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WASHINGTON, DC

WHEN: September 13, 2000, at 9:00 a.m.

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

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 65, No. 159

Wednesday, August 16, 2000

Separate Parts In This Issue

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.

3 CFR
Executive Orders:
13166.....50121

5 CFR
1208.....49895
Proposed Rules:
531.....49948
1800.....49949

14 CFR
39 (5 documents) 49897, 49899, 49901, 49903, 49905
Proposed Rules:
39.....49952

17 CFR
Proposed Rules:
210.....49954
240.....49954

21 CFR
1240.....49906

26 CFR
1.....49909
301.....49909
Proposed Rules:
1.....49955
301.....49955

30 CFR
Proposed Rules:
206.....49957

33 CFR
100.....49914
165.....49915
Proposed Rules:
323.....50108

37 CFR
1.....50092

39 CFR
111 (2 documents) 50054, 49917

40 CFR
70.....49919
180 (4 documents) 49922, 49924, 49927, 49936
Proposed Rules:
70.....49957
232.....50108

42 CFR
70.....49906

47 CFR
54.....49941

50 CFR
635.....49941
648.....49942
679.....49946
Proposed Rules:
17.....49946
648.....49958

Rules and Regulations

Federal Register
Vol. 65, No. 159
Wednesday, August 16, 2000

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1208

Practices and Procedures for Appeals under the Uniformed Services Employment and Reemployment Rights Act and the Veterans Employment Opportunities Act

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is publishing final regulations to describe its practices and procedures with respect to appeals filed under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, and the Veterans Employment Opportunities Act of 1998. The Uniformed Services Employment and Reemployment Rights Act permits a person covered by the Act to appeal to the Board if a Federal agency employer or the Office of Personnel Management fails or refuses to provide an employment or reemployment right or benefit to which the person is entitled under the Act. The Veterans Employment Opportunities Act permits a person entitled to veterans' preference to appeal to the Board if a Federal agency violates the person's rights under any statute or regulation relating to veterans' preference. While both of these laws are intended to provide protections for veterans, and while there are similarities in the procedures and remedies under each of the laws, there are significant differences as well. The purpose of these regulations is to provide guidance to parties and their representatives on how to proceed in cases filed under these laws.

EFFECTIVE DATE: August 16, 2000.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653–7200.

SUPPLEMENTARY INFORMATION: On Februry 4, 2000, the Board published a new part 1208 of its regulations in title 5, Code of Federal Regulations (CFR), as an interim rule with request for comments (65 FR 5409). The new part describes the Board's practices and procedures with respect to appeals filed under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), Public Law 103–353, as amended, and the Veterans Employment Opportunities Act of 1998 (VEOA), Public Law 105–339. The Board allowed 60 days, until April 4, 2000, for receipt of public comments. The Board received comments from the Department of Labor, Office of the Assistant Secretary for Veterans' Employment and Training (DOL/VETS), and from one local of a national employee organization representing postal workers (union local).

In addition to suggesting certain changes in the regulatory language, DOL/VETS asked that certain statements in the preamble to the interim rule be clarified. The **SUMMARY** section of the interim rule included a statement that a USERRA appellant may appeal to the Board ''if a Federal agency employer or the Office of Personnel Management fails or refuses to provide an employment or reemployment right or benefit to which the person is entitled *after service in a uniformed service*'' (emphasis added). DOL/VETS noted that certain provisions of USERRA also protect persons who apply for service, have an obligation to perform service, or assist in an investigation, regardless of whether the person has actually performed service in a uniformed service. In response to the DOL/VETS suggestion, the comparable statement in the **SUMMARY** section of this final rule refers to ''an employment or reemployment right or benefit to which the person is entitled *under the Act*'' (emphasis added).

The first paragraph of the **SUPPLEMENTARY INFORMATION** section of the interim rule stated that USERRA and VEOA extended the Board's jurisdiction to include ''complaints filed by covered persons, *principally veterans,* under each of these laws'' (emphasis added). DOL/VETS pointed out that the majority of USERRA cases opened by that office in the past several years have been filed by current members of the National Guard and Reserve, rather than by veterans. Without deciding who are the principal filers under USERRA, the Board agrees that the restrictive language referring to veterans could have been confusing to members of the National Guard and Reserve and was unnecessary. As noted in the **SUMMARY**, the Board's VEOA jurisdiction, however, is limited to complaints filed by persons entitled to veterans' preference.

Under the heading, ''Termination of Proceeding,'' in the **SUPPLEMENTARY INFORMATION**; section of the interim rule, the Board distinguished USERRA from VEOA by pointing out that USERRA does not provide for termination of a Board proceeding before it has concluded with the issuance of a decision. VEOA does provide for such termination, if the Board has not issued a judicially reviewable decision within 120 days after the appeal was filed, where the appellant elects to file a civil action in an appropriate United States district court. DOL/VETS suggested that the statement about USERRA, in order to make the distinction between the two laws clearer, should have said that USERRA does not permit a person to terminate a Board proceeding and file a civil action in an appropriate United States district court before the Board proceeding has concluded with the issuance of a decision. Although the Board believes the original statement was clear, it notes that with the additional phrase suggested by DOL/VETS, the statement is more specific.

With respect to the regulatory language of the interim rule, DOL/VETS asked that sections 1208.11(b) and (c), 1208.12, 1208.13(a)(4), 1208.22(a) and (b), and 1208.23(a)(5)(i) each be amended to replace the words, ''the Secretary has been unable to resolve the complaint,'' with ''the Secretary's efforts have not resolved the complaint.'' DOL/VETS stated that the use of the word ''unable'' suggests that the Secretary attempts to resolve all complaints filed with DOL. According to DOL/VETS, if the Secretary does not believe that the action alleged in a USERRA or VEOA complaint occurred, the Secretary will not attempt to resolve the complaint. Instead, the Secretary will notify the claimant of the results of the investigation and advise him that the

case is being closed, at which point he may file an appeal with MSPB. The Board agrees that the change suggested by DOL/VETS should be made and amends each of the sections referenced above in this final rule.

DOL/VETS also suggested that section 1208.26(a) be expanded to clarify how the Board will interpret the VEOA provision regarding appeals to the Board under any other law, rule, or regulation in lieu of administrative redress under VEOA (5 U.S.C. 3330a(e)), including an example of how the provision would operate where an appellant makes claims covered by both USERRA and VEOA. The Board recognizes that this VEOA provision raises several questions of interpretation. Until such time as the Board and its reviewing court can interpret the provision through decisions in actual cases, however, the Board believes that it is best simply to restate the statutory provision in its regulation implementing the provision. Accordingly, the Board has not adopted this suggestion of DOL/VETS in the final rule.

The union local suggested that section 1208.13(a)(3), which requires a USERRA appellant to identify the provision of chapter 43 of title 38, United States Code, that was allegedly violated, be amended so that submission of this information would be permissive rather than mandatory. The local argued that requiring an appellant to identify the statutory provision that was allegedly violated ''is burdensome on pro se litigants.'' The local also cited to the Federal Circuit ruling in *Yates* v. *MSPB,* 145 F.3d 1480, 1485 (Fed. Cir. 1998) and to Board rulings, relying on *Yates,* in *Martir* v. *Department of the Navy,* 81 M.S.P.R. 421 (1999) and *Johnson* v. *United States Postal Service,* 85 M.S.P.R. 1 (1999). The essence of these rulings is that to invoke the Board's jurisdiction under USERRA, an appellant need not specifically cite USERRA. It is sufficient, for example, for an appellant to show that he performed service in a uniformed service, that he was denied a right or benefit guaranteed by chapter 43 of title 38, and that the right or benefit was denied because of his uniformed service.

The intent of section 1208.13(a)(3) was to assist an appellant in establishing Board jurisdiction over his USERRA appeal. The only basis for the Board's jurisdiction over such an appeal is a failure or refusal by a Federal agency employer or the Office of Personnel Management to provide a right or benefit guaranteed by chapter 43 of title 38 (other than a provision relating to benefits under the Thrift Savings Plan for Federal employees). In order to determine whether it has jurisdiction over a particular USERRA appeal, the Board must know what right or benefit guaranteed by chapter 43 of title 38 the appellant alleges an agency failed or refused to provide. To the extent that the interim rule requires that a USERRA appellant provide a statutory citation to the provision(s) allegedly violated or that USERRA be cited by name to invoke the Board's jurisdiction, however, it is inconsistent with the cases cited above. The Board, therefore, is amending § 1208.13(a)(3) in this final rule to require a USERRA appellant to describe in detail the basis for the appeal, that is, the protected right or benefit that was allegedly denied, including reference to the provision(s) of chapter 43 of title 38 allegedly violated if possible.

The Board is making one other change to the interim rule with respect to a matter not addressed in the public comments. Section 1208.14, Representation by Special Counsel, permits satisfaction of the Board's requirements for designation of a representative by submitting a copy of a USERRA appellant's written request to the Secretary of Labor that the complaint be referred to the Special Counsel for litigation before the Board. Because the Special Counsel can decline to represent a USERRA appellant before the Board, however, the appellant's written request to the Secretary, standing alone, is not sufficient to show that the Special Counsel has agreed to represent the appellant. Therefore, the Board is amending § 1208.14 to require submission of a written statement (in any format) that the appellant submitted a written request to the Secretary of Labor that the appellant's complaint be referred to the Special Counsel for litigation before the Board and that the Special Counsel has agreed to represent the appellant. Such statement will satisfy the Board's designation of representative requirements at 5 CFR 1201.31(a).

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h), 5 U.S.C. 3330a, 5 U.S.C. 3330b, and 38 U.S.C. 4331.

List of Subjects in 5 CFR Part 1208

Administrative practice and procedure, Government employees, Veterans.

Accordingly, the Board adopts the interim rule published at 65 FR 5409 (February 4, 2000) as final, with the following changes:

PART 1208—[AMENDED]

1. The authority citation for part 1208 continues to read as follows:

Authority: 5 U.S.C. 1204(h), 3330a, 3330b; 38 U.S.C. 4331.

§§ 1208.11, 1208.12, 1208.13, 1208.23 [Amended]

2. Amend sections 1208.11(b) and (c), 1208.12, 1208.13(a)(4), and 1208.23(a)(5)(i) by removing ''the Secretary has been unable to resolve the complaint'' each place it appears and by adding in its place ''the Secretary's efforts have not resolved the complaint''.

3. Amend § 1208.13 by revising paragraph (a)(3) to read as follows:

§ 1208.13 Content of appeal; request for hearing.

(a) * * *

(3) A statement describing in detail the basis for the appeal, that is, the protected right or benefit that was allegedly denied, including reference to the provision(s) of chapter 43 of title 38, United States Code, allegedly violated if possible.

* * * * *

4. Revise section 1208.14 to read as follows:

§ 1208.14 Representation by Special Counsel.

The Special Counsel may represent an appellant in a USERRA appeal before the Board. A written statement (in any format) that the appellant submitted a written request to the Secretary of Labor that the appellant's complaint under 38 U.S.C. 4322(a) be referred to the Special Counsel for litigation before the Board and that the Special Counsel has agreed to represent the appellant will be accepted as the written designation of representative required by 5 CFR 1201.31(a).

§ 1208.22 [Amended]

5. Amend §§ 1208.22(a) and (b) by removing ''the Secretary has been unable to resolve the appellant's VEOA complaint'' each place it appears and by adding in its place ''the Secretary's efforts have not resolved the VEOA complaint''.

Dated: August 10, 2000.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 00–20736 Filed 8–15–00; 8:45 am]

BILLING CODE 7400–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–184–AD; Amendment 39–11862; AD 2000–16–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 B2 and B4 series airplanes, that currently requires inspection of the fuselage longitudinal lap joints and circumferential joints, and of the stringers and doublers for bonding delamination and cracks; and repairs, as necessary. This amendment requires expansions of certain inspection areas; revisions of certain inspection thresholds or intervals; changes in references to inspection methods; and the addition of a modification to certain longitudinal lap joints. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent delamination and cracking of the fuselage, which could result in rapid decompression of the airplane.

DATES: Effective September 20, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of September 20, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 85–07–09, amendment 39–5033 (50 FR 13548, April 5, 1985), which is applicable to certain Airbus Industrie Model A300 B2 and B4 series airplanes, was published in the **Federal Register** on June 1, 2000 (65 FR 34993). The action proposed to continue to require inspection of the fuselage longitudinal lap joints and circumferential joints, and of the stringers and doublers for bonding delamination and cracks; and repairs, as necessary. The action also proposed to require expansions of certain inspection areas; revisions of certain inspection thresholds or intervals; changes in references to inspection; and the addition of a modification to certain longitudinal lap joints.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 20 airplanes of U.S. registry that will be affected by this AD.

The inspection of the bonded longitudinal lap joints and circumferential joints to detect bonding delamination that is currently required by AD 85–07–09, and retained in this AD, takes approximately 146 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required action on U.S. operators is estimated to be $175,200, or $8,760 per airplane, per inspection cycle.

The inspection of the bonded longitudinal lap joints and circumferential joints to detect corrosion and cracking that is currently required by AD 85–07–09, and retained in this AD, takes approximately 72 work hours per airplane to accomplish. Based on these figures, the cost impact of this currently required action on U.S. operators is estimated to be $86,400, or $4,320 per airplane, per inspection cycle.

The inspections of the bonded stringers and doublers to detect debonding that are currently required by AD 85–07–09, and retained in this AD, take approximately 129 work hours per airplane to accomplish. Based on these figures, the cost impact of these currently required actions on U.S. operators is estimated to be $154,800, or $7,740 per airplane, per inspection cycle.

The modification of the bonded longitudinal lap joint required by this AD will take as much as 581 work hours (not including access and close) per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost as much as $16,148 per airplane, depending on kits purchased. Based on these figures, the cost impact of the required modification on U.S. operators is estimated to be as high as $1,020,160, or $51,008 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–5033 (50 FR 13548, April 5, 1985), and by adding a new airworthiness directive (AD), amendment 39–11862, to read as follows:

2000–16–07 Airbus Industrie: Amendment 39–11862. Docket 97–NM–184–AD. Supersedes AD 85–07–09, Amendment 39–5033.

Applicability: Model A300 B2 and B4 series airplanes, manufacturer serial numbers 003 through 156 inclusive; 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 (f) 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 rapid decompression of the airplane due to bonding delamination and cracking of the fuselage, accomplish the following:

Restatement of Requirements of AD 85–07–09

Delamination Inspections of Longitudinal Lap and Circumferential Joints

(a) Except as required by paragraph (d) of this AD: Prior to the threshold limits specified in Table 1 of Airbus Service Bulletin A300–53–148, Revision 6, dated October 10, 1984, or within 6 months after May 13, 1985 (the effective date of AD 85–07–09), whichever occurs later, inspect the fuselage longitudinal lap joints and circumferential joints for bonding delamination, in accordance with the service bulletin.

(1) If no delamination is detected, repeat these inspections in accordance with the schedule shown in Table 1 of the service bulletin.

(2) If delamination is detected during any inspection, prior to further flight, perform the actions indicated in Figure 3, ''Follow-up Action,'' of the service bulletin.

Corrosion and Crack Inspections of Longitudinal Lap and Circumferential Joints

(b) Except as required by paragraph (d) of this AD: Prior to the threshold limits specified in Figure 1, ''Inspection Program,'' of Airbus Service Bulletin A300–53–178, Revision 4, dated October 10, 1984, or within 6 months after May 13, 1985, whichever occurs later, visually inspect for corrosion and cracks, and repair if necessary, the bonded longitudinal lap joints and circumferential joints specified in Figure 1 of the service bulletin, in accordance with the service bulletin. Repeat the inspections thereafter in accordance with the schedule shown in Figure 1 of the service bulletin.

Delamination Inspections of Stringers and Doublers

(c) Except as required by paragraph (d) of this AD: Prior to the threshold limits specified in Figure 1, ''Inspection Frequency,'' of Airbus Service Bulletin A300–53–149, Revision 6, dated October 10, 1984, or within 6 months after May 13, 1985, whichever occurs later, inspect for debonding, and repair, if necessary, bonded stringers and bonded doublers in the area between frame 1 and frame 18 and between frame 40 and frame 80 on all airplanes up to and including serial number 156, and in the area between frame 18 and frame 40 on all airplanes up to and including serial number 104. Repeat the inspections thereafter at intervals specified in Figure 1 of the service bulletin, except for repaired areas. The inspections of stringers are divided into three areas, as indicated in Figure 2 of the service bulletin, with the following options:

(1) Inspection in Area 1 is not required if Modification No. 2904, described in Airbus Service Bulletin A300–53–146, dated November 28, 1980, has been incorporated.

(2) Preventive riveting of stringers located in Area 2 in accordance with Airbus Service Bulletin A300–53–197, dated October 10, 1984, allows for an extension of the interval of subsequent repetitive inspections to the interval required for Area 3.

New Requirements of This AD

Later Service Bulletin Revisions

(d) After the effective date of this new AD, only the following service bulletin revisions shall be used for compliance thresholds and intervals and for accomplishment instructions for the actions required by this AD, as specified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD. For any airplane that, as of the effective date of this AD, has exceeded a revised threshold or interval for any specified action, accomplish that action within 6 months after the effective date of this AD.

(1) Airbus Service Bulletin A300–53–148, Revision 11, dated September 8, 1998, shall be used for the requirements of paragraph (a) of this AD. For corrective actions and follow-on inspections, Figure 5, ''Follow-up Action,'' of the service bulletin shall be used.

(2) Airbus Service Bulletin A300–53–178, Revision 10, dated September 8, 1998, shall be used for the requirements of paragraph (b) of this AD. For inspection thresholds and intervals, Paragraph C., ''Description,'' of the service bulletin shall be used.

