63044	NAVY	3010, 103c.	
C	COLUMBUS AIR FORCE BASE.	US HWY 45 NORTH	COLUMBUS	MS	39701	AIR FORCE	3005, 3010, 3016, 103c.	20A
O	COLUMBUS AIR FORCE BASE.	14 ABG/DE	COLUMBUS AFB	MS	39701	AIR FORCE	3005, 3010, 3016, 103.	
C	KEESLER AIR FORCE BASE.	508 L STREET, 81ST CES/CEVC.	KEELSER AFB	MS	39534	AIR FORCE	3005, 3010, 3016, 103c.	20A
O	KEESLER AIR FORCE BASE.	508 L ST	KEESLER AFB	MS	39534	AIR FORCE	3005, 3010, 3016, 103c.	
C	CONSTRUCTION BATTALION CENTER GULFPORT.	5200 CBC 2ND STREET.	GULFPORT	MS	39501	NAVY	3010, 103c, 103a	20A
O	GULFPORT NAVAL CONSTRUCTION BATTALION CENTER.	33RD AVE	GULFPORT	MS	39501	NAVY	3010, 103c, 103a.	
C	POPE AIR FORCE BASE.	43 CES/CEV 560 INTERCEPTOR RD.	POPE AIR FORCE BASE.	NC	28308	AIR FORCE	3005, 3010, 103c, 3016.	20A
O	POPE AIR FORCE BASE.	560 INTERCEPTOR RD.	POPE AFB	NC	28308	AIR FORCE	3005, 3010, 103c, 3016.	
C	FORT BRAGG XVIII AIRBORNE CORPS.	BLDG J 1737 KNOX ST.	FORT BRAGG	NC	28307	ARMY	3010, 3016, 103c, 103a, 3005.	20A
O	FORT BRAGG	AFZA–DE–D	FORT BRAGG	NC	28307	ARMY	3010, 3016, 103c, 103a, 3005.	
C	MARINE CORPS AIR STATION CHERRY POINT.	US HWY 101 & US HWY 70.	CHERRY POINT	NC	28533	NAVY	3005, 3010, 3016, 103c.	20A
O	CHERRY POINT MARINE CORPS AIR STATION.	NC HWY 101	CHERRY POINT	NC	28533	NAVY	3005, 3010, 3016, 103c.	
C	CONCRETE MISSILE EARLY WARNING STATION.	DET 1 57 AD/DE	CONCRETE	ND	58221	AIR FORCE	103c, 3010, 3005	21
O	CONCRETE MISSILE EARLY WARNING STATION.	DET 1 57 AD/DE	CONCRETE	ND	58221	ARMY	103c, 3010, 3005.	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12 CORRECTIONS—Continued

	Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
C	OFFUTT AIR FORCE BASE (EX).	3902 ABW/DEEV	OFFUTT AFB	NE	68113	AIR FORCE	3005, 3010, 3016, 103c, 103a.	20A
O	OFFUTT AIR FORCE BASE.	55 C56/DEEV	OFFUTT AFB	NE	68113–5000	AIR FORCE	3005, 3010, 3016, 103c, 103a.	
C	CANNON AIR FORCE BASE.	BLDG 1—275 CSG/DE.	CANNON AFB	NM	88103	AIR FORCE	3005, 3010, 3016, 103c.	20A
O	CANNON AIR FORCE BASE.	27 CSG/DE	CANNON AFB	NM	88103	AIR FORCE	3005, 3010, 3016, 103c.	
C	HOLLOMAN AIR FORCE BASE.	49 CSC/CC	HOLLOMAN AFB	NM	88330	AIR FORCE	3005, 3010, 3016, 103c, 103a.	20A
O	HOLLOMAN AIR FORCE BASE.	833 CSG/DE	HOLLOMAN AFB	NM	88330	AIR FORCE	3005, 3010, 3016, 103c, 103a.	
C	SANDIA NATIONAL LABORATORIES.	1515 EUBANK SE ...	ALBUQUERQUE	NM	87123	ENERGY	3005, 3010, 3016, 103c, 103a.	20A
O	SANDIA NATIONAL LABORATORIES.	KIRKLAND AFB EAST.	ALBUQUERQUE	NM	87116	ENERGY	3005, 3010, 3016, 103c, 103a.	
C	BLM-CARLSBAD LANDFILL.	T21S,R27E,S27, W .5, SE¼, SW¼.	CARLSBAD	NM	88220	INTERIOR	103c, 3016	20A
O	BLM-CARLSBAD LANDFILL.	T21SR27ES EC27NMPH.	CARLSBAD	NM	.....	INTERIOR	103c, 3016.	
C	NELLIS AIR FORCE BASE.	4370 N WASHINGTON BLVD STE 117.	NELLIS AFB	NV	89191	AIR FORCE	3005, 3010, 3016, 103c, 103a.	20A
O	NELLIS AIR FORCE BASE.	554 OSW/DE	NELLIS AFB	NV	89191	AIR FORCE	3005, 3010, 3016, 103c, 103a.	
C	SENECA ARMY DEPOT.	5786 STATE ROUTE 96.	ROMULUS	NY	14541	ARMY	3005, 3010, 3016, 103c.	20A
O	SENECA ARMY DEPOT.	RT 96	ROMULUS	NY	14541	ARMY	3005, 3010, 3016, 103c.	
C	NIAGARA FALLS STORAGE SITE.	1397 PLETCHER ROAD.	LEWISTON	NY	14092	ENERGY	3016, 103c	20A
O	NIAGARA FALLS STORAGE SITE.	EAST OF ROUTE 18, NORTH OF PLETCHER.	LEWISTOWN	NY	14092	ENERGY	3016, 103c.	
C	KNOLLS ATOMIC POWER LABORATORY.	2401 RIVER RD	NISKAYUNA	NY	12309	ENERGY	3005, 3010, 3016, 103c.	20A
O	KNOLLS ATOMIC POWER LABORATORY-KNOLLS SITE.	RIVER RD	NISKAYUNA	NY	12301–1072	ENERGY	3005, 3010, 3016, 103c.	
C	BROOKHAVEN NATIONAL LABORATORY.	53 BELL AVE BLDG 464.	UPTON	NY	11973	ENERGY	3005, 3010, 3016, 103a, 103c.	20A
O	BROOKHAVEN NATIONAL LABORATORY.	53 BELL AVE.	UPTON	NY	11973	ENERGY	3005, 3010, 3016, 103a, 103c.	
C	NAVAL WEAPONS INDUSTRIAL RESERVE PLANT CALVERTON.	GRUMMAN BLVD ...	CALVERTON	NY	11933	NAVY	103c, 3016, 3010	20A, 23
O	CALVERTON NAVAL WEAPONS INDUSTRIAL RESERVE PLANT.	WADING RIVER—MANOR RD..	CALVERTON	NY	11933	NAVY	103c, 3016	
C	GLENN RESEARCH CENTER PLUM BROOK STATION.	6100 COLUMBUS AVE.	SANDUSKY	OH	44870	NASA	3010, 3016, 103c, 103a, 3005.	20A
O	PLUM BROOK STATION.	TAYLOR & COLUMBUS ROADS, ERIE COUNTY.	SANDUSKY	OH	44870	NASA	3005, 3010, 3016, 103c, 103a.	
C	FIELD ARTILLERY TNG CT.	2930 CURRIE RD ATTN ATZR–B.	FORT SILL	OK	73503	ARMY	3005, 3010, 3016, 103c.	20A
O	FORT SILL FIELD ARTILLERY.	BLDG 1950	FORT SILL	OK	73503	ARMY	3005, 3010, 3016, 103c.	
C	NORTH SMITHFIELD NIKE CONTROL AREA.	274 OLD OXFORD ROAD.	NORTH SMITHFIELD.	RI	02876	AIR FORCE	103c	20A
O	NORTH SMITHFIELD NIKE CONTROL AREA.	OLD OXFORD ROAD.	NORTH SMITHFIELD.	RI	02876	AIR FORCE	103c	
C	CHARLESTON AIR FORCE BASE.	437 CSG/DEEV	CHARLESTON	SC	29404	AIR FORCE	3005, 3010, 3016, 103c.	20A
O	CHARLESTON AIR FORCE BASE.	437 ABG/CC	CHARLESTON AFB	SC	29404	AIR FORCE	3005, 3010, 3016, 103c.	
C	SHAW AIR FORCE BASE.	345 CULLEN ST	SHAW AFB	SC	29152	AIR FORCE	3005, 3010, 3016, 103c.	20A
O	SHAW AIR FORCE BASE.	363 CSG/DE	SHAW AFB	SC	29152	AIR FORCE	3005, 3010, 3016, 103c.	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12 CORRECTIONS—Continued

	Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
C	USATC & FORT JACKSON.	BLDG 1916 OFF EWELL RD.	FORT JACKSON	SC	29207	ARMY	3005, 3010, 3016, 103c.	20A
O	FORT JACKSON AND TRAINING CENTER.	JACKSON BLVD.	FORT JACKSON	SC	29207	ARMY	3005, 3010, 3016, 103c.	
C	MARINE CORPS AIR STATION BEAUFORT.	HWY 21 BLDG 601	BEAUFORT	SC	29904	NAVY	3005, 3010, 3016, 103c, 103a.	20A
O	BEAUFORT MARINE CORPS AIR STATION.	LAFRENE ROAD	BEAUFORT	SC	29904	NAVY	3005, 3010, 3016, 103c, 103a.	
C	ELLSWORTH AIR FORCE BASE.	44CSC/DE	ELLSWORTH AFB	SD	57706	AIR FORCE	3005, 3010, 3016, 103c, 103a.	20A
O	ELLSWORTH AIR FORCE BASE.	44 CSG/CC	ELLSWORTH AFB.	SD	57706	AIR FORCE	3005, 3010, 3016, 103c, 103a.	
C	FORT BLISS AIR DEFENSE CENTER.	ENVIRON MGMT OFC BLDG 1105 W.	FORT BLISS	TX	79916	ARMY	3005, 3010, 3016, 103c, 103a.	20A
O	FORT BLISS AIR DEFENSE CENTER.	PERSHING DRIVE	FORT BLISS	TX	79916	ARMY	3005, 3010, 3016, 103c, 103a.	
C	NAVAL AIR STATION KINGSVILLE.	554 MCCAIN STREET STE 310.	KINGSVILLE	TX	78363	NAVY	3010, 103c,103a, 3005.	20A
O	KINGSVILLE NAVAL AIR STATION.	MILITARY HIGHWAY.	KINGSVILLE	TX	78363	NAVY	3010, 103c,103a, 3005.	
C	FORT LEE	BLDG 6205 SHOP RD.	FORT LEE	VA	23875	ARMY	3005, 3010,3016, 103c.	20A
O	FORT LEE	FORT LEE	FORT LEE	VA	23801	ARMY	3005, 3010,3016, 103c.	
C	GODDARD SPACE FLIGHT CENTER WALLOPS FLIGHT FACILITY-MAIN.	ROUTE 175	WALLOPS ISLAND	VA	23337	NASA	3005, 3010,3016, 103a, 103c.	20A, 16
O	WALLOPS FLIGHT FACILITY.	ROUTE 175	WALLOPS ISLAND	VA	23337	NASA	3005, 3010,3016, 103a, 103c.	
C	FS–OKANOGAN NF: ALDER CRK.	T33N R21E S24 WM NE¼ SW¼.	TWISP	WA	98856	AGRICULTURE	103c	20A
O	OKANOGAN NF: ALDER CREEK.	T33N R21E S24 QS SE WM.	TWISP	WA	98856	AGRICULTURE	103c.	
C	NAVAL RADIO STATION T JIM CREEK.	21027 JIM CREEK RD; 4 MI E OF HWY 530 AT OSO.	OSO	WA	98223	NAVY	103c, 3010	20A
O	JIM CREEK NAVAL RADIO STATION T.	4 MILES EAST OF STATE HIGHWAY 530 AT OSO.	OSO	WA	98223	NAVY	103c, 3010.	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12, DELETIONS