(3) Airbus Service Bulletin A300–53–149, Revision 14, including Appendix 01, dated September 8, 1998, shall be used for the requirements of paragraph (c) of this AD. For inspection thresholds and intervals, Figure 1, Sheet 1, ''Inspection Frequency,'' of the service bulletin shall be used.

Modification of Lap Joints (Partial Terminating Action)

(e) Within 60 months after the effective date of this AD, modify the bonded longitudinal lap joints in accordance with Airbus Service Bulletin A300–53–0209, Revision 10, dated July 5, 1999. Accomplishment of the modification terminates the repetitive inspections required by paragraph (a) of this AD for stringers 29 and 35 in section 18 only.

Alternative Methods of Compliance

(f) 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

(g) 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.

Incorporation by Reference

(h) Except as provided by paragraphs (a), (b), and (c) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A300–53–148, Revision 11, dated September 8, 1998; Airbus Service Bulletin A300–53–178, Revision 10, dated September 8, 1998; Airbus Service Bulletin A300–53–0149, Revision 14, including Appendix 01, dated September 8, 1998; and Airbus Service Bulletin A300–53–0209, Revision 10, dated July 5, 1999; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directives 97–371–

235(B), dated December 3, 1997, and 1984–140–064(B)R3, dated October 6, 1999.

Effective Date

(i) This amendment becomes effective on September 20, 2000.

Issued in Renton, Washington, on August 8, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–20506 Filed 8–15–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–233–AD; Amendment 39–11863; AD 2000–16–08]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Lockheed Model L–1011–385 series airplanes, that currently requires repetitive inspections to detect cracking of the canted pressure bulkhead at fuselage station (FS) 1212, and repetitive inspections to detect cracking of the web at the fastener rows of the vertical stiffener-to-web; and repair or replacement of the web with a new web, if necessary. This amendment requires that the initial inspections be accomplished at a reduced threshold. This amendment is prompted by a report of fatigue cracking of the canted pressure bulkhead at FS 1212. The actions specified by this AD are intended to detect and correct fatigue cracking of the canted pressure bulkhead at FS 1212, which could result in blowout of a panel between adjacent stiffeners and consequent cabin depressurization.

DATES: Effective September 20, 2000.

The incorporation by reference of Lockheed Service Bulletin 093–53–277, Revision 1, dated November 19, 1998, as listed in the regulations, is approved by the Director of the Federal Register as of September 20, 2000.

The incorporation by reference of Lockheed Service Bulletin 093–53–277, dated July 2, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of October 25, 1996 (61 FR 53044, October 10, 1996).

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Program Manager, Program Management and Services Branch, ACE–118A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063, fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–20–10, amendment 39–9776 (61 FR 53044, October 10, 1996), which is applicable to certain Lockheed Model L–1011–385 series airplanes, was published in the **Federal Register** on October 6, 1999 (64 FR 54230). The action proposed to supersede AD 96–20–10 to continue to require repetitive inspections to detect cracking of the canted pressure bulkhead at FS 1212, and repetitive inspections to detect cracking of the web at the fastener rows of the vertical stiffener-to-web; and repair or replacement of the web with a new web, if necessary. The action also proposed to require that the initial inspections be accomplished at a reduced threshold.

Comment Received

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

The commenter requests that the FAA revise paragraphs (b)(1)(i) and (b)(1)(ii) of the proposal to reference section 53–11–00, Figure 854, of the L–1011 Structural Repair Manual (SRM), dated March 15, 1999. Lockheed Repair Drawing LCC–7622–385 is referenced in the proposal as the appropriate source of service information for identifying areas in which cracking may be found. The commenter indicates that the drawing has been revised and incorporated into the SRM since the release of Lockheed Service Bulletin 093–53–277, Revision 1, dated November 19, 1998. The commenter states that confusion could arise due to the nature of certain LCC drawings that are not formally controlled or released; operators could have the outdated version of the drawing on file. The revised LCC drawing and new SRM figure provide more detail of the inspection area and more detail of the repair instructions on the bulkhead than those specified in the original version of the drawing.

The FAA concurs with the commenter's request to reference the revised service information, and has revised the final rule accordingly. However, the FAA finds that both repair drawings adequately identify the areas in which cracking may be found.

Therefore, the FAA has added a note to the final rule to give operators credit for using the version of the repair drawing cited in the proposal.

Conclusion

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

Cost Impact

There are approximately 235 airplanes of the affected design in the worldwide fleet. The FAA estimates that 116 airplanes of U.S. registry will be affected by this AD. The requirements of this AD will not add any new additional economic burden on affected operators other than the costs that are associated with beginning the inspection at an earlier time than would have been required by AD 96–20–10 (initial inspection is now required within 18,000 flight cycles, rather than 20,000 flight cycles).

The actions that are currently required by AD 96–20–10, and are retained in this AD, take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $34,800, or $300 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9776 (61 FR 53044, October 10, 1996), and by adding a new airworthiness directive (AD), amendment 39–11863, to read as follows:

2000–16–08 Lockheed: Amendment 39–11863. Docket 99-NM–233-AD. Supersedes AD 96–20–10, Amendment 39–9776.

Applicability: Model L–1011–385 series airplanes; serial numbers 1013 through 1250 inclusive; 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)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the canted pressure bulkhead at fuselage station (FS) 1212, which could result in blowout of a panel between adjacent stiffeners and consequent cabin depressurization, accomplish the following:

Repetitive Inspections

(a) Perform a detailed visual inspection to detect cracking of the entire aft surface of the canted pressure bulkhead at FS 1212 between left buttock line (LBL) 103 and right buttock line (RBL) 103; and perform an optical inspection using a borescope or other optical device to detect cracking of the web at the fastener rows of the vertical stiffener-to-web; in accordance with Lockheed Service Bulletin 093–53–277, dated July 2, 1996, or Revision 1, dated November 19, 1998; at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD. Thereafter, repeat these inspections at intervals not to exceed 1,000 flight cycles.

(1) Prior to the accumulation of 20,000 total flight cycles, or within 60 days after October 25, 1996 (the effective date of AD 96–20–10), whichever occurs later; or

(2) Prior to the accumulation of 18,000 total flight cycles, or within 60 days after the effective date of this AD, whichever occurs later.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Repair

(b) If any cracking is found during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(1) Accomplish either paragraph (b)(1)(i) or (b)(1)(ii) of this AD, as applicable.

(i) If the cracking is found in an area that is specified Lockheed Service Bulletin 093–53–277, dated July 2, 1996, or Revision 1, dated November 19, 1998, repair in accordance with Section 53–11–00, Figure 854, of the L–1011 Structural Repair Manual (SRM), dated March 15, 1999. Accomplishment of a repair in accordance with this paragraph constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD at the repaired location only. Or

(ii) If the cracking is found in an area that is not specified in Lockheed Service Bulletin 093–53–277, dated July 2, 1996, or Revision 1, dated November 19, 1998, repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

Note 3: Lockheed Repair Drawing LCC–7622–385 also is considered an acceptable source of service information for the accomplishment of the requirements of paragraph (b)(1)(i) of this AD.

(2) Replace the entire web with a new web in accordance with Lockheed Service Bulletin 093–53–277, dated July 2, 1996, or Revision 1, dated November 19, 1998. Such replacement constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

Alternative Methods of Compliance

(c)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 96–20–10, amendment 39–9776, are approved as alternative methods of compliance with paragraph (b) of this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta 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.

Incorporation by Reference

(e) Except as provided by paragraph (b)(1)(ii) of this AD, the actions shall be done in accordance with Lockheed Service Bulletin 093–53–277, dated July 2, 1996; or Lockheed Service Bulletin 093–53–277, Revision 1, dated November 19, 1998. Revision 1 of Lockheed Service Bulletin 093–53–277 contains the following list of effective pages:

Page number	Revision level shown on page	Date shown on page
1–3, 5	1	November 19, 1998.
4, 6–9	Original	July 2, 1996.

(1) The incorporation by reference of Lockheed L–1011 Service Bulletin 093–53–277, Revision 1, dated November 19, 1998, is approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Lockheed Service Bulletin 093–53–277, dated July 2, 1996, was approved previously by the Director of the Federal Register as of October 25, 1996 (61 FR 53044, October 10, 1996).

(3) Copies may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on September 20, 2000.

Issued in Renton, Washington, on August 8, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–20505 Filed 8–15–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–354–AD; Amendment 39–11864; AD 2000–16–09]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 340B and SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Saab Model SAAB 340B and SAAB 2000 series airplanes, that currently requires various inspections of fluorescent lamps and lampholders in the cabin area for discrepancies; corrections, if necessary; and reinspection of the lamps to ensure correct installation after replacement or reinstallation of the lamps. This amendment requires replacement of the electronic light ballasts with improved ballasts, which terminates the reinspections, and expands the applicability of the existing AD. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent electrical arcing between the fluorescent tube pins and the lampholders, which could burn the surrounding area and lead to smoke and fumes in the passenger compartment or lavatory area.

DATES: Effective September 20, 2000.

The incorporation by reference of certain publications, as listed in the regulations, is approved by the Director of the Federal Register as of September 20, 2000.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of July 7, 1997 (62 FR 33545, June 20, 1997).

ADDRESSES: The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linkoping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 97–13–06, amendment 39–10052 (62 FR 33545, June 20 1997), which is applicable to certain Saab Model SAAB 340B and SAAB 2000 series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on June 13, 2000 (65 FR 37087). The action proposed to continue to require various inspections of fluorescent lamps and lampholders in the cabin area for discrepancies; corrections, if necessary; and reinspection of the lamps to ensure correct installation after replacement or reinstallation of the lamps or lampholders. The action also proposed to require replacement of the electronic light ballasts with improved ballasts, which terminates the reinspections, and to expand the applicability of the existing AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 78 airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 97–13–06 take approximately 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $420 per airplane.

The new actions that are required in this AD will take as much as 9 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided free of charge by the manufacturer. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be as much as $42,120, or $540 per airplane.

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

actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10052 (62 FR 33545, June 20, 1997), and by adding a new airworthiness directive (AD), amendment 39–11864, to read as follows:

2000–16–09 SAAB Aircraft AB: Amendment 39–11864. Docket 99–NM–354–AD. Supersedes AD 97–13–06, Amendment 39–10052.

Applicability: This AD applies to the following airplanes:

Model SAAB 340B series airplanes having serial numbers –342 and –359 through –460 inclusive, certificated in any category; except those on which Saab Service Bulletin 340–33–048, Revision 01, dated January 21, 1999 (Saab Modification No. 2936), has been incorporated; and

Model SAAB 2000 series airplanes having serial numbers –004 through –063 inclusive, certificated in any category; except those on which Saab Service Bulletin 2000–33–015, dated January 29, 1999 (Saab Modification No. 6148), has been incorporated.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (f)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing between the fluorescent tube pins and the lampholders, which could burn the surrounding area, accomplish the following:

Restatement of Requirements of AD 97–13–06:

Inspections

(a) For Model SAAB 340B series airplanes having serial numbers –342 and –359 through –439 inclusive; and Model SAAB 2000 series airplanes having serial numbers –004 through –059 inclusive: Within 30 days after July 7, 1997 (the effective date of AD 97–13–06, amendment 39–10052), accomplish the actions required by paragraphs (a)(1), (a)(2), and (a)(3), as applicable.

(1) For all airplanes: Inspect the fluorescent lamps installed in the ceiling/window of the lavatory and passenger compartment to ensure correct installation; and inspect the lampholders for discrepancies such as discoloration, evidence of electrical arcing at the light tube pins, charring or melting, or insecure back covers; in accordance with Saab Service Bulletin 340–33–047, dated May 16, 1997 (for Model SAAB 340B series airplanes); or Saab Service Bulletin 2000–33–014, dated May 16, 1997 (for Model SAAB 2000 series airplanes); as applicable.

(i) If any lamp is installed incorrectly, prior to further flight, install the lamp correctly in accordance with the applicable service bulletin.

(ii) If any discrepancy is found, prior to further flight, replace the lampholder with a new lampholder in accordance with the applicable service bulletin.

(2) For Model SAAB 340B series airplanes on which a Page Aerospace lampholder having part number (P/N) D756–02–001 is installed: Install a retaining clip in accordance with Saab Service Bulletin 340–33–040, Revision 02, dated February 20, 1997.

Note 2: Installation of retaining clips on Page Aerospace lampholders that was accomplished prior to July 7, 1997, in accordance with Saab Service Bulletin 340–33–040, Revision 01, dated January 31, 1997, also is considered acceptable for compliance with the requirement of paragraph (a)(2) of this AD.

(3) For Model SAAB 2000 series airplanes on which a Page Aerospace lampholder having P/N C756–10–001 is installed: Install a retaining clip in accordance with Saab Service Bulletin 2000–33–009, dated June 19, 1996.

Reinspections Following Replacement or Reinstallation

(b) Following the accomplishment of the requirements of paragraph (a) or paragraph (c) of this AD: If any fluorescent lamp or lampholder is replaced or reinstalled, within 7 days after accomplishing such replacement or reinstallation, reinspect the lamp to ensure it is still in the correct position, in accordance with Saab Service Bulletin 340–33–047, dated May 16, 1997, or Revision 01, dated June 26, 1998 (for Model SAAB 340B series airplanes); or Saab Service Bulletin 2000–33–014, dated May 16, 1997 (for Model SAAB 2000 series airplanes); as applicable. If any lamp is installed incorrectly, prior to further flight, make corrections to ensure correct installation in accordance with the applicable service bulletin.

New Requirements of This AD

Inspections for Additional Airplanes

(c) For airplanes other than those specified in paragraph (a) of this AD: Within 30 days after the effective date of this AD, accomplish the requirements of paragraph (a) of this AD, and thereafter accomplish the requirements of paragraph (b) of this AD.

Terminating Modification

(d) For all airplanes: Within 18 months after the effective date of this AD, accomplish the requirements of paragraph (d)(1) or (d)(2) of this AD, as applicable. Accomplishment of the actions required by the applicable paragraph constitutes terminating action for the requirements of this AD.

(1) For Model SAAB 340B series airplanes: Replace the electronic light ballasts with improved ballasts, in accordance with Saab Service Bulletin 340–33–048, Revision 01, dated January 21, 1999. Concurrent with the replacement, modify the ballasts to ensure sufficient clearance between the ballast and certain transistors, in accordance with Saab Service Bulletin 340–33–049, Revision 02, dated February 2, 2000.

(2) For Model SAAB 2000 series airplanes: Replace the electronic light ballasts with improved ballasts, in accordance with Saab Service Bulletin 2000–33–015, dated January 29, 1999.

Note 3: Modification of the ballasts for sufficient clearance in accordance with Saab Service Bulletin 340–33–049, Revision 01, dated November 15, 1999, is acceptable for compliance with the modification requirement of paragraph (d)(1) of the AD.

Spares

(e) As of the effective date of this AD, no person shall install a fluorescent lampholder having Page Aerospace P/N D756–02–001 or Page Aerospace P/N C756–10–001 on any Model SAAB 340B or SAAB 2000 series airplane, unless the lampholder has been modified in accordance with the requirements of paragraph (a)(2) or (a)(3) of this AD, as applicable.

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 97–13–06, amendment 39–10052, are approved as alternative methods of compliance with this AD.

Note 4: 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

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

Incorporation by Reference

(h) The actions shall be done in accordance with Saab Service Bulletin 340–33–047, dated May 16, 1997; Saab Service Bulletin 340–33–047, Revision 01, dated June 26, 1998; Saab Service Bulletin 2000–33–014, dated May 16, 1997; Saab Service Bulletin 340–33–040, Revision 02, dated February 20, 1997; Saab Service Bulletin 2000–33–009, dated June 19, 1996; Saab Service Bulletin 340–33–048, Revision 01, dated January 21, 1999; Saab Service Bulletin 340–33–049, Revision 02, dated February 2, 2000; and Saab Service Bulletin 2000–33–015, dated January 29, 1999; as applicable.

(1) The incorporation by reference of Saab Service Bulletin 340–33–047, Revision 01, dated June 26, 1998; Saab Service Bulletin 340–33–048, Revision 01, dated January 21, 1999; Saab Service Bulletin 340–33–049, Revision 02, dated February 2, 2000; Saab Service Bulletin 2000–33–015, dated January 29, 1999 is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Saab Service Bulletin 340–33–047, dated May 16, 1997; Saab Service Bulletin 340–33–040, Revision 02, dated February 20, 1997; Saab Service Bulletin 2000–33–014, dated May 16, 1997; and Saab Service Bulletin 2000–33–009, dated June 19, 1996; was approved previously by the Director of the Federal Register as of July 7, 1997 (62 FR 33545, June 20, 1997).

(3) Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linkoping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in Swedish airworthiness directives 1–113R1 and 1–114R1, both dated September 8, 1998.

Effective Date

(i) This amendment becomes effective on September 20, 2000.

Issued in Renton, Washington, on August 8, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–20503 Filed 8–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–26–AD; Amendment 39–11861; AD 2000–11–52]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76 Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2000–11–52, which was sent previously to all known U.S. owners and operators of Sikorsky Aircraft Corporation (Sikorsky) Model S–76 series helicopters by individual letters. This AD requires determining the serial number (S/N) of each main rotor blade and removing certain serial numbered main rotor blades. This AD also requires visually inspecting and replacing, if necessary, other certain serial numbered main rotor blades. This AD is prompted by a report of a crack in a main rotor blade and three reports of root end pocket separation from main rotor blades during flight. The crack and the main rotor blade root end pocket separation were due to improper manufacture of certain main rotor blade skins. The actions specified by this AD are intended to prevent main rotor blade root end pocket separation, impact with main rotor or tail rotor blades, and subsequent loss of control of the helicopter.