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
BLM-CYPRUS SIERRITA CORP.	T18SR12ESEC1–22	SAHURITA	AZ	85640	INTERIOR	103c	2
CONNECTICUT ARMY NATIONAL GUARD GROTON BASE.	SOUTH RD	GROTON	CT	06340	ARMY	103c	2
AUGUSTA NATIONAL GUARD ARMORY.	88 MILLEDGE RD	AUGUSTA	GA	30904	ARMY	3010	2
CEDARTOWN NATIONAL GUARD ARMORY.	HWY 27 S	CEDARTOWN	GA	30125	ARMY	3010	2
HOMEWOOD	RIEGAL & 187TH STREET.	HOMEWOOD	IL	60430	ARMY	3016	4
BLM-ROLLA RESEARCH CENTER.	900 W 14TH ST	ROLLA	MO	65401	INTERIOR	3010	4
BLM-ROLLA RESEARCH CENTER.	1300 BISHOP AVE	ROLLA	MO	65401	INTERIOR	3010	4
COMPONENT DEVELOPMENT AND INTEGRATION FACILITY.	INDUSTRIAL PARK	BUTTE	MT	59702	ENERGY	3016 3010 103c	2
BLM-ERMONT MILL TAILINGS.	T6SR11WSEC35	ARGENTA	MT	59725	INTERIOR	103c	2
BLM-HIGH ORE MINE	T6NR4WSEC36		MT		INTERIOR	103c	2
PARKER RAILCAR SERVICE CO.	300 S FULTON AVE	FALLS CITY	NE	68355	SMALL BUSINESS ADMINISTRATION.	3010	4
CLIFFSIDE PARK POST OFFICE.	289 GORGE ROAD	CLIFFSIDE PARK	NJ	07010	POSTAL SERVICE	3010	4

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #12, DELETIONS—Continued

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
PALMER SQUARE STATION.	20 PALMER SQUARE E	PRINCETON	NJ	08542	POSTAL SERVICE	3010	1
BLM-KERR MCGEE LAGUNA TOSTON SITE.	LEE COUNTY	HOBBS	NM	88240	INTERIOR	103c 3016	2
NANSEMOND ORDNANCE DEPOT.	RT 135	SUFFOLK	VA	23434	AGRICULTURE	103c	3
OFFCE OF INSULAR AFFAIRS.	WATER ISLAND CATCHMENT BAY.	ST THOMAS	VI	00802	INTERIOR	3010	2

[FR Doc. 00–14773 Filed 6–9–00; 8:45 am]

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Federal Register

Vol. 65, No. 113

Monday, June 12, 2000

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FEDERAL REGISTER PAGES AND DATE, JUNE

34913–35258 1
35259–35560 2
35561–35806 5
35807–36052 6
36053–36306 7
36307–36596 8
36597–36780 9
36781–37004 12

CFR PARTS AFFECTED DURING JUNE

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:
7316 36051

Executive Orders:
February 26, 1852 (Revoked in part by PLO 7447) 35390
April 17, 1926 (Revoked in part by PLO 7452) 36160
13087 (See Proclamation 7316) 36051

Administrative Orders:
Presidential Determinations:
No. 2000-20 of May 31, 2000 36307
No. 2000-21 of June 2, 2000 36309
No. 2000-22 of June 2, 2000 36311
No. 2000-23 of June 2, 2000 36313

5 CFR

890 35259

7 CFR

27 36597
28 ..... 35807, 36597, 36598
29 36781
210 36315
220 36315
301 35261
915 35561
930 35265
1160 35808
1400 36550
1411 36550
1427 36550
1439 36550
1464 36550
1479 36550

Proposed Rules:
54 35857
928 35590
1216 35298

10 CFR

50 34913
72 36647
73 36649
170 36946
171 36946
474 36986
1703 35810

11 CFR

108 36053

12 CFR

40 35162
216 35162
332 35162
573 35162
716 36782
745 34921
900 36290
905 36290
965 36290
966 36290
969 36290
985 36290
989 36290

Proposed Rules:
792 36797

13 CFR

121 35810

14 CFR

11 36244
21 36244
25 ..... 35813, 36244
39 ..... 34926, 34928, 34932, 34935, 34938, 34941, 35267, 35270, 35563, 35566, 35814, 35817, 35819, 36053, 36055, 36059, 36317, 36783
71 ..... 35272, 35822, 36060, 36602
73 35273
91 35703
97 ..... 35274, 35275
121 36775
129 ..... 35703, 36775
135 36775
187 36002
252 36772

Proposed Rules:
25 36978
39 ..... 34993, 35590, 35869, 36095, 36391, 36799, 36801, 36803
71 ..... 35301, 35302, 35303, 36805

15 CFR

760 34942

Proposed Rules:
930 34995
922 35871

17 CFR

240 36602
249b 36602

Proposed Rules:
1 35304

18 CFR

154 35706
161 35706
250 35706

284.....35706

20 CFR

404.....34950
416.....34950

21 CFR

5.....34959
176.....36786
310.....36319
312.....34963
352.....36319
510.....36615, 36787
524.....36616
556.....36616
573.....35823
700.....36319
880.....36324

24 CFR

245.....36272
902.....36042

26 CFR

1.....36908
20.....36908
25.....36908
40.....36326

27 CFR

Proposed Rules:
9.....35871

29 CFR

1630.....36327
1952.....36617
2520.....35568
2584.....35703

30 CFR

250.....35824, 36328
901.....36328
914.....35568

Proposed Rules:
701.....36097
724.....36097
773.....36097
774.....36097
778.....36097
842.....36097
843.....36097
846.....36097
906.....36098
931.....36101, 36104

32 CFR

3.....35576

33 CFR

100.....36631
117 .....35825, 35826, 36338, 36632
165 .....34971, 35278, 35279, 35827, 35832, 35838, 36340, 36631, 36788

Proposed Rules:
165.....36393

34 CFR

361.....35792
379.....36632

Proposed Rules:
5.....36760

36 CFR

1260.....34973
1280.....34977, 35840

Proposed Rules:
Ch. II.....36395

37 CFR

2.....36633

38 CFR

3.....35280
17.....35280
21.....35280

40 CFR

52 .....35577, 35840, 36343, 36346, 36349, 36351, 36353, 36788
62.....36067
70.....36358, 36362
81.....35577, 36353
132.....35283
148.....36365
180.....36367, 36790
258.....36792
261.....36365
268.....36365

Proposed Rules:
52 .....35875, 36396, 36397, 36398, 36807
69.....35430
70.....36398
80.....35430
86.....35430
180.....35307
258.....36807
434.....34996

41 CFR

51–8.....35286
51–9.....35286
51–10.....35286
102-36.....34983

42 CFR

403.....34983
1001.....35583
1003.....35583
1005.....35583
1006.....35583

44 CFR

62.....36633
65 .....35584, 36068, 36069, 36070, 36634
67.....35587, 36072

Proposed Rules:
67.....35592, 35596

45 CFR

5b.....34986

46 CFR

Proposed Rules:
110.....35600
111.....35600

47 CFR

64.....36637
73.....34988, 34989, 34990, 34991, 35588, 36374, 36375, 36637, 36638, 36639
74.....36375
76.....36382

Proposed Rules:
20.....35601
25.....35312
64.....36651
73.....34996, 34997, 34998, 36399, 36652, 36808, 36809

48 CFR

Ch. 1.....36012, 36031
1.....36014, 36015
2.....36016
3.....36030
4.....36016, 36021
5.....36030
7.....36016
8.....36023
9.....36014
11.....36016
13.....36016
15.....36014
22.....36014
23.....36016
25.....36025, 36027
30.....36028
35.....36014
37.....36014
38.....36023
42.....36014
47.....36030
49.....36030
52 .....36015, 36016, 36025, 36027, 36028
225.....36034
230.....36034
715.....36642
742.....36642
1604.....36382
1615.....36382
1632.....36382
1652.....36382
9903.....36768

49 CFR

385.....35287
390.....35287
571.....35427

Proposed Rules:
350.....36809
390.....36809
394.....36809
395.....36809
398.....36809
571.....36106
575.....34998

50 CFR

32.....36642
223.....36074
622.....36643
635.....35855
648.....36646
679.....34991, 34992, 36795

Proposed Rules:
16.....35314
17.....35025, 35033, 35315, 36512
80.....36653
622 .....35040, 35316, 35877, 36656
635.....35881
679.....36810

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 JUNE 12, 2000

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Caribbean, Gulf, and South Atlantic fisheries—

Gulf of Mexico and South Atlantic coastal migratory pelagic resources; published 5-11-00

ENVIRONMENTAL PROTECTION AGENCY

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

California; published 5-11-00

Illinois; published 4-13-00

Indiana; published 4-11-00

Massachusetts; published 4-11-00

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Cyprodinil; published 6-12-00

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; published 5-11-00

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

New York; published 5-25-00

Wyoming and Colorado; published 5-12-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Sponsor name and address changes—

ADM Animal Health & Nutrition Division; published 6-12-00

Food additives:

Paper and paperboard components—

Imidazolium compounds; published 6-12-00

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community facilities:

Supportive Housing Program; operating cost percentage increase; published 5-12-00

Grants and agreements with higher education institutions, hospitals, and other non-profit organizations; uniform administrative requirements; published 5-11-00

SECURITIES AND EXCHANGE COMMISSION

Investment companies:

Investment company assets; custody outside United States; published 5-3-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 5-26-00

Turbomeca; published 4-11-00

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Annuities valuation, interests for life or terms of years, and remainder or reversionary interests; actuarial tables use; published 6-12-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in—

Michigan et al.; comments due by 6-21-00; published 5-22-00

Papayas grown in—

Hawaii; comments due by 6-20-00; published 6-5-00

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Rinderpest and foot-and-mouth disease; disease status change—

Japan; comments due by 6-19-00; published 4-18-00

Korea; comments due by 6-19-00; published 4-18-00

Livestock and poultry disease control:

Pseudorabies in swine; indemnity payment; comments due by 6-19-00; published 4-18-00

Noxious weed regulations:

Update; comments due by 6-19-00; published 5-17-00

Plant-related quarantine, domestic:

Karnal bunt; comments due by 6-19-00; published 4-18-00

Mexican fruit fly; comments due by 6-19-00; published 4-18-00

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Small grains crop insurance provisions and wheat crop insurance winter coverage endorsement; comments due by 6-19-00; published 4-20-00

AGRICULTURE DEPARTMENT

Rural Utilities Service

Electric engineering, architectural services and design policies and procedures:

Building plans and specifications; agency approval requirement eliminated; comments due by 6-23-00; published 4-24-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Atlantic highly migratory species—

Atlantic bluefin tuna; comments due by 6-19-00; published 5-24-00

Caribbean, Gulf, and South Atlantic fisheries—

South Atlantic snapper-grouper; comments due by 6-19-00; published 5-18-00

Carribbean, Gulf, and South Atlantic fisheries—

South Atlantic snapper-grouper; comments due by 6-19-00; published 4-19-00

Magnuson-Stevens Act provisions—

Fishing capacity reduction programs; comments due by 6-19-00; published 5-18-00

West Coast States and Western Pacific fisheries—

Pacific Coast groundfish; comments due by 6-19-00; published 5-19-00

Ocean and coastal resource management:

Marine sanctuaries—

Gulf of Farallones National Marine Sanctuary, CA; motorized personal watercraft operation; comments due by 6-21-00; published 5-22-00

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Cost accounting standards administration; comments due by 6-19-00; published 4-18-00

DEFENSE DEPARTMENT

Engineers Corps

Danger zones and restricted areas:

New River, NC; U.S. Marine Corps waterborne refueling training operation in Morgan Bay sector; comments due by 6-22-00; published 5-23-00

Permits for discharges of dredged or fill material into U.S. waters:

Fill material and discharge of fill material; definitions; comments due by 6-19-00; published 4-20-00

ENVIRONMENTAL PROTECTION AGENCY

Acquisition regulations:

Contract disputes; award fee; comments due by 6-19-00; published 5-18-00

Air programs:

Pesticide products; State registration—

Large municipal waste combustors constructed on or before September 20, 1994; Federal plan requirements; comments due by 6-23-00; published 5-24-00

Large municipal waste combustors constructed on or before September 20, 1994; Federal plan requirements; comments due by 6-23-00; published 5-24-00

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

California; comments due by 6-22-00; published 5-23-00

Minnesota; comments due by 6-21-00; published 5-22-00

Air quality planning purposes; designation of areas:
Arizona; comments due by 6-19-00; published 5-19-00
Hazardous waste program authorizations:
Montana; comments due by 6-23-00; published 5-9-00
Permits for discharges of dredged or fill material into U.S. waters:
Fill material and discharge of fill material; definitions; comments due by 6-19-00; published 4-20-00
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 6-19-00; published 5-19-00
National priorities list update; comments due by 6-19-00; published 5-19-00
National priorities list update; comments due by 6-21-00; published 5-22-00
Water pollution; effluent guidelines for point source categories:
Oil and gas extraction; synthetic-based and other non-aqueous drilling fluids; comments due by 6-20-00; published 4-21-00
Water supply:
National primary drinking water regulations—
Radionuclides; maximum contaminant level goals and monitoring requirements; comments due by 6-20-00; published 4-21-00

FARM CREDIT ADMINISTRATION

Farm credit system:
Loan policies and operations, etc.—
Other financial institutions lending; comments due by 6-19-00; published 4-20-00

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
Commercial mobile radio services—
Digital wireless systems; TTY access for 911 calls; implementation; comments due by 6-19-00; published 5-24-00
Satellite communications—
INTELSAT space segment capacity availability to direct access users; comments due by 6-23-00; published 6-2-00
Terminal equipment, connection to telephone network—
Customer premises equipment; technical criteria and registration streamlining; biennial review; comments due by 6-23-00; published 5-31-00
Wireless telecommunications services—
Wireless E911; call back number issues associated with non-service initialized calls; comments due by 6-19-00; published 6-5-00
Radio stations; table of assignments:
California; comments due by 6-19-00; published 5-10-00
Kansas; comments due by 6-19-00; published 5-10-00

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
Cost accounting standards administration; comments due by 6-19-00; published 4-18-00

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Public and Indian housing:
Native American housing activities—
Construction cost limits; comments due by 6-19-00; published 4-20-00

INTERIOR DEPARTMENT

Land Management Bureau

General management:
Public administrative procedures—
Local governments; financial assistance; Payments in Lieu of Taxes for entitlement lands; comments due by 6-23-00; published 4-24-00

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
Critical habitat designations—
Spalding's catchfly; comments due by 6-23-00; published 4-24-00
Mountain yellow-legged frog; Southern California distinct vertebrate population segment; comments due by 6-19-00; published 5-19-00
Vermilion darter; comments due by 6-19-00; published 4-18-00

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
New Mexico; comments due by 6-22-00; published 6-7-00

LABOR DEPARTMENT

Occupational Safety and Health Administration

Occupational safety and health standards:
Ergonomics program—
State and local governments, Postal Service, and railroads; economic impact; comment request; comments due by 6-22-00; published 5-23-00

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Copyright claims registration:
Photographs; group registration; comments due by 6-19-00; published 5-5-00
Copyright office and procedures:
Sound recordings, public performance; service definition; comments due by 6-22-00; published 5-23-00

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:
Research and development contracts; final reports submission; comments due by 6-19-00; published 4-18-00
Federal Acquisition Regulation (FAR):
Cost accounting standards administration; comments due by 6-19-00; published 4-18-00

ARTS AND HUMANITIES, NATIONAL FOUNDATION

National Foundation on the Arts and the Humanities

Privacy Act; implementation; comments due by 6-19-00; published 5-19-00

NUCLEAR REGULATORY COMMISSION

Performance based-activities; high-level guidelines; revision; comments due by 6-23-00; published 5-9-00

POSTAL SERVICE

Dommestic Mail Manual:
Basic carrier route periodicals; line-of-travel sequencing; comments due by 6-19-00; published 5-18-00

RAILROAD RETIREMENT BOARD

Railroad Unemployment Insurance Act:
Unemployment and sickness benefits; finality of decisions; comments due by 6-19-00; published 4-20-00

SECURITIES AND EXCHANGE COMMISSION

Securities and investment companies:
Electronic media use; guidance; comments due by 6-19-00; published 5-4-00

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:
New York; comments due by 6-23-00; published 4-24-00
Ports and waterways safety:
Staten Island, NY; safety zone; comments due by 6-23-00; published 4-24-00
Correction; comments due by 6-23-00; published 5-4-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
Bell Helicopter Textron Canada; comments due by 6-19-00; published 4-19-00
Boeing; comments due by 6-19-00; published 5-3-00
Eurocopter Deutschland GMBH; comments due by 6-23-00; published 4-24-00
Honeywell; comments due by 6-19-00; published 4-18-00
Israel Aircraft Industries, Ltd.; comments due by 6-21-00; published 5-22-00
Maule Aerospace Technology, Inc.; comments due by 6-23-00; published 5-9-00
McDonnell Douglas; comments due by 6-19-00; published 4-20-00
Robinson Helicopter Co.; comments due by 6-19-00; published 4-19-00

Short Brothers; comments due by 6-19-00; published 5-19-00
Sikorsky; comments due by 6-19-00; published 4-20-00
Class E airspace; comments due by 6-22-00; published 5-5-00
Federal airways; comments due by 6-19-00; published 5-18-00

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Engineering and traffic operations:
Uniform Traffic Control Devices Manual—
Retroreflective sign and pavement marking materials; color specifications; comments due by 6-21-00; published 12-21-99

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration
Pipeline safety:
Hazardous liquid transportation—
Pipeline integrity management in high consequence areas; comments due by 6-20-00; published 4-24-00

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Cafeteria plans; tax treatment; comments due by 6-21-00; published 3-23-00
Lifetime charitable lead trusts; comments due by 6-23-00; published 4-5-00

VETERANS AFFAIRS DEPARTMENT
Outer burial receptacles; monetary allowances; comments due by 6-19-00; published 4-18-00

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 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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/index.html. Some laws may not yet be available.