DATES: Effective August 31, 2000, to all persons except those persons to whom it was made immediately effective by Emergency AD 2000–11–52, issued on May 26, 2000, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 31, 2000.

Comments for inclusion in the Rules Docket must be received on or before October 16, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–26–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The applicable service information may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, P. O. Box 9729, Stratford, Connecticut 06497–9129, phone (203) 386–7860, fax (203) 386–4703. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wayne Gaulzetti, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7156, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On May 26, 2000, the FAA issued Emergency AD 2000–11–52, for Sikorsky Model S–76 series helicopters, which requires determining the S/N of each main rotor blade and removing certain serial numbered main rotor blades. The AD also requires visually inspecting and replacing, if necessary, other certain serial numbered main rotor blades. That action was prompted by a report of a 20-inch crack in the root end pocket of a main rotor blade and three reports of root end pocket separation of 4 to 6 foot sections of main rotor blades during flight. The crack and the main rotor blade root end pocket separation were due to improper manufacture of certain main rotor blade skins. This condition, if not corrected, could result in a root end pocket separating and impacting a main rotor or tail rotor blade and

subsequent loss of control of the helicopter.

The FAA has reviewed Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–65–50, dated May 25, 2000 (ASB), which identifies certain serial-numbered main rotor blades that need to be removed from service. The ASB also describes performing a visual inspection, implementing a recurring visual inspection of certain serial-numbered main rotor blades for span-wise skin cracks, and removing any main rotor blade with a span-wise crack from service before further flight.

Since the unsafe condition described is likely to exist or develop on other Sikorsky Model S–76 series helicopters of the same type design, the FAA issued Emergency AD 2000–11–52 to prevent main rotor blade root end pocket separation, impact with main rotor or tail rotor blades, and subsequent loss of control of the helicopter. The AD requires, before further flight, determining the S/N of each main rotor blade and accomplishing the following actions in accordance with the ASB described previously:

• Remove any main rotor blade identified by S/N in Group 1 of the ASB Planning Information before further flight.

• Before each flight and at intervals not to exceed 3 hours time-in-service, visually inspect any main rotor blade identified by S/N in Group 2 of the ASB Planning Information for a span-wise crack in the upper and lower root end area. Remove any main rotor blade with a span-wise crack and replace it with an airworthy blade before further flight.

Any blade repaired in accordance with Sikorsky Aircraft Corporation Overhaul and Repair Instructions (ORI) No. 76150–023, Revision A, dated May 26, 2000, is not affected by the requirements of this AD. Accomplishing ORI 76150–023, Revision A, dated May 26, 2000, on each affected blade is terminating action for the requirements of this AD. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, the actions listed previously are required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on May 26, 2000, to all known U.S. owners and operators of Sikorsky Model S–76 series helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

The FAA estimates that 167 helicopters of U.S. registry will be affected by this AD. It will take approximately 10 work hours to replace each main rotor blade, if necessary, and 4 work hours per helicopter to inspect the main rotor blades. The average labor rate is $60 per work hour. Required parts will cost approximately $99,651 per helicopter (assuming replacement of all 4 blades). Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,248,480 ($40,080 to inspect the fleet and $4,208,400 to replace all main rotor blades on 25 percent of the U.S. fleet).

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–26–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–11–52 Sikorsky Aircraft Corporation: Amendment 39–11861. Docket No. 2000–SW–26–AD.

Applicability: Model S–76 series helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance

of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) 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 main rotor blade root end pocket separation, impact with main rotor or tail rotor blades, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, determine the serial number of each main rotor blade.

(b) Any main rotor blade identified in paragraphs (c) or (d) of this AD that has been repaired in accordance with Sikorsky Aircraft Corporation Overhaul and Repair Instructions (ORI) No. 76150–023, Revision A, dated May 26, 2000, and marked as RS–023–1 is not affected by the requirements of this AD.

(c) Before further flight, remove any main rotor blade identified by serial number (S/N) in the Group 1, paragraph 1.A. Planning Information of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–65–50, dated May 25, 2000 (ASB).

(d) Before each flight and at intervals not to exceed 3 hours time-in-service, visually inspect any main rotor blade, identified by S/N in Group 2, paragraph 1.A. of the ASB Planning Information, for a span-wise crack in the upper and lower root end area, in accordance with paragraph 3.B. of the ASB Accomplishment Instructions. Remove any main rotor blade with a span-wise crack and replace with an airworthy blade before further flight.

(e) Accomplishing ORI 76150–023, Revision A, dated May 26, 2000, on each affected blade is terminating action for the requirements of this AD.

Note 2: A crack, other than a span-wise crack, in the root end cap of the main rotor blade should be dispositioned in accordance with the applicable Maintenance Manual.

(f) 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, Boston Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(g) 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 helicopter to a location where the requirements of this AD can be accomplished.

(h) The removal of certain serial numbered main rotor blades shall be done in accordance with Group 1, paragraph 1.A. Planning Information of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–65–50, dated May 25, 2000. The visual inspection shall be done in accordance with paragraph 3.B. of the Accomplishment Instructions of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–65–50, dated May 25, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, P.O. Box 9729, Stratford, Connecticut 06497–9129, phone (203) 386–7860, fax (203) 386–4703. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on August 31, 2000, to all persons except those persons to whom it was made immediately effective by Emergency AD 2000–11–52, issued May 26, 2000, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on August 7, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–20502 Filed 8–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–84–AD; Amendment 39–11860; AD 2000–16–06]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 430 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Bell Helicopter Textron Canada (BHTC) Model 430 helicopters. This AD requires replacing arm clamp screws (screws) in the yaw, roll, pitch, and collective syncro resolvers, and installing a guard bracket on the yaw, roll, pitch, and collective syncro resolvers. This AD is prompted by an operator's report that a yaw control channel jammed during freedom-of-control checks following maintenance. The actions specified by this AD are intended to prevent a jammed flight control and subsequent loss of control of the helicopter.

DATES: Effective September 20, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 20, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD for BHTC Model 430 helicopters was published in the **Federal Register** on May 3, 2000 (65 FR 25694). That action proposed to require replacing screws in the yaw, roll, pitch, and collective syncro resolvers, and installing a guard bracket on the yaw, roll, pitch, and collective syncro resolvers.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 33 helicopters of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $548. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $29,964.

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a

''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–16–06 Bell Helicopter Textron Canada: Amendment 39–11860. Docket No. 99–SW–84–AD.

Applicability: Model 430 helicopters, serial numbers 49001 through 49018, 49020 through 49043, and 49045 through 49051, certificated in any category.

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

Compliance: Required within 150 hours time-in-service after the effective date of this AD, unless accomplished previously.

To prevent a jammed flight control and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the arm clamp screws (screws) in the yaw, roll, pitch, and collective syncro resolvers and replace them with airworthy screws in accordance with the Accomplishment Instructions in Alert Service Bulletin 430–99–11, dated May 7, 1999 (ASB).

(b) Install a guard bracket on the yaw, roll, pitch, and collective syncro resolvers in accordance with the Accomplishment Instructions in the ASB.

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

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

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

(e) The modifications shall be done in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin 430–99–11, dated May 7, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on September 20, 2000.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD No. CF–99–26, dated September 28, 1999.

Issued in Fort Worth, Texas, on August 2, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–20404 Filed 8–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 70

Food and Drug Administration

21 CFR Part 1240

[Docket No. 00N–1317]

Control of Communicable Diseases; Apprehension and Detention of Persons With Specific Diseases; Transfer of Regulations

AGENCIES: Food and Drug Administration and Centers for Disease Control and Prevention, HHS.

ACTION: Final rule.

SUMMARY: The Secretary of Health and Human Service (the Secretary) is transferring a portion of the Food and Drug Administration (FDA) ''Control of Communicable Diseases'' regulations to the Centers for Disease Control and Prevention (CDC). In general, these regulations provide the Secretary with the authority to apprehend, detain, or conditionally release individuals to prevent the spread of specified communicable diseases. The regulations implement the provisions of the Public Health Service Act (PHS Act) to prevent the introduction, transmission, or spread of communicable diseases from one State or possession into any other State or possession. CDC will have authority for interstate quarantine over persons, while FDA will retain regulatory authority over animals and other products that may transmit or spread communicable diseases. The Secretary is taking this action to consolidate regulations designed to control the spread of communicable diseases, thereby increasing the agencies' efficiency and effectiveness.

DATES: This rule is effective September 15, 2000.

ADDRESSES: Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for CDC.

FOR FURTHER INFORMATION CONTACT:

James E. Barrow, National Center for Infectious Diseases (E–03), Centers for Disease Control and Prevention, 1600 Clifton Rd. NE., Atlanta, GA 30333, 404–639–8107; or

Captain Lawrence C. Edwards, Retail Food and Interstate Travel Team (HFS–627), Food and Drug Administration, 200 ''C'' St. SW.,

Washington DC 20204, 202–205–8280.

SUPPLEMENTARY INFORMATION:

I. Background

Under sections 361 and 369 of the PHS Act, as amended, the Secretary issues and enforces regulations necessary to prevent the introduction, transmission, or spread of communicable diseases in the United States. FDA and CDC have been delegated regulatory responsibility under these provisions. The regulations contained in part 1240 (21 CFR part 1240), pertain to interstate control of communicable diseases and are currently administered by FDA. Regulations to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States are currently administered by CDC in 42 CFR part 71. The Secretary is taking this action to consolidate regulations designed to control the spread of communicable diseases, thereby increasing the agencies' efficiency and effectiveness.

The Secretary is transferring regulatory authority contained in the following sections of 21 CFR part 1240 to CDC: Section 1240.3 introductory text and paragraphs (b), (c), (e), (g), (h), (l), (n), and (p); § 1240.30; and Subpart C—Restrictions on Travel of Persons (consisting of §§ 1240.40, 1240.45, 1240.50, 1240.54, 1240.55, and 1240.57). The transferred regulations will be sequentially renumbered in 42 CFR part 70. In addition, ''Director of the Centers for Disease Control and Prevention''has been inserted in new 42 CFR 70.2 in place of ''Commissioner of Food and Drugs,'' currently in 21 CFR 1240.30.

Although regulatory authority with respect to interstate quarantine over persons in §§ 1240.3, 1240.30, and 1240.45 is being transferred to CDC, FDA is retaining its regulatory authority in §§ 1240.3, 1240.30, and 1240.45 with respect to animals and other products that may transmit or spread communicable diseases, to ensure that FDA's Center for Food Safety and Applied Nutrition has the necessary authorities to prevent the spread of disease from any conveyance engaged in interstate travel or in the event of inadequate local control. Current § 1240.45 is also being moved to 21 CFR part 1240, subpart B (Administrative Procedures), and subpart C is being removed and reserved. The Secretary is issuing this rule without publishing a general notice of proposed rulemaking because such a notice is not required for this rule of agency organization, procedure, or practice under 5 U.S.C. 553(b)(A).

Table 1 reflects the actions the Secretary is taking:

TABLE 1

Current 21 CFR Sections (FDA)	New 42 CFR Sections (CDC)
1240.3 introductory text, and paragraphs (b), (c), (e), (g), (h), (l), (n), and (p) transferring and retaining.	70.1
1240.30 transferring and retaining	70.2
1240.40 transferred to	70.3
1240.45 transferring and retaining	70.4
1240.50 transferred to	70.5
1240.54 transferred to	70.6
1240.55 transferred to	70.7
1240.57 transferred to	70.8

This transfer of authority does not affect other authority exercised by FDA under sections 361 and 369, or any other sections, of the PHS Act.

II. Environmental Impact

FDA has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required. In the absence of an applicable categorical exclusion, CDC conducted an environmental assessment of this transfer of authority in accordance with the Department of Health and Human Services administrative guidance and determined that the transfer presented no significant impact on the human environment.

III. Federalism

Executive Order 13132 applies when agencies formulate or implement policies or regulations that preempt State law or that have federalism implications. Executive Order 13132 provides that agencies are to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and assess carefully the need for such actions. FDA and CDC have examined this rule and have determined that it does not preempt State law and 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. Rather, the Secretary is taking this action to consolidate regulations to control the spread of communicable diseases, thereby increasing the agencies' efficiency and effectiveness. Therefore, no further action is required by Executive Order 13132.

IV. Analysis of Impacts

FDA and CDC have examined the impacts of this rule under Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or more, or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. The agencies find that this final rule, which transfers existing regulatory authority from one agency to the other, is not a significant rule as defined by Executive Order 12866. No analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612) because the Secretary is issuing it without publishing a general notice of proposed rulemaking, as explained previously in this document.

V. Paperwork Reduction Act of 1995

This final rule contains information collection provisions that are subject to

review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In the **Federal Register** of April 12, 2000 (65 FR 19772), CDC published a document entitled ''Proposed Data Collections Submitted for Public Comment and Recommendations'' to collect information under those regulations, and sought public comment for 60 days. The comment period closed on June 12, 2000. CDC will now prepare an information collection request for submission to OMB, and will publish another document in the **Federal Register** announcing submission of the request to OMB and soliciting that comments be submitted to OMB. CDC will publish an additional document in the **Federal Register** announcing OMB's decision to approve, modify, or disapprove the information collection provisions of this final rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

List of Subjects

21 CFR Part 1240

Communicable diseases, Public health, Travel restrictions, Water supply.

42 CFR Part 70

Communicable diseases, Public health, Quarantine, Reporting and recordkeeping requirements, Travel restrictions.

Therefore, under the Public Health Service Act, 21 CFR Chapter I and 42 CFR Chapter I are amended as follows:

21 CFR Chapter I

PART 1240—CONTROL OF COMMUNICABLE DISEASES

1. The authority citation for 21 CFR part 1240 continues to read as follows:

Authority: 42 U.S.C. 216, 243, 264, 271.

§ 1240.45 [Transferred from Subpart C to Subpart B]

2. Section 1240.45 *Report of disease* is transferred from subpart C to subpart B.

Subpart C [Removed and Reserved]

3. Subpart C is removed and reserved.

42 CFR Chapter I

4. Part 70 is added to subchapter F of Chapter I to read as follows:

PART 70—INTERSTATE QUARANTINE

Secs.

Authority: 42 U.S.C. 216, 243, 264, 271.

§ 70.1 General definitions.

As used in this part, terms shall have the following meaning:

(a) *Communicable diseases* means illnesses due to infectious agents or their toxic products, which may be transmitted from a reservoir to a susceptible host either directly as from an infected person or animal or indirectly through the agency of an intermediate plant or animal host, vector, or the inanimate environment.

(b) *Communicable period* means the period or periods during which the etiologic agent may be transferred directly or indirectly from the body of the infected person or animal to the body of another.

(c) *Conveyance* means any land or air carrier, or any vessel as defined in paragraph (h) of this section.

(d) *Incubation period* means the period between the implanting of disease organisms in a susceptible person and the appearance of clinical manifestation of the disease.

(e) *Interstate traffic* means:

(1) The movement of any conveyance or the transportation of persons or property, including any portion of such movement or transportation that is entirely within a State or possession—

(i) From a point of origin in any State or possession to a point of destination in any other State or possession; or

(ii) Between a point of origin and a point of destination in the same State or possession but through any other State, possession, or contiguous foreign country.

(2) Interstate traffic does not include the following:

(i) The movement of any conveyance which is solely for the purpose of unloading persons or property transported from a foreign country, or loading persons or property for transportation to a foreign country.

(ii) The movement of any conveyance which is solely for the purpose of effecting its repair, reconstruction, rehabilitation, or storage.

(f) *Possession* means any of the possessions of the United States, including Puerto Rico and the Virgin Islands.

(g) *State* means any State, the District of Columbia, Puerto Rico, and the Virgin Islands.

(h) *Vessel* means any passenger-carrying, cargo, or towing vessel exclusive of:

(1) Fishing boats including those used for shell-fishing;

(2) Tugs which operate only locally in specific harbors and adjacent waters;

(3) Barges without means of self-propulsion;

(4) Construction-equipment boats and dredges; and

(5) Sand and gravel dredging and handling boats.

§ 70.2 Measures in the event of inadequate local control.

Whenever the Director of the Centers for Disease Control and Prevention determines that the measures taken by health authorities of any State or possession (including political subdivisions thereof) are insufficient to prevent the spread of any of the communicable diseases from such State or possession to any other State or possession, he/she may take such measures to prevent such spread of the diseases as he/she deems reasonably necessary, including inspection, fumigation, disinfection, sanitation, pest extermination, and destruction of animals or articles believed to be sources of infection.

§ 70.3 All communicable diseases.

A person who has a communicable disease in the communicable period shall not travel from one State or possession to another without a permit from the health officer of the State, possession, or locality of destination, if such permit is required under the law applicable to the place of destination. Stop-overs other than those necessary for transportation connections shall be considered as places of destination.

§ 70.4 Report of disease.

The master of any vessel or person in charge of any conveyance engaged in interstate traffic, on which a case or suspected case of a communicable disease develops shall, as soon as practicable, notify the local health authority at the next port of call, station, or stop, and shall take such measures to prevent the spread of the disease as the local health authority directs.

§ 70.5 Certain communicable diseases; special requirements.

The following provisions are applicable with respect to any person who is in the communicable period of cholera, plague, smallpox, typhus or yellow fever, or who, having been

exposed to any such disease, is in the incubation period thereof:

(a) *Requirements relating to travelers.* (1) No such person shall travel from one State or possession to another, or on a conveyance engaged in interstate traffic, without a written permit of the Surgeon General or his/her authorized representative.

(2) Application for a permit may be made directly to the Surgeon General or to his/her representative authorized to issue permits.

(3) Upon receipt of an application, the Surgeon General or his/her authorized representative shall, taking into consideration the risk of introduction, transmission, or spread of the disease from one State or possession to another, reject it, or issue a permit that may be conditioned upon compliance with such precautionary measures as he/she shall prescribe.

(4) A person to whom a permit has been issued shall retain it in his/her possession throughout the course of his/her authorized travel and comply with all conditions prescribed therein, including presentation of the permit to the operators of conveyances as required by its terms.

(b) *Requirements relating to operation of conveyances.*(1) The operator of any conveyance engaged in interstate traffic shall not knowingly:

(i) Accept for transportation any person who fails to present a permit as required by paragraph (a) of this section; or

(ii) Transport any person in violation of conditions prescribed in his/her permit.

(2) Whenever a person subject to the provisions of this section is transported on a conveyance engaged in interstate traffic, the operator thereof shall take such measures to prevent the spread of the disease, including submission of the conveyance to inspection, disinfection and the like, as an officer of the Public Health Service designated by the Surgeon General for such purposes deems reasonably necessary and directs.

§ 70.6 Apprehension and detention of persons with specific diseases.

Regulations prescribed in this part are not applicable to the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of the following diseases: Anthrax, chancroid, cholera, dengue, diphtheria, granuloma inguinale, infectious encephalitis, favus, gonorrhea, leprosy, lymphogranuloma venereum, meningococcus meningitis, plague, poliomyelitis, psittacosis, relapsing fever, ringworm of the scalp, scarlet fever, streptococcic sore throat, smallpox, syphilis, trachoma, tuberculosis, typhoid fever, typhus, and yellow fever.

§ 70.7 Responsibility with respect to minors, wards, and patients.

A parent, guardian, physician, nurse, or other such person shall not transport, or procure or furnish transportation for any minor child or ward, patient or other such person who is in the communicable period of a communicable disease, except in accordance with provisions of this part.

§ 70.8 Members of military and naval forces.

The provisions of §§ 70.3, 70.4, 70.5, 70.7, and this section shall not apply to members of the military or naval forces, and medical care or hospital beneficiaries of the Army, Navy, Veterans' Administration, or Public Health Service, when traveling under competent orders: *Provided*, That in the case of persons otherwise subject to the provisions of § 70.5 the authority authorizing the travel requires precautions to prevent the possible transmission of infection to others during the travel period.

Dated: August 8, 2000.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 00–20719 Filed 8–15–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 8896]

RIN 1545–AY37

Modification of Tax Shelter Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: These temporary regulations modify the rules relating to the filing by certain corporate taxpayers of a statement with their Federal corporate income tax returns under section 6011(a), the registration of confidential corporate tax shelters under section 6111(d), and the maintenance of lists of investors in potentially abusive tax shelters under section 6112. These regulations provide the public with additional guidance needed to comply with the disclosure rules, the registration requirement, and the list maintenance requirement applicable to tax shelters. The temporary regulations affect corporations participating in certain reportable transactions, persons responsible for registering confidential corporate tax shelters, and organizers of potentially abusive tax shelters. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These temporary regulations are effective August 11, 2000.

Applicability Date: For dates of applicability, see §§ 1.6011–4T(g), 301.6111–2T(h), and 301.6112–1T, A–22.

FOR FURTHER INFORMATION CONTACT: Catherine Moore, (202) 622–3080, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these regulations previously have been reviewed and approved by the Office of Management and Budget under control numbers 1545–1685 and 1545–1686. No material changes to these collections of information are made by these regulations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

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

Background

This document amends 26 CFR parts 1 and 301 to provide modified rules relating to the disclosure of certain tax shelters by corporate investors on their Federal corporate income tax returns under section 6011, the registration of confidential corporate tax shelters under section 6111, and the maintenance of lists of investors in potentially abusive tax shelters under section 6112.

On February 28, 2000, the IRS issued temporary and proposed regulations regarding section 6011 (TD 8877, REG–103735–00), section 6111 (TD 8876, REG–110311–98), and section 6112 (TD 8875, REG–103736–00). The regulations were published in the **Federal Register** (65 FR 11205, 65 FR 11215, 65 FR 11211) on March 2, 2000.

Based on comments that have been received, the IRS and Treasury have determined that certain interim changes to the temporary and proposed regulations are warranted. The changes in the proposed rules are published elsewhere in this issue of the **Federal Register**. The interim changes are intended to clarify certain provisions of the regulations, address certain practical problems relating to compliance with the regulations, and make certain other changes relating to the scope of the regulations.

It is anticipated that other changes will be made in the final regulations. The IRS and Treasury have determined that additional time is needed to evaluate a number of the comments and recommendations. The IRS and Treasury continue to invite comments on all provisions of the temporary and proposed regulations, including provisions modified by this document. Furthermore, to the extent that taxpayers or other persons believe that there are specific types of transactions for which disclosure is required under the regulations, and that such disclosure is not consistent with the purposes of the regulations, the IRS and Treasury solicit comments that identify such types of transactions and explain those concerns. Such comments will be taken into account in establishing the scope of the final regulations and will also assist the IRS and Treasury in determining whether there are classes of transactions that should be specifically excepted from disclosure under the final regulations.

Explanation of Provisions

1. Disclosure Statement Required for Certain Corporate Taxpayers

The temporary regulations under section 6011 provide that every taxpayer that is required to file a return for a taxable year with respect to any tax imposed under section 11 and that has participated, directly or indirectly, in a reportable transaction shall attach a disclosure statement to its return for each taxable year for which the taxpayer's Federal income tax liability is affected by its participation in the reportable transaction. It has come to the attention of the IRS and Treasury that the temporary regulations under section 6011 may have technically failed to include insurance companies and mutual savings banks conducting life insurance business. The IRS and Treasury intended those corporations to be subject to the disclosure requirement in the regulations. The regulations are amended accordingly.

2. Record Retention Requirement for Certain Reportable Transactions

The temporary regulations under section 6011 provide that a taxpayer must retain all documents relating to a reportable transaction until the expiration of the statute of limitations for the first taxable year for which a disclosure statement is filed with the taxpayer's tax return.

The IRS and Treasury seek to clarify the record retention requirement. As modified, the temporary regulations provide that a taxpayer must retain a copy of all documents and other records related to a transaction subject to disclosure under this section that are material to an understanding of the facts of the transaction, the expected tax treatment of the transaction, or the corporation's decision to participate in the transaction.

3. Confidentiality

Under section 6111(d), a confidential corporate tax shelter must be registered. In describing *confidentiality,* the temporary regulations under section 6111(d) provide that if an offeree's disclosure of the structure or tax aspects of the transaction is limited in any way by an express or implied understanding or agreement with or for the benefit of any tax shelter promoter, an offer is considered made under conditions of confidentiality, whether or not such understanding or agreement is legally binding. An offer will also be considered made under conditions of confidentiality in the absence of any such understanding or agreement if any tax shelter promoter knows or has reason to know that the transaction is protected from disclosure or use in any other manner. However, unless the facts and circumstances clearly indicate otherwise, an offer is not considered made under conditions of confidentiality if the tax shelter promoter enters into a written agreement with each person who participates or discusses participation in the transaction and such agreement expressly authorizes such persons to disclose every aspect of the transaction with any and all persons, without limitation of any kind.

The IRS and Treasury understand that, in certain circumstances, limitations on disclosure of the structure or tax aspects of a transaction may be considered necessary to comply with Federal or state securities laws. Consequently, the temporary regulations under section 6111(d) are modified to provide an exception for restrictions on disclosure of the structure or tax aspects of the transaction reasonably necessary to comply with those securities laws.

The IRS and Treasury received comments inquiring whether an exclusivity agreement (*i.e.,* an agreement requiring the offeree to pay a fee to a promoter if the offeree engages in the transaction, whether or not the offeree uses the services of that promoter) is a condition of confidentiality. It is the view of the IRS and Treasury that an exclusivity agreement is within the scope of section 6111(d)(2)(B) because it is a limitation on use, and the temporary regulations have been clarified to so provide. However, the regulations have also been clarified to provide that an exclusivity arrangement ordinarily will not result in an offer being treated as made under conditions of confidentiality if the tax shelter promoter provides express written authorization for disclosure. As modified, the written authorization rule is applicable if the promoter expressly authorizes each offeree to disclose the structure and tax aspects of the transaction to any and all persons, without limitation of any kind on such disclosure.

In addition, the temporary regulations are modified to provide that, under section 6111(d)(2)(B), limitations on disclosure or use create a condition of confidentiality only if the limitations relate to the structure or tax aspects of the transaction and such limitations are for the benefit of any person other than the offeree.

4. Tax Shelter Promoter

The temporary regulations under section 6111(d) provide that the term *tax shelter promoter* includes a tax shelter organizer under section 6111(e)(1) and § 301.6111–1T(Q&A–26 through Q&A–32) and any other person who participates in the organization, management or sale of a tax shelter (other than a person who merely performs services of the kind described in § 301.6111–1T Q&A–33) or any person related (within the meaning of section 267 or 707) to such tax shelter organizer or such other person.

The IRS and Treasury recognize that the definition of a promoter as currently worded implies that a person can be a promoter by participating in the organization, management or sale of a tax shelter in a way other than as described in section 6111(e)(1) and § 301.6111–1T (Q&A–26 through Q&A–32). The regulations under section 6111(d) are amended to clarify that a person is a promoter only if the person participates in the organization, management or sale of a tax shelter under the rules in section 6111(e)(1) and

§ 301.6111–1T (Q&A–26 through Q&A–33), or is related to such person under section 267 or 707(b).

The regulations are also modified to clarify that only promoters that are classified as organizers under section 6111(e)(1) are required to register tax shelters.

5. Investor List Requirement of Section 6112

Any person who organizes or sells an interest in a confidential corporate tax shelter must maintain a list of persons who were sold an interest in the tax shelter and such other information as required by section 6112. See § 301.6112–1T. The temporary regulations under section 6112 require that, in addition to the lists required for confidential corporate tax shelters, lists must also be maintained with respect to transactions for which the avoidance or evasion of Federal income tax is considered to be a significant purpose of the structure of the transaction, as determined in section 6111(d)(1)(A) and § 301.6111–2T(b), whether or not the transactions are offered under conditions of confidentiality.

Section 6111(d)(1)(A) provides that the term *tax shelter* includes any entity, plan, arrangement, or transaction a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation. The temporary regulations cross-reference section 6111(d)(1)(A) to provide the standard for determining whether the structure of a transaction has a significant purpose of avoidance or evasion of Federal income tax. The temporary regulations are amended to provide that a transaction may be subject to the list maintenance requirement whether or not the transaction is offered to corporate investors. Thus, a list of noncorporate investors will be required to be maintained whether or not the transaction is ever offered to a corporate investor. However, as discussed below, the temporary regulations are modified to include fee and tax reduction thresholds for list maintenance.

Two additional modifications are made to the temporary regulations. First, the definitions of organizer and seller are clarified for purposes of section 6112. Second, the procedure for designating a person to maintain the list under section 6112 is modified for transactions other than section 6111(c) shelters and projected income investments.

6. Tax Reduction and Fee Thresholds for Investor List Requirement of Section 6112

The temporary regulations under section 6112 do not limit the investors who must be included on the list. In response to comments, the IRS and Treasury have determined that in certain cases organizers and sellers of interests in potentially abusive tax shelters should be required to include on the list only investors that meet fee and tax reduction thresholds. Accordingly, the temporary regulations under section 6112 are amended to provide that, for a potentially abusive tax shelter that is not required to be registered under section 6111, is not a listed transaction described in § 301.6111–2T(b)(2), and is not a projected income investment as described in § 301.6111–1T A–57A, an organizer or seller of an interest in a shelter may, but is not required to, list an investor if the total consideration paid to all organizers and sellers with respect to such investor's acquisition of the interest is less than $25,000, or if the organizer reasonably believes that such investor's acquisition of the interest will not result in a reduction of the Federal income tax liability of any corporation or corporations that exceeds, or exceeds in the aggregate, $1 million in any single taxable year or a total of $2 million for any combination of taxable years and will not result in a reduction of the Federal income tax liability of any noncorporate taxpayer or taxpayers that exceeds, or exceeds in the aggregate, $250,000 in any single taxable year or a total of $500,000 for any combination of taxable years.

7. Effective Date

The regulations are applicable August 11, 2000. However, in general, taxpayers may rely on the regulations after February 28, 2000.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because these regulations impose no new collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Catherine Moore, Office of the Associate Chief Counsel (Passthroughs and Special Industries). 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 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.6011–4T is amended as follows:

1. The first sentence of paragraph (a) is revised.

2. Paragraph (d)(1), second sentence, is amended by removing the language ''LM:PF'' and adding ''LM:PFTG:OTSA'' in its place.

3. Paragraphs (e) and (g) are revised.

The revisions read as follows:

§ 1.6011–4T Requirement of statement disclosing participation in certain transactions by corporate taxpayers (Temporary).

(a) *In general.* Every taxpayer that is required to file a return for a taxable year with respect to a tax imposed under section 11, 594, 801, or 831 and that has participated, directly or indirectly, in a reportable transaction within the meaning of paragraph (b) of this section must attach to its return for the taxable year described in paragraph (d) of this section a disclosure statement in the form prescribed by paragraph (c) of this section. * * *

* * * * *

(e) *Retention of documents.* The taxpayer must retain a copy of all documents and other records related to a transaction subject to disclosure under this section that are material to an understanding of the facts of the

transaction, the expected tax treatment of the transaction, or the corporation's decision to participate in the transaction. Such documents must be retained until the expiration of the statute of limitations applicable to the first taxable year for which disclosure of the transaction was made in accordance with the requirements of this section. (This document retention requirement is in addition to any document retention requirements that section 6001 generally imposes on the taxpayer.) Such documents generally include, but are not limited to, the following: marketing materials related to the transaction; written analyses used in decision-making related to the transaction; correspondence and agreements between the taxpayer and any promoter, advisor, lender, or other party to the reportable transaction that relate to the transaction; documents discussing, referring to, or demonstrating the tax benefits arising from the reportable transaction; and documents, if any, referring to the business purposes for the reportable transaction.

* * * * *

(g) *Effective date.* This section applies to Federal corporate income tax returns filed after February 28, 2000. However, paragraphs (a) and (e) of this section apply to Federal corporate income tax returns filed after August 11, 2000 and to documents and other records that the taxpayer acquires, prepares, or has in its possession on or after August 11, 2000. Taxpayers may rely on the rules in paragraphs (a) and (e) of this section for Federal corporate income tax returns filed after February 28, 2000, and for documents and other records that the taxpayer acquires, prepares, or has in its possession on or after February 28, 2000. Otherwise, the rules that apply with respect to Federal corporate income tax returns filed after February 28, 2000, and records that the taxpayer acquires, prepares, or has in its possession prior to August 11, 2000, are contained in § 1.6011–4T in effect prior to August 11, 2000 (see 26 CFR part 1 revised as of April 1, 2000).

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

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

Par. 4. Section 301.6111–2T is amended as follows:

1. Paragraph (b)(3)(ii) is amended by removing the word ''corporate''.

2. Paragraph (c) is amended as follows:

a. The last two sentences of paragraph (c)(1) are revised.

b. Paragraph (c)(2) is revised.

c. Paragraph (c)(3) is added.

3. Paragraphs (f) and (g)(1) are revised.

4. Paragraph (h) is amended by adding three sentences at the end of the paragraph.

The revisions and additions read as follows:

§ 301.6111–2T Confidential corporate tax shelters (temporary).

* * * * *

(c) * * * (1) * * * Pursuant to section 6111(d)(2)(B), an offer will also be considered made under conditions of confidentiality in the absence of any such understanding or agreement if any tax shelter promoter knows or has reason to know that the offeree's use or disclosure of information relating to the structure or tax aspects of the transaction is limited for the benefit of any person other than the offeree in any other manner, such as where the transaction is claimed to be proprietary or exclusive to the tax shelter promoter or any party other than the offeree. An offeree's privilege to maintain the confidentiality of a communication relating to a tax shelter in which the offeree might participate or has agreed to participate, including an offeree's confidential communication with the offeree's attorney, is not itself a condition of confidentiality.

(2) *Securities law exception.* An offer is not considered made under conditions of confidentiality if disclosure of the structure or tax aspects of the transaction is subject to restrictions reasonably necessary to comply with federal or state securities laws and such disclosure is not otherwise limited.

(3) *Presumption.* Unless facts and circumstances clearly indicate otherwise, an offer is not considered made under conditions of confidentiality if the tax shelter promoter provides express written authorization to each offeree permitting the offeree (and each employee, representative, or other agent of such offeree) to disclose the structure and tax aspects of the transaction to any and all persons, without limitation of any kind on such disclosure.

* * * * *

(f) *Definition of tax shelter promoter.* For purposes of section 6111(d)(2) and this section, the term *tax shelter promoter* includes a tax shelter organizer and any other person who participates in the organization, management or sale of a tax shelter (as those persons are described in section 6111(e)(1) and § 301.6111–1T (Q&A–26 through Q&A–33) or any person related (within the meaning of section 267 or 707) to such tax shelter organizer or such other person.

(g) *Person required to register*—(1) *Tax shelter promoters.* The rules in section 6111 (a) and (e) and § 301.6111–1T (Q&A–34 through Q&A–39) determine who is required to register a confidential corporate tax shelter. A promoter of a confidential corporate tax shelter must register the tax shelter only if it is a person required to register under the rules in section 6111 (a) and (e) and § 301.6111–1T (Q&A–34 through Q&A–39).