S.J. Res. 44/P.L. 106–205
Supporting the Day of Honor 2000 to honor and recognize the service of minority veterans in the United States Armed Forces during World War II. (May 26, 2000; 114 Stat. 312)

H.R. 154/P.L. 106–206
To allow the Secretary of the Interior and the Secretary of Agriculture to establish a fee system for commercial filming activities on Federal land, and for other purposes. (May 26, 2000; 114 Stat. 314)

H.R. 371/P.L. 106–207
Hmong Veterans' Naturalization Act of 2000 (May 26, 2000; 114 Stat. 316)

H.R. 834/P.L. 106–208
National Historic Preservation Act Amendments of 2000 (May 26, 2000; 114 Stat. 318)

H.R. 1377/P.L. 106–209
To designate the facility of the United States Postal Service located at 9308 South Chicago Avenue, Chicago, Illinois, as the ''John J. Buchanan Post Office Building''. (May 26, 2000; 114 Stat. 320)

H.R. 1832/P.L. 106–210
Muhammad Ali Boxing Reform Act (May 26, 2000; 114 Stat. 321)

H.R. 3629/P.L. 106–211
To amend the Higher Education Act of 1965 to improve the program for American Indian Tribal Colleges and Universities under part A of title III. (May 26, 2000; 114 Stat. 330)

H.R. 3707/P.L. 106–212
American Institute in Taiwan Facilities Enhancement Act (May 26, 2000; 114 Stat. 332)

S. 1836/P.L. 106–213
To extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama. (May 26, 2000; 114 Stat. 334)

Last List May 25, 2000

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1, 2 (2 Reserved)	(869–038–00001–3)	6.50	Apr. 1, 2000
3 (1997 Compilation and Parts 100 and 101)	(869–042–00002–1)	22.00	[1] Jan. 1, 2000
4	(869–042–00003–0)	8.50	Jan. 1, 2000
5 Parts:			
1–699	(869–042–00004–8)	43.00	Jan. 1, 2000
700–1199	(869–042–00005–6)	31.00	Jan. 1, 2000
1200–End, 6 (6 Reserved)	(869–042–00006–4)	48.00	Jan. 1, 2000
7 Parts:			
1–26	(869–042–00007–2)	28.00	Jan. 1, 2000
27–52	(869–042–00008–1)	35.00	Jan. 1, 2000
53–209	(869–042–00009–9)	22.00	Jan. 1, 2000
210–299	(869–042–00010–2)	54.00	Jan. 1, 2000
300–399	(869–042–00011–1)	29.00	Jan. 1, 2000
400–699	(869–042–00012–9)	41.00	Jan. 1, 2000
700–899	(869–042–00013–7)	37.00	Jan. 1, 2000
900–999	(869–042–00014–5)	46.00	Jan. 1, 2000
1000–1199	(869–042–00015–3)	18.00	Jan. 1, 2000
1200–1599	(869–042–00016–1)	44.00	Jan. 1, 2000
1600–1899	(869–042–00017–0)	61.00	Jan. 1, 2000
1900–1939	(869–042–00018–8)	21.00	Jan. 1, 2000
1940–1949	(869–042–00019–6)	37.00	Jan. 1, 2000
1950–1999	(869–042–00020–0)	38.00	Jan. 1, 2000
2000–End	(869–042–00021–8)	31.00	Jan. 1, 2000
8	(869–042–00022–6)	41.00	Jan. 1, 2000
9 Parts:			
1–199	(869–042–00023–4)	46.00	Jan. 1, 2000
200–End	(869–042–00024–2)	44.00	Jan. 1, 2000
10 Parts:			
1–50	(869–042–00025–1)	46.00	Jan. 1, 2000
51–199	(869–042–00026–9)	38.00	Jan. 1, 2000
200–499	(869–042–00027–7)	38.00	Jan. 1, 2000
500–End	(869–042–00028–5)	48.00	Jan. 1, 2000
11	(869–042–00029–3)	23.00	Jan. 1, 2000
12 Parts:			
1–199	(869–042–00030–7)	18.00	Jan. 1, 2000
200–219	(869–042–00031–5)	22.00	Jan. 1, 2000
220–299	(869–042–00032–3)	45.00	Jan. 1, 2000
300–499	(869–042–00033–1)	29.00	Jan. 1, 2000