* * * * *

(h) * * * However, paragraphs (b)(3)(ii), (c)(1), (2) and (3), (f), and (g)(1) of this section apply to confidential corporate tax shelters in which any interests are offered for sale after August 11, 2000. The rules in paragraphs (b)(3)(ii), (c)(1), (2) and (3), (f), and (g)(1) of this section may be relied upon for confidential corporate tax shelters in which any interests are offered for sale after February 28, 2000. Otherwise, the rules that apply to confidential corporate tax shelters in which any interests are offered for sale after February 28, 2000, are contained in § 301.6111–2T in effect prior to August 11, 2000 (see 26 CFR part 301 revised as of April 1, 2000).

Par. 5. Section 301.6112–1T is amended as follows:

1. A–4(a) is revised.

2. The last two sentences of A–5 are removed and a new sentence is added in their place.

3. A–6 is amended as follows:

a. Paragraph (b) is amended by removing the language ''and'' at the end of the paragraph.

b. Paragraph (c) is amended by removing the period at the end of the paragraph and adding ''; and'' in its place.

c. Paragraph (d) is added immediately after paragraph (c).

4. The last sentence of A–7 is revised.

5. A–8 is amended as follows:

a. In A–8, introductory text and paragraphs (a) through (e) are redesignated as paragraph (a) introductory text and paragraphs (a)(1) through (a)(5), respectively.

b. New paragraph (b) is added immediately after *Example (2)* in newly designated paragraph (a)(5).

6. The last two sentences of A–9 are amended by removing the language ''paragraph (e)'' and adding ''paragraph(a)(5)'' in its place.

7. One sentence is added at the end of A–10.

8. A–11 is amended as follows:

a. In A–11, introductory text and paragraphs (a) and (b) are redesignated as paragraph (a) introductory text and paragraphs (a)(1) and (a)(2), respectively.

b. New paragraph (b) is added.

9. A–17 is amended as follows:

a. Paragraph (a)(3) is revised.

b. Paragraph (c) is added.

10. The first and second sentences of A–19 are amended by removing the language ''paragraph (d) or paragraph (e)'' and adding ''paragraph (a)(4) or (5)'' in its place.

11. A–22 is amended by adding three sentences before the last sentence.

The additions and revisions read as follows:

§ 301.6112–1T Questions and answers relating to the requirement to maintain a list of investors in potentially abusive tax shelters (temporary).

* * * * *

A–4.(a) Yes; for purposes of the list requirement, a tax shelter includes any tax shelter that is a projected income investment, as defined in § 301.6111–1T A–57A, and any transaction a significant purpose of the structure of which is the avoidance or evasion of Federal income tax within the meaning of section 6111(d)(1)(A) and § 301.6111–2T(b) (whether or not offered to any direct or indirect corporate participant). For this purpose, as under § 301.6111–2T, the term *transaction* includes all of the factual elements necessary to support the tax benefits that are expected to be claimed with respect to any entity, plan, or arrangement, including any series of related steps carried out as part of a prearranged plan.

* * * * *

A–5. * * * In addition, an organizer is any other person who participates in the organization or management of the tax shelter within the meaning of § 301.6111–1T A–28 or A–29, except those persons whose activities do not constitute participation in the organization or management of a tax shelter under § 301.6111–1T A–30 or A–33.

* * * * *

A–6. * * *

(d) Any other person who receives consideration in connection with another person's right to participate in a tax shelter, for services necessary to the organization or structure of such tax shelter (other than services that do not constitute participation in the organization or management of a tax shelter under § 301.6111–1T A–30 or A–33), or for information that is integral to participation in such tax shelter.

* * * * *

A–7. * * * In addition, in any case in which a person has directly or indirectly paid consideration to an organizer or seller for the right to participate in a tax shelter, for services necessary to the organization or structure of such tax shelter (other than services that do not constitute participation in the organization or management of a tax shelter under § 301.6111–1T A–30 or A–33), or for information that is integral to participation in such tax shelter, the participant shall be considered to have acquired an interest in the tax shelter and to have been sold an interest in the tax shelter by the organizer or seller.

* * * * *

A–8. * * *

(b) An organizer may, but is not required to, list a person that acquired an interest in a potentially abusive tax shelter if the shelter is not subject to registration under section 6111, is not a listed transaction described in § 301.6111–2T(b)(2), and is not a projected income investment described in § 301.6111–1T A–57A, if the total consideration paid to all organizers and sellers with respect to such person's acquisition of the interest is less than $25,000, or if the organizer reasonably believes that such person's acquisition of the interest will not result in a reduction of the Federal income tax liability of any corporation or corporations that exceeds, or exceeds in the aggregate, $1 million in any single taxable year or a total of $2 million for any combination of taxable years and will not result in a reduction of the Federal income tax liability of any noncorporate taxpayer or taxpayers that exceeds, or exceeds in the aggregate, $250,000 in any single taxable year or a total of $500,000 for any combination of taxable years. For purposes of this paragraph (b), the fees paid by or to, and the tax savings of, persons related within the meaning of section 267 or section 707(b) are aggregated.

* * * * *

A–10. * * * However, a seller may, but is not required to, list a person that is described in A–8(b) of this section.

* * * * *

A–11. * * *

(b) In the case of a confidential corporate tax shelter under section 6111(d) and § 301.6111–2T or a tax shelter described in Q&A–4 of this section (other than one required to be registered under section 6111(c) or a projected income investment as described in § 301.6111–1T A–57A), the rules contained in A–11(a)(1), A–13(a)(2), the second sentence of A–13(b), A–13(c) and A–14 of this section do not apply.

* * * * *

A–17. (a) * * *

(3) The name, address, and TIN (as defined in section 7701(a)(41)) of each person who is required to be included on the list under A–8 or A–10 of this section and, in the case of a tax shelter that is a transaction described in section 6111(d)(1)(A) and § 301.6111–2T(b) whether or not the direct or indirect participant is a corporation, the name, address, and TIN of each investor and any indirect corporate participant in the shelter if known to the organizer or seller;

* * * * *

(c) No information needs to be included on a list with regard to any tax shelter for which no person is an investor required to be included on the list under A–8(b) or A–10 of this section.

* * * * *

A–22. * * * However, the rules in A–4(a), A–5, A–6(d), A–7, A–8(b), A–10, A–11(b), and A–17(a)(3) and (c) of this section apply to any interest acquired by an investor (within the meaning of paragraph (c) of A–6 of this section) in a potentially abusive tax shelter after August 11, 2000. The rules in A–4(a), A–5, A–6(d), A–7, A–8(b), A–10, A–11(b), and A–17(a)(3) and (c) of this section may be relied upon for any interest acquired by an investor (within the meaning of paragraph (c) of A–6 of this section) in a potentially abusive tax shelter after February 28, 2000. Otherwise, the rules that apply with respect to interests acquired in potentially abusive tax shelters after February 28, 2000, are contained in § 301.6112–1T in effect prior to August 11, 2000 (see 26 CFR part 301 revised as of April 1, 2000). * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: August 8, 2000.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 00–20540 Filed 8–11–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–00–033]

RIN 2115–AE46

Special Local Regulations for Marine Events; Fireworks Display, Patapsco River, Inner Harbor, Baltimore, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for a fireworks display to be held over the waters of the Patapsco River, Inner Harbor, Baltimore, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the fireworks display. This action is intended to temporarily restrict vessel traffic in the Patapsco River to protect spectator craft and other vessels transiting the event area from the dangers associated with the fireworks.

DATES: This rule is effective from 9:15 p.m. on August 20, 2000 to 11:30 p.m. on August 21, 2000.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–00–025 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, telephone number (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Request for Comments

Although this rule is being published as a temporary final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure the rule is both reasonable and workable. Accordingly, we encourage you to submit comments and related material. If you do so, please include your name and address, identify the docket number (CGD05–00–033), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope.

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The Coast Guard received confirmation of the request for special local regulations on July 6, 2000. We were notified of the event with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the events.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. We had insufficient time to prepare and publish this rule in the **Federal Register** 30 days in advance of the events. To delay the effective date of the rule would be contrary to the public interest since a timely rule is necessary to protect mariners from the hazards associated with the fireworks displays.

Background and Purpose

The Maryland Public Purchasing Association, Inc. and the National Institute of Governmental Purchasing, Inc. will sponsor a fireworks display on August 20, 2000. The fireworks display will be held over the waters of the Patapsco River, Inner Harbor, Baltimore, Maryland. The event will consist of a pyrotechnic display launched from a barge positioned in the Inner Harbor. A fleet of spectator vessels is anticipated. Due to the need for vessel control during the fireworks display, vessel traffic will be temporarily restricted to provide for the safety of spectators and transiting vessels. The rain date for the event is August 21, 2000.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Patapsco River. The temporary special local regulations will be in effect from 9:15 p.m. to 11:30 p.m. on August 20, 2000 and will restrict general navigation in a regulated area during the fireworks display. If inclement weather prevents the event from taking place on August 20, 2000, the temporary special local regulations will be effective from 9:15 p.m. to 11:30 p.m. on August 21, 2000. The temporary special local regulations are scheduled to be enforced for approximately twenty minutes during the two hour effective time period. The anticipated enforcement time is 9:15 p.m. to 9:50 p.m. on the effective date. If weather or other unforeseen circumstances causes a delay, an updated enforcement time will be provided via a Marine Safety Radio Broadcast on VHF-FM marine band radio, Channel 22 (157.1 MHz). Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the enforcement time period. These regulations are needed to control vessel traffic during the fireworks display to enhance the safety of spectators and transiting vessels.

Regulatory Evaluation

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

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

Although this regulation prevents traffic from transiting a portion of the Patapsco River during the event, the effect of this regulation will not be significant due to the limited duration of the regulation and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have

a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Patapsco River during the event.

Although this regulation prevents traffic from transiting or anchoring in portions of the Patapsco River during the event, the effect of this regulation will not be significant because of its limited duration and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Collection of Information

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

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES.** This rule will have no impact on the environment.

List of Subjects in 33 CFR Part 100

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

Temporary Regulations

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

PART 100—[AMENDED]

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

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary § 100.35–T05–033 is added to read as follows:

§ 100.35–T05–033 Special Local Regulations for Marine Events; Fireworks Display, Patapsco River, Inner Harbor, Baltimore, Maryland.

(a) *Definitions.*

(1) *Regulated Area.* The waters of the Patapsco River enclosed within the arc of a circle with a radius of 400 feet and with its center located at latitude 39°17′00″ N, longitude 76°36′15″ W. All coordinates reference Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(3) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(b) *Special Local Regulations.*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

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

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(c) *Effective Dates.* This section will be effective from 9:15 p.m. on August 20, 2000 to 11:30 p.m. on August 21, 2000.

(d) *Enforcement Times.* It is expected that this section will be enforced between 9:15 p.m. and 9:50 p.m. on August 20, 2000. However, if the event is delayed due to weather or other unforeseen circumstances, this section will be enforced for a different time between 9:15 p.m. and 11:30 p.m. on August 20, 2000. If the fireworks display is cancelled for the evening due to inclement weather, then this section will be enforced from 9:15 p.m. to 11:30 p.m. on August 21, 2000. Notice of the enforcement time will be given via Marine Safety Radio Broadcast on VHF–FM marine band radio, Channel 22 (157.1 MHz).

Dated: August 2, 2000.

J.E. Shkor

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

[FR Doc. 00–20782 Filed 8–15–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Tampa 00–061]

RIN 2115–AA97

Safety Zone Regulations: Tampa Bay, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters within Tampa Bay, Florida. The safety zone is needed to ensure the safe transit of the Liquefied Petroleum Gas (LPG) tank ships through Tampa Bay and into the SEA–3 facility located at berth 30. Any vessel desiring to enter the safety zone must obtain permission from the Captain of the Port, Tampa, Florida. All vessels over 5000 gross tons intending to pass the LPG vessel moored in Port Sutton must give 30 minutes notice to the LPG vessel so it may take appropriate safety precautions.

DATES: This rule is effective from June 26, 2000 until November 30, 2000.

FOR FURTHER INFORMATION CONTACT: Commanding Officer, Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606, Attention: Lieutenant Warren Weedon, or phone (813) 228–2189 ext 101.

SUPPLEMENTARY INFORMATION:

Background and Purpose

LPG carriers are scheduled to transit through Tampa Bay and into a new LPG facility located on Port Sutton Channel. Due to the hazards to other vessels and to the public associated with carrying LPG product, the Coast Guard is establishing a moving safety zone. The safety zone will mirror the current guidelines for vessels carrying anhydrous ammonia that are currently calling on the Port of Tampa. The Safety Zone will also prohibit vessels from entering within 1000 yards fore or aft of the vessel during its transit.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public, as the updated information concerning the time and location of the transit was received 10 days before the transit.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of the order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This regulation is needed to ensure public safety in a limited area of Tampa Bay.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities as the regulations will only be in effect for two (2) hours on a limited area of Tampa Bay and meeting or overtaking of the vessel is permitted between Gadsden Cut buoys #3 and #7.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–221), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking disproportionately affect children.

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard has considered the environmental impact of this action and has determined under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

In consideration of the foregoing, the Coast Guard amends Subpart C of Part 165 of title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1271; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Temporary § 165.T07–061 is added to read as follows:

§ 165.T07–061 Safety Zone; Tampa Bay, Florida.

(a) *Regulated area.* A safety zone is established 1000 yards forward and aft of the LPG vessel and the entire width of the channel, prohibiting meeting or overtaking the LPG vessel starting at Tampa Bay Channel Cut ''F'' buoys ''3 & 4'' through Gadsden Point Cut, Hillsborough Bay Cut ''A & C'', Port Sutton Entrance Channel and into the SEA–3 facility located at berth 30, Port Sutton Channel. The vessel will broadcast the exact time of the transit and the safety zone upon arrival. Any vessel desiring to enter the safety zone must obtain permission from the Captain of the Port, Tampa, Florida. All vessels over 5000 gross tons intending to pass the LPG vessel while moored in Port Sutton must give 30 minutes notice to the LPG vessel so it may take appropriate safety precautions.

(b) *Regulations.* In accordance with the general regulations in § 165.27 of this part, entry into this zone is prohibited to all vessels without the prior permission of the Coast Guard Captain of the Port.

(c) *Enforcement period.* This rule activates when the LPG vessel enters the safety zone starting at Tampa Bay Channel Cut ''F'' buoys ''3 & 4'' and terminates when the vessel moors at the SEA–3 facility, berth 30, Port Sutton Channel.

(d) *Effective date.* This section is effective from June 26, 2000 until 30 November 2000.

Dated: June 26, 2000.

A.L. Thompson, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, Tampa, Florida.

[FR Doc. 00–20783 Filed 8–15–00; 8:45 am]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 111

Delivery of Mail to a Commercial Mail Receiving Agency

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule adopts a proposal to amend section D042.2.6e of the Domestic Mail Manual (DMM) to provide an additional secondary address designation that may be used in the delivery address for mail to holders of private mailboxes at commercial mail receiving agencies.

EFFECTIVE DATE: August 16, 2000. All parties must comply with the amendment to D042.2.6e by August 1, 2001.

FOR FURTHER INFORMATION CONTACT: Larry Maxwell, 202–268–5015.

SUPPLEMENTARY INFORMATION: On March 13, 2000, the Postal Service published in the **Federal Register** a proposed rule to amend section D042.2.6e of the Domestic Mail Manual (65 FR 13258–13260). The original rule was published as part of a comprehensive clarification and revision of rules concerning delivery of mail to commercial mail receiving agencies (CMRAs) published on March 25, 1999 (64 FR 14385–14391). DMM section D042.2.6e established specific provisions for addressing mail to a holder of a private mailbox at a CMRA. As originally promulgated, the standard provided that the address must include a specific secondary address designation: ''PMB'' (for ''private mailbox'') followed by a number assigned to the boxholder by the CMRA. Under the proposed change, CMRA private mailbox holders would have the option to use either ''PMB'' or ''#'' as the secondary address designation.

The secondary address designation, as discussed in the proposed rule and earlier notices regarding the CMRA standards, was intended to serve consumer protection interests. Previously, postal regulations had not prescribed the manner in which mail to CMRA private mailbox holders must be addressed, and many private mailbox holders have used a designation (*e.g.,* ''Suite'' or ''Apartment'') along with the street address of the CMRA. This practice implied to senders of mail that the boxholder maintained a physical presence at that location. These addressing practices create the opportunity for fulfillment of criminal fraud schemes. However, and as described in some comments, even where this was not the case, the practice may be deceptive to consumers or others. For example, consumers who desire to provide charitable donations to local organizations or to make purchases from local businesses might mistakenly believe they are doing so when they respond to an out-of-state organization or firm with an address at a local CMRA. For similar reasons, the local business or charity might also suffer a competitive disadvantage from this practice.

Accordingly, the original rule was intended to serve consumer protection interests by providing the public with a means to be aware whether an address represented a physical location. However, the Postal Service later became aware the standard might have an unintended consequence. In meetings with industry representatives, it was pointed out that the ''PMB'' designation might adversely affect small businesses. The March 13, 2000, proposal, which permitted the use of either ''PMB'' or ''#'' as the secondary address designation, was intended as a means to balance the consumer and small business interests.

The Postal Service received 20,456 comments on the rulemaking. These were roughly comprised of three groups. The largest group (20,153 comments) supports the rulemaking. These comments, which were generally submitted by CMRA owners or private mailbox holders, were identical in content and format, and favored adopting the use of ''PMB'' or the optional ''#'' as the secondary designation. It also appears likely from the submissions that many of the commenters view this as a compromise, and that they would be at least as satisfied with the elimination of any required secondary address designation. However, if a secondary address designation was required, these commenters considered ''#'' to be preferable to ''PMB.''

The smallest group (12 comments) expressly opposes the requirement for a secondary address designation. Representatives of small business groups and some CMRA private mailbox holders submitted these comments. They questioned whether there are appreciable fraud statistics to support the need for CMRA regulations. Some of these comments also appear to oppose any postal standards concerning the delivery of mail to CMRAs. To the extent these comments concern standards other than those proposed in DMM D042.2.6e, they are beyond the scope of this rulemaking.

The remaining 291 comments oppose the proposed rule that allows the use of ''PMB'' or the optional ''#'' as the secondary designation. These comments were generally submitted by groups representing consumer protection constituencies, such as state attorney generals, an association of state charity officials, and an association of financial crimes investigators, as well as address list maintenance vendors, an association of presort mailers, major mailers, individual consumers, and private mailbox holders. These commenters urge the requirement for use of the ''PMB'' secondary address designation be retained without an option to use ''#'' as an alternative. They observe the ''#'' designation may be confusing to senders of mail, who believe it represents a physical location. The comments also question whether the use of ''PMB'' will adversely affect small businesses, and, in any event, assert private mailbox holders should not be permitted to use addresses that falsely imply a physical presence at the location. Significantly, some commenters appear to believe that, as proposed, D042.2.6e would have a negative impact on consumer protection interests.

Based on its review of the current record, the Postal Service has determined to adopt the proposed revision to DMM D042.2.6e that allows the use of ''PMB'' or the optional ''#'', in certain conditions, as the secondary address designation for a CMRA customer.

At the outset, it should be noted that the Postal Service rejects any assertion that it lacks authority to promulgate rules to protect consumer protection interests. The Postal Reorganization Act establishes Postal Service responsibilities to protect citizens from fraudulent and deceptive practices

through use of the mails. The Postal Service efforts in this area are widespread and ongoing; these efforts are not targeted at CMRAs. They include initiatives directed at frauds conducted through post office boxes; street addresses (rural and city delivery); and anywhere else, including fraudulent solicitations appearing first on the Internet that direct payment and shipment through the mails. Moreover, an important part of any anti-fraud strategy incorporates preventive means and consumer education so those consumers can protect themselves before becoming a victim. The modifications to the CMRA addressing standards reduce the possibilities consumers may be misled or confused by certain mailing address terminology. It is also noted that virtually all commenters and organizations that have participated in this process have voiced their support for protection of consumer interests and the Postal Service's role in this area.

The Postal Service disagrees with comments that DMM section D042.2.6e, especially as amended, will be harmful to small business interests. Discussions with CMRA industry representatives, who certainly have an interest in protecting their clientele, prior to the publication of the proposed rule and comments received from these interests and many CMRA owners and private mailbox holders support the conclusion that the proposal provides a viable compromise for small businesses.

Some commenters contend the ''#'' will cause D042.2.6e to be meaningless and ineffective, if not counterproductive. They observe that businesses should not be permitted to imply to potential customers that they are physically located at an address when that is not true, even if that deception is merely used by reputable businesses to obtain a competitive edge rather than for criminal purposes. These consumer advocates assert the use of ''#'' currently implies a ''suite'' or ''apartment'' and that addressees will continue in the future to assume that it implies a physical location at that address.

The Postal Service understands these concerns. Indeed, absent measures to ensure consumers will have the means to understand what ''#'' may mean and tools to determine whether a specific address is located at a CMRA, the concerns could warrant withdrawal of the rulemaking. However, the Postal Service and the CMRA industry will jointly implement the following initiatives with the hope of minimizing these possibilities:

1. Educate the public on the meanings of both the ''PMB'' and ''#'' designations. The Postal Service also stands ready to work with both the CMRA industry and consumer groups to design these materials and the means to distribute them to maximize public awareness.

2. The Postal Service will establish methods (toll-free number and/or Postal Service Web site) that can be accessed to determine whether a street address is the location of a CMRA. This will enable persons who receive mail with a ''#'' designation to determine whether the sender is a CMRA boxholder.

3. The Postal Service will continue efforts to work directly with the CMRA industry to address areas of continued concern. The industry is working with the Postal Service to ensure implementation of the postal standards concerning delivery of mail to CMRAs. Additionally, some industry members voluntarily participate in a Postal Inspection Service training program to recognize and report improper activity at CMRA locations.

4. The Postal Inspection Service has improved its data collection regarding the number of cases involving the use of off-premises delivery services, including post office boxes, for fraudulent purposes.

In view of these steps, the Postal Service adopts the proposal to allow the use of the ''#'' sign as an additional secondary addressing option for CMRA boxholders.

Several other aspects of the rulemaking also bear explanation. The standard adopted on March 25, 1999, required the use of a four-line address format. Under the final rule, this remains the preferred format. However, it was proposed that customers have the option to use a three-line format, with one exception, where the ''#'' secondary address designation is used and the physical address of the CMRA contains a secondary address designation, or the delivery address is a rural route box style address. In these limited instances, use of the ''#'' designation is not allowed, which is necessary to ensure the Postal Service's automated equipment can accurately process the mail. The new standards accommodate these desires to use a three-line format, as long as that mail can be effectively processed by Postal Service equipment.

The effective date of section D042.2.6e is August 1, 2001. Whenever possible, the Postal Service encourages mailers to use the new standards earlier. Nevertheless, the extended deadline for compliance with the standard is consistent with the Postal Service's goal of minimizing the implementation costs to CMRAs and their customers. It allows CMRA customers to deplete existing stationery and to advise correspondents of the new designation in the ordinary course of business.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111.1).

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. The Domestic Mail Manual (DMM) is amended by revising modules A, D, and F to read as follows:

A ADDRESSING

A000 Basic Addressing

A010 General Addressing Standards

1.0 ADDRESS CONTENT AND PLACEMENT

* * * * *

1.2 Address Elements

[Revise item b as follows:]

* * * * *

b. Private mailbox designator (PMB or optional #) and number.

* * * * *

3.0 COMPLETE ADDRESS

* * * * *

3.2 Elements

[Revise item b as follows:]

* * * * *

b. Private mailbox designator and number (PMB 300 or #300).

* * * * *

5.0 RESTRICTIONS

* * * * *

[Revise 5.3 as follows:]

5.3 Mail Addressed to CMRAs

Mail sent to an addressee at a commercial mail receiving agency (CMRA) must be addressed to their private mailbox (PMB or #) number at the CMRA mailing address.

* * * * *

D DEPOSIT, COLLECTION, AND DELIVERY

D000 Basic Information

* * * * *

D040 Delivery of Mail

* * * * *

D042 Conditions of Delivery

* * * * *

2.0 DELIVERY TO ADDRESSEE'S AGENT

* * * * *

2.6 Delivery to CMRA

* * * * *

e. A CMRA must represent its delivery address designation for the intended addressees by the use of ''PMB'' (private mailbox) or the alternative ''#'' sign. Mailpieces must bear a delivery address that contains the following elements, in this order:

Preferred Format

(1) Line 1: Intended addressee's name or other identification. Examples: JOE DOE or ABC CO.

(2) Line 2: PMB and number or the alternative # sign and number. Examples: PMB 234 or #234.

(3) Line 3: Street number and name or post office box number or rural route designation and number. Examples: 10 MAIN ST or PO BOX 34 or RR 1 BOX 12.

(4) Line 4: City, state, and ZIP Code (5-digit or ZIP+4).

Example: HERNDON VA 22071–2716. Examples of acceptable four-line format addresses are:

JOE DOE
PMB 234
RR 1 BOX 12
HERNDON VA 22071–2716
or
JOE DOE
#234
10 MAIN ST STE 11
HERNDON, VA 22071–2716

Alternate Format

(1) Line 1: Intended addressee's name or other identification. Examples: JOE DOE or ABC CO.

(2) Line 2: Street number and name or post office box number and PMB and number or the alternative # sign and number. Examples: 10 MAIN ST PMB 234 or #234 or PO BOX 34 PMB 234 or #234.

(3) Line 3: City, state, and ZIP Code (5-digit or ZIP+4). Example: HERNDON VA 22071–2716.

Exception: When the CMRA physical address contains a secondary address element (*e.g.,* rural route box number, ''suite'', ''#,'' or other term), the CMRA customer must use ''PMB'' in the three-line format.

In this case, the following must be used:

JOE DOE
10 MAIN ST STE 11 PMB 234
HERNDON VA 22071–2716
and
JOE DOE
RR 12 BOX 512 PMB 234
HERNDON VA 22071–2716

It is also not permissible to combine the secondary address element of the physical location of the CMRA address and the CMRA customer private mailbox number, *e.g.,* 10 MAIN ST STE 11–234. The CMRA must write the complete CMRA delivery address used to deliver mail to each individual addressee or firm on Form 1583 (block 3). The Postal Service may return mail without a proper address to the sender endorsed ''Undeliverable as Addressed, Missing PMB or # Sign.''

* * * * *

F FORWARDING AND RELATED SERVICES

F000 Basic Services

F010 Basic Information

* * * * *

4.0 BASIC TREATMENT

Exhibit 4.1 USPS Endorsements for Mail Undeliverable as Addressed [Revise Exhibit 4.1 to add new endorsement.]

* * * * *

Undeliverable as Addressed, Missing PMB or # Sign

Failure to Comply with D042.2.6e.

* * * * *

Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Chief, Counsel Legislative.

[FR Doc. 00–20812 Filed 8–15–00; 8:45 am]

BILLING CODE 7710–12–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CO–001a; FRL–6851–3]

Clean Air Act Full Approval of Operating Permit Program; Approval of Expansion of State Program Under Section 112(l); State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is promulgating full approval of the Operating Permit Program submitted by the State of Colorado. Colorado's operating permit program was submitted for the purpose of meeting the federal Clean Air Act (Act) directive that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the State's jurisdiction. EPA is also approving the expansion of Colorado's program for receiving delegation of section 112 standards to include non-part 70 sources.

DATES: This direct final rule is effective on October 16, 2000, without further notice, unless EPA receives adverse comment by September 15, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mail Code 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466 and are also available during normal business hours at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, CO 80222–1530.

FOR FURTHER INFORMATION CONTACT: Patricia Reisbeck, Mail Code 8P–AR, Environmental Protection Agency, Region 8, 999 18th Street, Denver, Colorado 80202–2466; (303) 312–6435.

SUPPLEMENTARY INFORMATION:

I. Background

As required under title V of the Clean Air Act (''the Act'') as amended (42 U.S.C. 7401 *et seq.*), EPA has promulgated rules that define the minimum elements of an approvable State operating permit program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permit programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70 (''part 70''). Title V directs States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act directs States to develop and submit operating permit programs to the EPA by November 15, 1993, and requires that EPA act to approve or

disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. 7661a) and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval. If EPA has not fully approved a program by two years after the November 15, 1993 date, or before the expiration of an interim program approval, it must establish and implement a federal program.

The State of Colorado was granted final interim approval of its program on January 24, 1995 (see 60 FR 4563) and the program became effective on February 23, 1995. Interim approval of the Colorado program expires on December 1, 2001.

II. Analysis of State Submission

The Governor of Colorado submitted an administratively complete Title V operating permit program for the State of Colorado on November 5, 1993. This Colorado program, including the operating permit regulations at part C of Regulation No. 3, substantially met the requirements of part 70. EPA deemed the program administratively complete in a letter to the Governor dated January 4, 1994. The program submittal included a legal opinion from the Colorado Attorney General stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, a description of how the State would implement the program regulations, application and permit forms, and a permit fee demonstration.

EPA's comments noting deficiencies in the Colorado program were sent to the State in a letter dated April 8, 1994. The deficiencies were segregated into those that would require corrective action prior to interim program approval, and those that would require corrective action prior to full program approval. The State committed to address the program deficiencies that would require corrective action prior to interim program approval in a letter dated May 12, 1994, and subsequently held a public hearing to consider and adopt the necessary changes on August 18, 1994.

The State submitted its revised part 70 program and a supplemental Attorney General's opinion with letters dated September 29, 1994 and October 3, 1994. EPA reviewed these corrective actions and determined them to be adequate to allow for interim program approval. On January 24, 1995, EPA published a **Federal Register** document promulgating final interim approval of the Colorado program. See 60 FR 4563.

Areas of the Colorado program that were identified by EPA in the January 24, 1995 **Federal Register** as deficient and the State's corrective actions for full program approval are as follows:

(1) The State was required to revise its administrative process in section II.D.5 of part A of Air Quality Control Commission Regulation 3, for adding additional activities to the list of insignificant activities allowed as exemptions under 40 CFR 70.5(c), to require approval by the EPA of any new exemptions before such exemptions can be utilized by a source.

Correction: In a letter dated March 7, 1996, the State submitted a copy of Colorado's revised section II.D.5 of part A of Regulation No. 3, adopted August 17, 1995, requiring EPA approval of any new additions to the State's insignificant activities list. EPA reviewed the revised regulation and determined that it is adequate to allow for full program approval.

(2) The State was asked to revise the Colorado Air Quality Control Act (Colo. Rev. Stat. section 25–7–109.6(5)(1999)) to remove the condition that an accidental release prevention program pursuant to section 112(r) of the Act will only be implemented if Federal funds are available. A guidance memo, dated April 13, 1993, from John Seitz, Director of the Office of Air Quality Planning and Standards, entitled ''Title V Program Approval Criteria for Section 112 Activities'' provides that in order to obtain full Title V approval from EPA the State must have authority to ''* * * issue Part 70 permits that assure compliance with all currently applicable requirements * * *''. Such requirements include requirements under section 112(r)(7) of the Act for certain sources to prepare and implement a risk management plan to prevent and minimize accidental releases of hazardous air pollutants, and to submit the plan to EPA.

Correction: In a letter dated March 13, 1996, the State indicated that it does comply with the April 13, 1993 memorandum from John Seitz and has the necessary authority to implement all of the current requirements of section 112, including section 112(r). This position was affirmed in an opinion letter from the Office of the Attorney General for the State of Colorado, dated June 23, 1997. The opinion concluded that, although State law prohibited Colorado from establishing its own section 112(r) accidental release program in the absence of federal funding, the State had adequate authority to incorporate pertinent requirements from the federal program in State-issued Title V operating permits and, therefore, a statutory amendment would not be required to comply with Title V. EPA concurred with the State's opinion, as discussed in a letter from Richard Long, dated July 9, 1997.

In addition to providing the opinion letter, the State made a commitment to work toward resolving any issues that the final 112(r) rule might raise. The final 112(r) rule, which was promulgated on June 20, 1996, did not require additional involvement by the State and thus raised no new issues. See 40 CFR 68.215; see also 61 FR 31728 (June 20, 1996). Therefore, after further review, EPA believes that the State of Colorado has authority to implement all the section 112(r) requirements that are necessary for full program approval.

In a letter dated June 24, 1997, Colorado documented its actions that corrected the interim approval deficiencies and requested EPA's review and full approval of its program. The letter also acknowledged that full approval action might be delayed because EPA had identified concerns that Colorado's audit privilege and immunity law (SB 94–139) (''self-audit law'') might impair the State's ability to enforce federally authorized programs, including the Title V program. After lengthy negotiations between EPA and the State, Colorado proposed to amend the self-audit law. The statutory amendments were adopted by the State legislature and signed by the Governor on May 30, 2000.

In addition, on April 14, 2000, the Attorney General for Colorado issued a formal opinion interpreting various provisions of the self-audit law, resolving certain other enforcement issues not addressed by the statutory amendments. Finally, on May 30, 2000, EPA and the State of Colorado entered into a memorandum of agreement concerning implementation of the self-audit law. The memorandum of agreement was intended as a companion document to be read in conjunction with the Attorney General's April 14 opinion.

Taken altogether, the statutory amendments, the Attorney General's opinion, and the memorandum of agreement effectively resolved all the issues EPA identified concerning the effect of the self-audit law on Colorado's ability to enforce federally authorized programs. Accordingly, EPA is free to proceed with rulemaking to grant full approval of the Colorado Title V program.

III. Program for Straight Delegation of Section 112 Standards

Requirements for program approval, specified in 40 CFR 70.4(b), encompass requirements under section 112(l)(5) of the Act for delegation of National Emission Standards for Hazardous Air Pollutants (NESHAPs) promulgated by EPA under 40 CFR parts 61 and 63, as well as other section 112 standards and requirements. Section 112(l)(5) requires that the State's hazardous air pollutant control program contain adequate authorities to implement and enforce the program, adequate resources for implementation, and an expeditious compliance schedule.

These criteria are also requirements for approval of a State operating permit program under part 70. Because Colorado had satisfied those requirements, EPA granted approval of the State's program under section 112(l)(5) and 40 CFR 63.91, for receiving delegation of section 112 standards that are unchanged from the Federal standards, in the **Federal Register** document promulgating final interim approval of the Colorado operating permit program. See 60 FR 4563, 4568.

EPA's approval of Colorado's section 112(l) program was limited, however, to delegation of standards as they apply to part 70 sources. Based on the State's request, dated February 2, 1996, EPA is expanding this approval to include non-part 70 sources. EPA believes that this expanded approval is warranted, because State law does not differentiate between part 70 and non-part 70 sources for purposes of implementation and enforcement of section 112 standards that the State has adopted. This approval establishes a basis for the State to receive direct delegation of authority to implement and enforce, for non-part 70 sources, section 112 standards that the State adopts without change from the federal standards. Such direct delegation includes section 112 standards that EPA may promulgate in the future. See 61 FR 36295 (July 10, 1996).