500–599	(869–042–00034–0)	26.00	Jan. 1, 2000
600–End	(869–042–00035–8)	53.00	Jan. 1, 2000
13	(869–042–00036–6)	35.00	Jan. 1, 2000
14 Parts:			
1–59	(869–042–00037–4)	58.00	Jan. 1, 2000
60–139	(869–042–00038–2)	46.00	Jan. 1, 2000
140–199	(869–038–00039–1)	17.00	[4]Jan. 1, 2000
200–1199	(869–042–00040–4)	29.00	Jan. 1, 2000
1200–End	(869–042–00041–2)	25.00	Jan. 1, 2000
15 Parts:			
0–299	(869–042–00042–1)	28.00	Jan. 1, 2000
300–799	(869–042–00043–9)	45.00	Jan. 1, 2000
800–End	(869–042–00044–7)	26.00	Jan. 1, 2000
16 Parts:			
0–999	(869–042–00045–5)	33.00	Jan. 1, 2000
1000–End	(869–042–00046–3)	43.00	Jan. 1, 2000
17 Parts:			
1–199	(869–042–00048–0)	32.00	Apr. 1, 2000
200–239	(869–038–00049–1)	34.00	Apr. 1, 1999
240–End	(869–038–00050–4)	44.00	Apr. 1, 1999
18 Parts:			
1–399	(869–038–00051–2)	48.00	Apr. 1, 1999
400–End	(869–038–00052–1)	14.00	Apr. 1, 1999
19 Parts:			
1–140	(869–038–00053–9)	37.00	Apr. 1, 1999
141–199	(869–038–00054–7)	36.00	Apr. 1, 1999
200–End	(869–038–00055–5)	18.00	Apr. 1, 1999
20 Parts:			
1–399	(869–038–00056–3)	30.00	Apr. 1, 1999
400–499	(869–038–00057–1)	51.00	Apr. 1, 1999
500–End	(869–038–00058–0)	44.00	[7] Apr. 1, 1999
21 Parts:			
1–99	(869–038–00059–8)	24.00	Apr. 1, 1999
*100–169	(869–042–00060–9)	30.00	Apr. 1, 2000
170–199	(869–038–00061–0)	29.00	Apr. 1, 1999
200–299	(869–038–00062–8)	11.00	Apr. 1, 1999
300–499	(869–038–00063–6)	18.00	Apr. 1, 1999
500–599	(869–038–00064–4)	28.00	Apr. 1, 1999
600–799	(869–038–00065–2)	9.00	Apr. 1, 1999
800–1299	(869–038–00066–1)	35.00	Apr. 1, 1999
1300–End	(869–042–00067–6)	15.00	Apr. 1, 2000
22 Parts:			
1–299	(869–038–00068–7)	44.00	Apr. 1, 1999
*300–End	(869–042–00069–2)	31.00	Apr. 1, 2000
23	(869–038–00070–9)	27.00	Apr. 1, 1999
24 Parts:			
0–199	(869–038–00071–7)	34.00	Apr. 1, 1999
200–499	(869–038–00072–5)	32.00	Apr. 1, 1999
500–699	(869–038–00073–3)	18.00	Apr. 1, 1999
700–1699	(869–038–00074–1)	40.00	Apr. 1, 1999
1700–End	(869–042–00075–7)	18.00	[5]Apr. 1, 2000
25	(869–042–00076–5)	52.00	Apr. 1, 2000
26 Parts:			
§§ 1.0-1–1.60	(869–038–00077–6)	27.00	Apr. 1, 1999
*§§ 1.61–1.169	(869–042–00078–1)	56.00	Apr. 1, 2000
§§ 1.170–1.300	(869–038–00079–2)	34.00	Apr. 1, 1999
§§ 1.301–1.400	(869–038–00080–6)	25.00	Apr. 1, 1999
§§ 1.401–1.440	(869–038–00081–4)	43.00	Apr. 1, 1999
§§ 1.441-1.500	(869-038-00082-2)	30.00	Apr. 1, 1999
§§ 1.501–1.640	(869–038–00083–1)	27.00	[6] Apr. 1, 1999
§§ 1.641–1.850	(869–038–00084–9)	35.00	Apr. 1, 1999
*§§ 1.851–1.907	(869–042–00085–4)	43.00	Apr. 1, 2000
§§ 1.908–1.1000	(869–038–00086–5)	38.00	Apr. 1, 1999
§§ 1.1001–1.1400	(869–038–00087–3)	40.00	Apr. 1, 1999
§§ 1.1401–End	(869–038–00088–1)	55.00	Apr. 1, 1999
2–29	(869–038–00089–0)	39.00	Apr. 1, 1999
30–39	(869–042–00090–1)	31.00	Apr. 1, 2000
40–49	(869–042–00091–9)	18.00	Apr. 1, 2000
50–299	(869–042–00092–7)	23.00	Apr. 1, 2000
300–499	(869–038–00093–8)	37.00	Apr. 1, 1999
500–599	(869–038–00094–6)	11.00	Apr. 1, 1999
600–End	(869–038–00095–4)	11.00	Apr. 1, 1999
27 Parts:			
1–199	(869–038–00096–2)	53.00	Apr. 1, 1999

Title	Stock Number	Price	Revision Date
200–End	(869–038–00097–1)	17.00	Apr. 1, 1999
28 Parts:			
0-42	(869–038–00098–9)	39.00	July 1, 1999
43-end	(869-038-00099-7)	32.00	July 1, 1999
29 Parts:			
0–99	(869–038–00100–4)	28.00	July 1, 1999
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–038–00102–1)	40.00	[7] July 1, 1999
900–1899	(869–038–00103–9)	21.00	July 1, 1999
1900–1910 (§§ 1900 to 1910.999)	(869–038–00104–7)	46.00	July 1, 1999
1910 (§§ 1910.1000 to end)	(869–038–00105–5)	28.00	July 1, 1999
1911–1925	(869–038–00106–3)	18.00	July 1, 1999
1926	(869–038–00107–1)	30.00	July 1, 1999
1927–End	(869–038–00108–0)	43.00	July 1, 1999
30 Parts:			
1–199	(869–038–00109–8)	35.00	July 1, 1999
200–699	(869–038–00110–1)	30.00	July 1, 1999
700–End	(869–038–00111–0)	35.00	July 1, 1999
31 Parts:			
0–199	(869–038–00112–8)	21.00	July 1, 1999
200–End	(869–038–00113–6)	48.00	July 1, 1999
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–038–00114–4)	46.00	July 1, 1999
191–399	(869–038–00115–2)	55.00	July 1, 1999
400–629	(869–038–00116–1)	32.00	July 1, 1999
630–699	(869–038–00117–9)	23.00	July 1, 1999
700–799	(869–038–00118–7)	27.00	July 1, 1999
800–End	(869–038–00119–5)	27.00	July 1, 1999
33 Parts:			
1–124	(869–038–00120–9)	32.00	July 1, 1999
125–199	(869–038–00121–7)	41.00	July 1, 1999
200–End	(869–038–00122–5)	33.00	July 1, 1999
34 Parts:			
1–299	(869–038–00123–3)	28.00	July 1, 1999
300–399	(869–038–00124–1)	25.00	July 1, 1999
400–End	(869–038–00125–0)	46.00	July 1, 1999
35	(869–038–00126–8)	14.00	[7] July 1, 1999
36 Parts			
1–199	(869–038–00127–6)	21.00	July 1, 1999
200–299	(869–038–00128–4)	23.00	July 1, 1999
300–End	(869–038–00129–2)	38.00	July 1, 1999
37	(869–038–00130–6)	29.00	July 1, 1999
38 Parts:			
0–17	(869–038–00131–4)	37.00	July 1, 1999
18–End	(869–038–00132–2)	41.00	July 1, 1999
39	(869–038–00133–1)	24.00	July 1, 1999
40 Parts:			
1–49	(869–038–00134–9)	33.00	July 1, 1999
50–51	(869–038–00135–7)	25.00	July 1, 1999
52 (52.01–52.1018)	(869–038–00136–5)	33.00	July 1, 1999
52 (52.1019–End)	(869–038–00137–3)	37.00	July 1, 1999
53–59	(869–038–00138–1)	19.00	July 1, 1999
60	(869–038–00139–0)	59.00	July 1, 1999
61–62	(869–038–00140–3)	19.00	July 1, 1999
63 (63.1–63.1119)	(869–038–00141–1)	58.00	July 1, 1999
63 (63.1200–End)	(869–038–00142–0)	36.00	July 1, 1999
64–71	(869–038–00143–8)	11.00	July 1, 1999
72–80	(869–038–00144–6)	41.00	July 1, 1999
81–85	(869–038–00145–4)	33.00	July 1, 1999
86	(869–038–00146–2)	59.00	July 1, 1999
87-135	(869–038–00146–1)	53.00	July 1, 1999
136–149	(869–038–00148–9)	40.00	July 1, 1999
150–189	(869–038–00149–7)	35.00	July 1, 1999
190–259	(869–038–00150–1)	23.00	July 1, 1999
260–265	(869–038–00151–9)	32.00	July 1, 1999
266–299	(869–038–00152–7)	33.00	July 1, 1999
300–399	(869–038–00153–5)	26.00	July 1, 1999
400–424	(869–038–00154–3)	34.00	July 1, 1999
425–699	(869–038–00155–1)	44.00	July 1, 1999
700–789	(869–038–00156–0)	42.00	July 1, 1999
790–End	(869–038–00157–8)	23.00	July 1, 1999
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–038–00158–6)	14.00	July 1, 1999
101	(869–038–00159–4)	39.00	July 1, 1999
102–200	(869–038–00160–8)	16.00	July 1, 1999
201–End	(869–038–00161–6)	15.00	July 1, 1999
42 Parts:			
1–399	(869–038–00162–4)	36.00	Oct. 1, 1999
400–429	(869–038–00163–2)	44.00	Oct. 1, 1999
430–End	(869–038–00164–1)	54.00	Oct. 1, 1999
43 Parts:			
1–999	(869–038–00165–9)	32.00	Oct. 1, 1999
1000–end	(869–038–00166–7)	47.00	Oct. 1, 1999
44	(869–038–00167–5)	28.00	Oct. 1, 1999
45 Parts:			
1–199	(869–038–00168–3)	33.00	Oct. 1, 1999
200–499	(869–038–00169–1)	16.00	Oct. 1, 1999
500–1199	(869–038–00170–5)	30.00	Oct. 1, 1999
1200–End	(869–038–00171–3)	40.00	Oct. 1, 1999
46 Parts:			
1–40	(869–038–00172–1)	27.00	Oct. 1, 1999
41–69	(869–038–00173–0)	23.00	Oct. 1, 1999
70–89	(869–038–00174–8)	8.00	Oct. 1, 1999
90–139	(869–038–00175–6)	26.00	Oct. 1, 1999
140–155	(869–038–00176–4)	15.00	Oct. 1, 1999
156–165	(869–038–00177–2)	21.00	Oct. 1, 1999
166–199	(869–038–00178–1)	27.00	Oct. 1, 1999
200–499	(869–038–00179–9)	23.00	Oct. 1, 1999
500–End	(869–038–00180–2)	15.00	Oct. 1, 1999
47 Parts:			
0–19	(869–038–00181–1)	39.00	Oct. 1, 1999
20–39	(869–038–00182–9)	26.00	Oct. 1, 1999
40–69	(869–038–00183–7)	26.00	Oct. 1, 1999
70–79	(869–038–00184–5)	39.00	Oct. 1, 1999
80–End	(869–038–00185–3)	40.00	Oct. 1, 1999
48 Chapters:			
1 (Parts 1–51)	(869–038–00186–1)	55.00	Oct. 1, 1999
1 (Parts 52–99)	(869–038–00187–0)	30.00	Oct. 1, 1999
2 (Parts 201–299)	(869–038–00188–8)	36.00	Oct. 1, 1999
3–6	(869–038–00189–6)	27.00	Oct. 1, 1999
7–14	(869–038–00190–0)	35.00	Oct. 1, 1999
15–28	(869–038–00191–8)	36.00	Oct. 1, 1999
29–End	(869–038–00192–6)	25.00	Oct. 1, 1999
49 Parts:			
1–99	(869–038–00193–4)	34.00	Oct. 1, 1999
100–185	(869–038–00194–2)	53.00	Oct. 1, 1999
186–199	(869–038–00195–1)	13.00	Oct. 1, 1999
200–399	(869–038–00196–9)	53.00	Oct. 1, 1999
400–999	(869–038–00197–7)	57.00	Oct. 1, 1999
1000–1199	(869–038–00198–5)	17.00	Oct. 1, 1999
1200–End	(869–038–00199–3)	14.00	Oct. 1, 1999
50 Parts:			
1–199	(869–038–00200–1)	43.00	Oct. 1, 1999
200–599	(869–038–00201–9)	22.00	Oct. 1, 1999

Title	Stock Number	Price	Revision Date
600–End	(869–038–00202–7)	37.00	Oct. 1, 1999
CFR Index and Findings Aids	(869–042–00047–1)	53.00	Jan. 1, 2000
Complete 1999 CFR set		951.00	1999
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 1999, through January 1, 2000. The CFR volume issued as of January 1, 1999 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.