IV. Final Action

In this document, EPA is granting full approval of the Colorado part 70 operating permit program for all areas within the State except the following: any sources of air pollution located in ''Indian Country'' as defined in 18 U.S.C. 1151, including the following Indian reservations in the State: Southern Ute Indian Reservation and the Ute Mountain Ute Indian Reservation, or any other sources of air pollution over which an Indian Tribe has jurisdiction. See section 301(d)(2)(B) of the Act; see also 63 FR 7254 (February 12, 1998).

The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' See section 302(r) of the Act; see also 58 FR 54364 (October 21, 1993).

Based on the State's request, EPA is also expanding its approval of the State's program under section 112(l)(5) of the Act and 40 CFR 63.91 for receiving delegation of section 112 standards that are unchanged from the Federal standards, to include non-part 70 sources.

The EPA is publishing this rule without prior proposal because the State is currently implementing its part 70 program and the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to grant full approval of the operating permit program submitted by the State of Colorado should adverse comments be filed. This rule will be effective October 16, 2000, without further notice unless the Agency receives adverse comments by September 15, 2000.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this rule must do so at this time.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612 (Federalism) and Executive Order 12875 (Enhancing the Intergovernmental Partnership). 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the 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 final 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, 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 regulatory action as defined by Executive Order 12866, and it does not establish a further health or risk-based standard because it approves state rules which implement a previously promulgated health or safety-based standard.

D. Executive Order 13084

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 by 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.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because part 70 approvals under section 502 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 October 16, 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 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 4, 2000.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. In appendix A to part 70 the entry for Colorado is amended by adding paragraph (b) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Colorado

* * * * *

(b) The Colorado Department of Public Health and Environment—Air Pollution Control Division submitted an operating permits program on November 5, 1993; interim approval effective on February 23, 1995; revised June 24, 1997; full approval effective on October 16, 2000.

[FR Doc. 00–20723 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301028; FRL–6736–4]

RIN 2070–AB78

Mancozeb; Pesticide Tolerance Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of May 24, 2000 consolidating certain food and feed additive tolerance regulations from 40 CFR parts 185 and 186 into 40 CFR part 180. In the consolidation rule there is a revision of the tolerance for mancozeb use on ginseng. In the same issue of the **Federal Register**, EPA issued a separate amendment to the mancozeb tolerance regulation. EPA is issuing this document to clarify and to correct the expiration/revocation date of the tolerance for mancozeb use on ginseng.

DATES: This technical correction is effective May 24, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. 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–301028. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection 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. What Action is EPA taking?

This technical correction corrects the table in 40 CFR 180.176(b) to clarify that the tolerance for mancozeb use on ginseng expires on 12/31/01. In the **Federal Register** of May 24, 2000, two amendments to the mancozeb tolerance regulation were issued. At page 33472 (FRL–6556–9) the expiration/revocation date for mancozeb use in or on ginseng shown in the table to § 180.176(b) was revised to read 12/31/01. On page 33708 (FRL–6043–1), § 180.176 was revised in its entirety. In this amendment, the expiration date for ginseng in the table to paragraph (b) reads ''12/31/99''. The correct expiration/revocation date for mancozeb use on gingeng is ''12/31/01'' as is shown in the amendment at page 33472. This technical correction both clarifies and corrects the expiration/revocation date of mancozeb use on ginseng as found in 40 CFR 180.176(b). Because the Office of the Federal Register has to include the latest amendment in the Code of Federal Regulations (CFR), it is necessary that EPA issue this correction to insure that the correct expiration/revocation date is shown in the CFR.

III. Why is this Technical Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment, because EPA is correcting and clarifying the tolerance for mancozeb use in or on ginseng that was previously published in the **Federal Register**. The preamble to the previously published Final Rule discussed how the number average molecular was one of the criteria for identifying low risk polymers. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Do Any of the Regulatory Assessment Requirements Apply to this Action?

No. This final rule implements a technical amendment to the CFR to reflect a technical correction to a previously issued Final Rule, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical correction is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). Nor does this rule contain any information collection requirements that require review and approval by OMB pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.).

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This action will not result in environmental justice related issues and does not, therefore, require special consideration under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). Since the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute (see Unit III above), this action is not subject to provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. Nor does this action significantly or uniquely affect the communities of tribal governments as specified by Executive Order 13084, entitled Consultation and Coordination with Indian Tribal Governments (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, entitled Federalism (64 FR 43255, August 10, 1999). This action does not involve any technical standards that require the Agency's 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). 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, as required by section 3 of Executive Order 12988, entitled Civil Justice Reform (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630, entitled Governmental Actions and Interference with Constitutionally Protected Property Rights (53 FR 8859, March 15, 1988), by examining the takings implications of this 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.

For information about the applicability of the regulatory assessment requirements to the final rule that was issued on May 24, 2000 (65 FR 33703) (FRL–6041–9), please refer to the discussion in Unit III of that document.

V. Will EPA Submit this Final Rule to Congress and the Comptroller General?

Yes. The Congressional Review Act (CRA), 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. (5 U.S.C. 808(2). EPA has made such a good cause finding for this final rule, and established an effective date of May 24, 2000. Pursuant to 5 U.S.C. 808(2), this determination is supported by the brief statement in Unit III of this document. 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**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Pesticides and pest.

Dated: July 26, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is corrected as follows:

PART 180— [AMENDED]

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

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

§ 180.176 [Amended]

2. In § 180.176, amend the table in paragraph (b) by revising the expiration/revocation date ''12/31/99'' to read ''12/31/01''.

[FR Doc. 00–20734 Filed 8–15–00 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301036; FRL–6737–1]

RIN 2070–AB78

Propiconazole; Extension of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for combined residues of the fungicide propiconazole and its metabolites in or on sorghum, grain, grain at 0.2 part per million (ppm); sorghum, grain, stover at 1.5 ppm; sorghum, aspirated grain fractions at 20 ppm; dry beans at 0.5 ppm; dry bean, forage at 8 ppm; dry bean, hay at 8 ppm; and blueberries, cranberries and raspberries at 1.0 ppm. The sorghum and cranberry tolerances are extended for an additional 17-month period; the dry bean, raspberry, and blueberry tolerances are extended for an additional 1-year period. All of these tolerances will expire and are revoked on December 31, 2001. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing uses of the pesticide on sorghum, dry beans, blueberries, cranberries, and raspberries. 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 August 16, 2000. Objections and requests for hearings, identified by docket control number OPP–301036, must be received by EPA on or before October 16, 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–301036 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, 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	Crop production
	112	Animal production
	311	Food manufacturing
	32532	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,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301036. 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 August 13, 1997 (62 FR 43284) (FRL–5735–2), 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 time-limited tolerances for the combined residues of propiconazole and its metabolites in or on sorghum, grain, grain at 0.2 ppm; sorghum, grain, stover at 1.5 ppm; and sorghum, aspirated grain fractions at 20 ppm, with an expiration date of July 31, 1998.

EPA also issued a final rule, published in the **Federal Register** of April 11, 1997 (62 FR 17710) (FRL–5600–5), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170) it established a time-limited tolerance for the combined residues of propiconazole and its metabolites in or on cranberries at 41.0 ppm, with an expiration date of July 31, 1998. The tolerance level was corrected to be 1.0 ppm in the **Federal Register** of May 2, 1997 (62 FR 24045) (FRL–5783–5).

EPA additionally issued a final rule, published in the **Federal Register** of June 13, 1997 (62 FR 32224) (FRL–5718–8), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170) it established time-limited tolerances for the combined residues of propiconazole and its metabolites in or on dry beans at 0.5 ppm; dry bean forage at 8 ppm and dry bean hay at 8 ppm, with an expiration date of December 31, 1998.

EPA also issued a final rule, published in the **Federal Register** of January 20, 1999 (64 FR 2995) (FRL–6049–8), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170) it established time-limited tolerances for the combined residues of propiconazole and its metabolites in or on blueberries and raspberries at 1.0 ppm, with an expiration date of December 31, 1999.

EPA established these tolerances 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 FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received requests to extend the use of propiconazole on blueberries and cranberries for this year's growing season due to the continued emergency situation facing blueberry and cranberry growers due to the cancellation of the fungicide triforine, which was the only product registered to control cottonball disease in cranberries or mummy berry disease in blueberries. Raspberry growers in Oregon and Washington requested the use of propiconazole be extended due to wet and mild weather conditions in the Pacific Northwest which result in severe disease pressure from yellow rust. Disease pressure from sorghum ergot and rust led the sorghum and dry bean growers, respectively, to request the use of propiconazole on these crops. After having reviewed these submissions, EPA concurs that emergency conditions exist for these growers. EPA has authorized under FIFRA section 18 the use of propiconazole on sorghum for control of sorghum ergot in Kansas, Nebraska, New Mexico, Oklahoma and Texas; the use on dry beans for control of rust in Kansas, Minnesota, and North Dakota; the use on blueberries for control of mummy berry disease in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Washington; the use on cranberries for control of cottonball disease in Washington and Wisconsin; and the use of propiconazole on raspberries for control of yellow rust in Oregon and Washington.

EPA assessed the potential risks presented by residues of propiconazole in or on the above commodities. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances 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 rules of April 17, 1997 (62 FR 17710) (FRL–5600–5), June 13, 1997 (62 FR 32224) (FRL–5718–8), August 13, 1997 (62 FR 43284) (FRL–5735–2), and January 20, 1999 (64 FR 2995) (FRL–6049– 8). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances for sorghum and cranberries are extended for an additional 17-month period; the time-limited tolerances for dry beans, blueberries and raspberries are extended for an additional 1-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on blueberries; cranberries; raspberries; dry beans; dry bean forage; dry bean hay; sorghum grain, sorghum grain, grain; sorghum grain, stover; and sorghum aspirated grain fractions 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 tolerances. EPA will take action to revoke these tolerances 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–301036 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 October 16, 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, 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, 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, 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–301036, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 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 time-limited tolerances 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 tolerances 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: August 4, 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), (346a) and 371.

§ 180.434 [Amended]

2. In § 180.434, amend the table in paragraph (b), by revising the revocation/expiration date for ''Cranberries,'' ''Sorghum, aspirated grain fractions,'' ''Sorghum, grain, grain,'' and ''Sorghum, grain, stover'' from ''7/31/00'' to read ''12/31/01'' and by revising the revocation/expiration date for ''Blueberries,'' ''Dry bean forage,'' ''Dry bean hay,'' ''Dry beans,'' and ''Raspberries'' from ''12/31/00'' to read ''12/31/01''.

[FR Doc. 00–20733 Filed 8–15–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301039; FRL–6738–3]

RIN 2070–AB78

Coumaphos; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of coumaphos (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog, coumaphoxon (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate in or on honey and beeswax. 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 in beehives. This regulation establishes maximum permissible levels for residues of coumaphos in these food commodities. These tolerances will expire and are revoked on December 31, 2002.

DATES: This regulation is effective August 16, 2000. Objections and requests for hearings, identified by docket control number OPP–301039, must be received by EPA on or before October 16, 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 VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301039 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6463; and e-mail address: madden.barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	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,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301039. 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, 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, on its own initiative, in accordance with sections 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for combined residues of the insecticide coumaphos (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog, coumaphoxon (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate, in or on honey at 0.1 part per million (ppm) and beeswax at 100 ppm. These tolerances will expire and are revoked on December 31, 2002. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

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 FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Coumaphos on Honey and Beeswax and FFDCA Tolerances

The varroa mite (*Varroa jacobsoni* Oudemans) is an ectoparasite of honey bees. It was first detected in the continental United States in Maryland in 1979, and found in Florida and Wisconsin by 1987. Currently it is the most important pest of honey bee colonies. The mites feed on the hemolymph of the developing bee larva, pupa, and adult bees. Dead or dying newly emerged bees have malformed wings, legs, abdomens, and thoraces. Recent anecdotal evidence suggests that bee viruses and varroa mites are closely linked to the demise of honey bee colonies. The mites have been shown to activate some of these, usually benign, viruses; causing virus outbreaks that ultimately lead to colony mortality.

Fluvalinate is currently registered for the control of varroa mites however, populations of varroa mites have developed resistance to fluvalinate. Varroa mite resistance to fluvalinate has been well documented by the United States Department of Agriculture (USDA), Agricultural Research Service (ARS). According to USDA, ARS many hives treated with fluvalinate have resulted in wholesale colony losses. Due to the destructive nature of this pest coupled with the importance of honey bees (for honey production and pollination of numerous agricultural crops) to the U.S. economy, it is imperative that alternative means of controlling the varroa mite be developed. Currently, coumaphos is the only pesticide that has been identified as an effective alternative to fluvalinate. Extensive efficacy trials, performed in laboratories in the U.S.A. and abroad, have revealed that coumaphos will significantly reduce populations of varroa mites without causing any appreciable mortality to adult honey bees or their brood.

The small hive beetle (*Aethina tumida* Murray) was discovered for the first time in the continental U.S. (in Florida) in May 1998. The beetles infest European honey bee colonies and feed on stored pollen and honey. The adult beetles have a thick integument that protects them from bee stings. Hive combs are destroyed and developing bee broods are killed by the burrowing of the beetle larvae throughout the hive. Also, the excrement of these hive beetles fouls the honey, reducing its quality. Currently there are no pesticides registered for the control of small hive beetles.

The Agency has authorized the use of coumaphos under section 18 of FIFRA for the use of coumaphos impregnated in plastic strips to be hung in beehives to control varroa mites and small hive beetles to 45 States. To date based on studies conducted by USDA, ARS, no chemical other than coumaphos is available that provides reliable, effective control of both varroa mites and/or small hive beetles. To date, resistant strains of honey bees, biological control methods, and the use of other natural products are not completely functional management practices. The EPA did register formic acid during 1999. However it is only registered for suppression of varroa mites and is not labeled for control of small hive beetles. USDA, ARS has stressed that formic acid alone is not a viable replacement for fluvalinate.

The Agency has concluded that not only would beekeepers be adversely impacted if these emergency exemptions were not granted but that the impact on much of agriculture in the United States could be dire. That is, if coumaphos is not made available to control varroa mites and small hive beetles beekeepers and honey producers in at least 45 states will suffer significant economic losses. Additionally, much of agriculture in America will be adversely impacted. Few feral bee colonies remain in the United States due to disease and insect pressure (including that from varroa mites), increasing the American farmers dependency on managed bees for pollination. Over 150 crops have been identified that require bees for pollination. Based on figures published by the National Agricultural Statistics Service of USDA the estimated value of increased yield and quality achieved through pollination by honey bees is 14.6 billion dollars per year.

In 1999, based on limited residue data available in which honey and wax samples were collected from brood chambers, the Agency concluded that there would be no reasonable expectation of residues of coumaphos in commercial honey and processed beeswax used for food (taken from the honey supers) provided that the coumaphos strips were used in brood chambers when honey supers were not present (in accordance with the section 18 authorization letter). Therefore, the section 18 use was classified as a non-food use and no tolerances were established in either honey or beeswax. However, based on additional information submitted to the Agency in 2000 the non-food use classification is no longer supportable and establishing tolerances for honey and beeswax is necessary.

EPA has authorized under FIFRA section 18 the use of coumaphos in beehives for control of varroa mites and small hive beetles in Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Minnesota, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Vermont, Washington, Wisconsin, West Virginia, and Wyoming. After having reviewed these submissions, EPA concurs that emergency conditions exist.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of coumaphos in or on honey and beeswax. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 2002, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on honey and beeswax after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed levels that were authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether coumaphos meets EPA's registration requirements for use on honey and beeswax or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of coumaphos by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any other State to use this pesticide in beehives under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for coumaphos, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of coumaphos and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of coumaphos (O,O-diethyl O-3- chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog, coumaphoxon (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate in or on honey at 0.1 ppm and beeswax at 100 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences. For coumaphos an extra UF of 3 (for a total UF of 300) was applied for acute dietary, short term inhalation, and intermediate term inhalation assessments to account for the lack of a NOAEL in the toxicology studies identified for use in these risk assessments.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD=NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE)=NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is

typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated.

SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR COUMAPHOS FOR USE IN HUMAN RISK ASSESSMENT

Exposure scenario	Dose used in risk assessment, UF	FQPA SF* and level of concern for risk assessment	Study and toxicological effects
Acute Dietary females 13–50 years of age	LOAEL = 2.0 mg/kg/day; UF = 300; Acute RfD = 0.007 mg/kg/day	FQPA SF = 1; aPAD = acute RfD; FQPA SF = 0.007 mg/kg/day	Acute Oral Neurotoxicity study LOAEL = 2.0 mg/kg/day based on plasma and RBC cholinesterase inhibition in both males and females. A NOAEL for cholinesterase inhibition was not established.
Acute Dietary general population including infants and children	LOAEL = 2.0 mg/kg/day; UF = 300; Acute RfD = 0.007 mg/kg/day	FQPA SF = 1; aPAD = acute RfD; FQPA SF = 0.007 mg/kg/day	Acute Oral Neurotoxicity study LOAEL = 2.0 mg/kg/day based on plasma and RBC cholinesterase inhibition in both males and females. A NOAEL for cholinesterase inhibition was not established.
Chronic Dietary all populations	NOAEL = 0.025 mg/kg/day; UF = 100; Chronic RfD = 0.0003 mg/kg/day	FQPA SF = 1; cPAD = chronic RfD; FQPA SF = 0.0003 mg/kg/day	1–Year Feeding study in dog LOAEL = 0.77 mg/kg/day based on significant and biologically relevant depression of RBC ChE and plasma ChE activity levels.
Short-Term Dermal (1 to 7 days) (Residential)	dermal study NOAEL = 5.0 mg/kg/day (dermal absorption rate = 100%)	LOC for MOE = 100 (Residential)	5-Day Dermal toxicity study in rats LOAEL = 10 mg/kg/day based on brain cholinesterase inhibition in female rats.
Intermediate-Term Dermal (1 week to several months) (Residential)	dermal study NOAEL = 0.5 mg/kg/day (dermal absorption rate = 100%)	LOC for MOE = 100 (Residential)	21-Day Dermal Study in the rat LOAEL = 1.1 mg/kg/day based on RBC cholinesterase inhibition in female rats.
Long-Term Dermal (several months to lifetime) (Residential)	None	None	None
Short-Term Inhalation (1 to 7 days) (Residential)	Oral study LOAEL = 2.0 mg/kg/day (inhalation absorption rate = 100)	LOC for MOE = 300 (Residential)	Acute Neurotoxicity Study in Rats LOAEL = 2.0 mg/kg/day based on plasma and RBC ChE inhibition in rats; no NOAEL was established.
Intermediate-Term Inhalation (1 week to several months) (Residential)	Oral study LOAEL = 0.2 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 300 (Residential)	13-Week Feeding study in rats LOAEL = 0.2 mg/kg/day based on RBC ChE inhibition in; no NOAEL was established.
Long-Term Inhalation (several months to lifetime) (Residential)	None	None	None
Cancer (oral, dermal, inhalation)	Classified as a Group E chemical, ''not likely'' to be carcinogenic.	None	None

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Coumaphos is an acaricide currently registered for use on livestock animals for the control of arthropod pests. Tolerances have been established (40 CFR 180.189) for the combined residues of coumaphos (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog, coumaphoxon (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate, in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep, and in milk and eggs. Tolerances are set at 1.0 ppm in livestock tissues, 0.5 ppm in milk-fat residues, and 0.1 ppm in eggs. Although tolerances are still listed in the most recent CFR (revised July 1, 1999) for sheep, goats, and poultry (1.0 ppm) and eggs (0.1 ppm), the use of coumaphos on poultry (eggs) has been canceled and the use of coumaphos on goat and sheep are no longer supported by the technical registrant and will be deleted. Therefore, these commodities are not included in the dietary risk analysis. Risk assessments were conducted by EPA to assess dietary exposures from coumaphos in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®)

analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The acute analysis for coumaphos is a highly refined (Tier 3 Monte-Carlo) estimate of dietary exposure from residues in food. The following assumptions were made for the acute exposure assessments: use of anticipated residues information for livestock, percent livestock treated information, monitoring data from the USDA PDP program for livestock and monitoring data collected for honey samples treated in 1999 and 2000 under the emergency exemptions from Sioux Honey Association.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The chronic analysis for coumaphos is a refined estimate of dietary exposure from residues in food. The following assumptions were made for the chronic exposure assessments: use of anticipated residues information for livestock, percent livestock treated information, monitoring data from the USDA PDP program for livestock and monitoring data collected for honey samples treated in 1999 and 2000 under the emergency exemptions from Sioux Honey Association.

iii. *Cancer*. Coumaphos is classified as Group E (no evidence of carcinogenicity in humans).

iv. *Anticipated residue and percent crop treated information*. Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used the following percent livestock treated (PLT) information: 5% beef (and horse) including lean meat without removable fat, beef fat, beef liver, beef byproducts, kidney; 1% hog including meat, hog fat, hog liver, hog byproducts, and hog kidney; 100% veal including lean meat without removable fat, veal fat, veal liver, veal meat by-products, and veal kidney; and 4% milk. Anticipated residue values (ARs) were calculated from field trial data for estimation of both acute and chronic dietary exposure for all livestock commodities, with the exception of milk. The residue values used for milk are from the USDA's PDP 1997 and 1998 monitoring data which show no detectable residues in milk out of 750 samples tested. Anticipated residues used for honey were based on monitoring data provided by Sioux Honey Association. These data represent raw honey samples which were likely to be treated under Section 18 exemptions in 1999 and 2000. Only those samples with detectable or quantifiable residues (limit of detection = 1 ppb) of coumaphos (parent) were included in the anticipated residue calculations. Some samples were analyzed more than once. In those cases the average value of the multiple analyses was used to calculate the residue level for chronic exposure, whereas the highest value was chosen for the acute analysis.

The Agency believes that the three conditions listed in Unit IV.B.1.iv. of this preamble have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which coumaphos may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for coumaphos in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of coumaphos.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1

model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to coumaphos they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the estimated environmental concentrations (EECs) of coumaphos in surface water and ground water, respectively, for acute exposures are estimated to be 1.9 parts per billion (ppb) for surface water and 0.17 ppb for ground water. The EECs for chronic exposures are estimated to be 0.41 ppb for surface water and 0.17 ppb for ground water. Note, in the Revised Risk Assessment for Coumaphos, released by the Agency as published in the **Federal Register** of April 26, 2000 (65 FR 24468) (FRL–6556–7), with the comment period ending June 26, 2000, the estimated EECs for surface and ground water are different than those reported above. Based on the available environmental data, the K_{oc} value for the parent coumaphos is 3,994 to 11,422. In the Revised Risk Assessment for Coumaphos, in absence of data on the degradate coumaphoxon, it was assumed that the K_{oc} value for coumaphoxon was 0.1. Therefore, the EECs values represented an overly conservative exposure assessment. For this risk assessment the Agency used a computer estimation program (EPI version 3.04) to estimate a more realistic K_{oc} value of 92.3 and water solubility value of 31.61 at 25°C for coumaphoxon. Use of these values accounts for the difference in estimated EECs. Furthermore, Bayer Corporation recently provided preliminary results of data conducted on coumaphoxon that indicate that the K_{oc} values for coumaphoxon are 1,897.78 and greater. Finally, the Agency has recently received information that suggests that most of the coumaphos residual resulting from dip use on livestock is collected and transported to concrete-lined evaporation pits thereby negating any potential for ground water contamination. The Agency is currently verifying these practices. For these reasons the revised EECs are still considered a very conservative exposure assessment.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Coumaphos is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. In applying the safety standard in section 408(b)(2)(A), EPA is required to consider, among other relevant factors, ''available information concerning the cumulative effects of such residues and other substances that have a common mechanism of toxicity.'' Coumaphos is in a family of pesticides known as organophosphates. As documented in EPA presentations to the FIFRA Scientific Advisory Panel, EPA has concluded that organophosphates share a common mechanism of toxicity and thus have a cumulative toxic effect (A Common Mechanism of Action: The Organophosphate Pesticides, 11/2/98, USEPA). Based on this conclusion EPA has been working toward preparing a cumulative risk assessment on the organophosphate pesticides, including coumaphos, as part of the tolerance reassessment program and has generally refused to register new uses of organophosphates under FIFRA or establish new tolerances for such pesticides under the FFDCA prior to completing this cumulative assessment. EPA has considered the potential cumulative effects of coumaphos. EPA has concluded the risks posed by granting this tolerance are so small that they are effectively indistinguishable from the overall aggregate risk of coumaphos, much less the overall cumulative risk posed by the organophosphates. The dire need for this use, combined with its infinitesimal risk, make it clear, that no matter what the result of any cumulative risk assessment for the organophosphates, it is very unlikely that this use would be proposed for revocation.

C. Safety Factor for Infants and Children

1. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Developmental toxicity studies*. The developmental toxicity studies in rats and rabbits showed no evidence of additional sensitivity to young rats or rabbits following prenatal or postnatal exposure to coumaphos and comparable NOAELs were established for adults and offspring.

In a developmental toxicity study pregnant rats received oral doses of coumaphos at 0, 1, 5 or 25 mg/kg/day during gestation days 6 through 15. For maternal toxicity, the NOAEL was 5 mg/kg/day and the LOAEL was 25 mg/kg/day based on clinical signs of cholinesterase inhibition. For developmentaltoxicity, the NOAEL was 25 mg/kg/day (HDT); a LOAEL was not established. There was no evidence of teratogenicity.

In a developmental toxicity study, pregnant rabbits were given single oral dose of coumaphos at 0, 0.25, 2, or 18 mg/kg/day during gestation days 7 through 19. For maternal toxicity, the NOAEL was 2 mg/kg/day and the LOAEL was 18 mg/kg/day based on mortality (2/17) and cholinergic signs. For developmental toxicity, the NOAEL was 18 mg/kg/day (HDT); a LOAEL was not established. There was no evidence of teratogenicity.

3. *Reproductive toxicity study*. In a 2–generation reproduction study, rats were

fed diets containing coumaphos at 0, 0.07, 0.3, or 1.79 mg/kg/day in males and 0, 0.08, 0.34 or 2.02 mg/kg/day in females, respectively. There was no increased sensitivity to pups over the adults. For parental/systemic toxicity, the NOAEL was 1.79 mg/kg/day, (HDT); a LOAEL was not established. For reproductive toxicity, the NOAEL was 1.79 mg/kg/day; a LOAEL was not established.

4. *Cholinesterase inhibition*. Cholinesterase activity was not measured in the adults and offspring in the developmental toxicity studies. In the reproduction study, ChE activity was measured in adults and pups. There was dose-related decreases in plasma and red blood cell cholinesterase activity in dams at 0.34 and 2.02 mg/kg/day. Generally, no differences were seen on day 47 and day 91 measurements. Brain levels were biologically significantly inhibited in F_0 and F_1 adult females at 2.02 mg/kg/day, and in F_0 adult males at 1.79 mg/kg/day. In pups, no significant changes in red blood cell or brain cholinesterase activity were seen on day 4, but on day 21 changes were seen at 2.02 mg/kg/day. In F_1 pups, plasma and red blood cell ChE inhibition of 38–44% was seen, while in F_2 pups, only plasma was affected (31–44%). The only significant brain inhibition in pups was an 8% decrease in F_1 females on day 21. The NOAEL was 0.3 for cholinesterase inhibition in dams and in pups on day 21.

5. *Neurotoxicity*. In an acute delayed neurotoxicity study, no delayed neurotoxicity was seen in hens given a single oral dose (via gelatin capsule) of coumaphos at 50 mg/kg. There are sufficient data available to adequately assess the potential for toxicity to young animals following prenatal and/or postnatal exposure to coumaphos. These include acceptable developmental toxicity studies in rats and rabbits, as well as, a 2–generation reproduction studies in rats. In addition, no treatment-related neuropathology was seen after acute and subchronic exposure to rats. Additionally, there was no evidence of abnormalities to the fetus to the fetal nervous system in the prenatal and postnatal studies.

6. *Prenatal and postnatal sensitivity*. Prenatal developmental toxicity studies in rats and rabbits provided no indication of increased susceptibility of rat or rabbit fetuses to *in utero* exposure to coumaphos. There was no indication of increased susceptibility in the offspring as compared to parental animals in the 2–generation reproduction study. In these studies, effects in the fetuses/offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity.

7. *Conclusion*. Previously for coumaphos, the Agency recommended the FQPA safety factor be reduced from 10x to 3x due to data gaps for the acute and subchronic neurotoxicity studies. These data requirements have been satisfied and therefore, the Agency has determined the FQPA safety factor can be reduced to 1x. The decision to reduce the FQPA Safety factor to 1x is based on the following:

The previous data gap for acute and subchronic neurotoxicity have been satisfied. There is no indication of increased susceptibility of rat or rabbits to coumaphos. In the developmental and reproduction toxicity studies, effects in the fetuses/offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day)= cPAD—(average food+ chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to coumaphos in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of coumaphos on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to coumaphos at the 99.9th percentile will occupy 8% of the aPAD for the U.S. population, 4% of the aPAD for females 13 through 50 years old, 21% of the aPAD for all infants less than 1 year old, the infant subpopulation at greatest exposure and 15% of the aPAD for children 1–6 years old, the children subpopulation at greatest exposure. In addition, despite the potential for acute dietary exposure to coumaphos in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of coumaphos in surface and ground water. EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO COUMAPHOS

Population subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface water EEC (ppb)	Ground water EEC (ppb)	Acute DWLOC (ppb)
U.S. Population	0.007 mg/kg/day	8 %	1.9	0.17	220
Females, 13–50 years old	0.007	4 %	1.9	0.17	200
All Infants, less than 1 year old	0.007 mg/kg/day	2 1%	1.9	0.17	54

AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO COUMAPHOS—Continued

Population subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface water EEC (ppb)	Ground water EEC (ppb)	Acute DWLOC (ppb)
Children, 1–6 years old	0.007 mg/kg/day	15%	1.9	0.17	59

Comparing the risk estimates for the addition of honey and beeswax to those discussed in the risk assessment recently released for public comment under Phase 5 of the reregistration process for the registered uses on livestock, the Agency concludes that there is no incremental increase in dietary exposure or risk when the residues in honey are added to those from the registered uses on livestock. The slight changes reported in some cases (e.g., increase in acute exposure for children 7–12 years old) are likely to be within the noise or uncertainty of the analyses. The fact that the calculated exposure actually decreases in a few cases when honey is added to livestock is further indication of this.

COMPARISON OF AGGREGATE RISK FOR ACUTE EXPOSURE TO COUMAPHOS WITHOUT AND WITH HONEY

Population subgroup	Acute exposure without honey (mg/kg/day)	Acute exposure with honey (mg/kg/day)	Percent acute PAD without honey	Percent acute PAD with honey
U.S. Population	0.000528	0.000524	7.55%	7.49%
Females, 13–50 years old	0.000247	0.000247	3.52%	3.53%
All Infants, less than 1 year old	0.001494	0.001493	21.34%	21.33%
Children, 1–6 years old	0.001069	0.001069	15.27%	15.27%
Children, 7–12 years old	0.000520	0.000524	7.42%	7.49%

Within the operating capability of the model, the Agency concludes that the above results show there is no incremental increase in dietary exposure or risk when the residues in honey are added to those from the registered uses on livestock.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to coumaphos from food will utilize 6% of the cPAD for the U.S. population, 4% of the cPAD for all infants less than 1 year old, and 14 % of the cPAD for children 1–6 years old, the children subpopulation at greatest exposure. There are no residential uses for coumaphos that result in chronic residential exposure to coumaphos. In addition, despite the potential for chronic dietary exposure to coumaphos in drinking water, after calculating the DWLOCs and comparing them to conservative model estimated environmental concentrations of coumaphos in surface and ground water. EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO COUMAPHOS

Population subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface water EEC (ppb)	Ground water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.0003	6%	0.41	0.17	10
All Infants, less than 1 year old	0.0003	4%	0.41	0.17	3
Children, 1–6 years old	0.0003	14%	0.41	0.17	9

Comparing the risk estimates for the addition of honey and beeswax to those discussed in the risk assessment recently released for public comment under Phase 5 of the reregistration process for the registered uses on livestock, the Agency concludes that there is no incremental increase in dietary exposure or risk when the residues in honey are added to those from the registered uses on livestock. The slight changes reported in some cases are likely to be within the noise or uncertainty of the analyses. The fact that the calculated exposure actually decreases in a few cases when honey is added to livestock is further indication of this.

COMPARISON OF AGGREGATE RISK FOR CHRONIC EXPOSURE TO COUMAPHOS WITHOUT AND WITH HONEY

Population Subgroup	Chronic exposure without honey (mg/kg/day)	Chronic exposure with honey (mg/kg/day)	% Chronic PAD without honey	% Chronic PAD with honey
U.S. Population	0.000013	0.000013	5.3%	5.4%
Females, 13–50 years old	0.000009	0.000009	3.7%	3.7%
All Infants, less than 1 year old	0.000011	0.000011	4.3%	4.3%
Children, 1–6 years old	0.000033	0.000033	13.2%	13.2%
Children, 7–12 years old	0.000022	0.000022	8.9%	8.9%

Within the operating capability of the model, the Agency concludes that the above results show there is no incremental increase in dietary exposure or risk when the residues in

honey are added to those from the registered uses on livestock.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Coumaphos is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Coumaphos is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. Coumaphos is classified as Group E (no evidence of carcinogenicity in humans).

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to coumaphos residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (LC/MS/MS) is available to enforce the tolerance expression. The method for honey is Bayer Method 150.803 and for beeswax is Bayer Method 150.804. Either method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no Codex tolerances for coumaphos, therefore there are no harmonization issues with this tolerance.

VI. Conclusion

Therefore, the tolerances are established for combined residues of coumaphos, (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog, coumaphoxon (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl) phosphate, in or on honey at 0.1 ppm and beeswax at 100 ppm.

VII. 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–301039 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 October 16, 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, 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, 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, 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 VII.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 the docket control number OPP–301039, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 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).

VIII. Regulatory Assessment Requirements

This final rule establishes time limited tolerances 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 tolerances 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).

IX. 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: August 3, 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), (346a) and 371.

2. Section 180.189 is amended by adding text to paragraph (b) to read as follows:

§ 180.189 Coumaphos; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time–limited tolerances are established for the combined residues of the insecticide coumaphos (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog, (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate in connection with use of the pesticide under section 18 emergency exemptions granted by the EPA. The tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/ revocation date
Beeswax	100 ppm	12/31/02
Honey	0.1 ppm	12/31/02

* * * * *

[FR Doc. 00–20732 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301029; FRL–6598–9]

RIN 2070–AB

Zinc Phosphide; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on barley and wheat grain, hay and straw and wheat aspirated grain fractions. This action is in response to EPA's

granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on barley and wheat. This regulation establishes maximum permissible levels for residues of phosphine in these food commodities. The tolerances will expire and are revoked on December 31, 2001.

DATES: This regulation is effective August 16, 2000. Objections and requests for hearings, identified by docket control number OPP–301029, must be received by EPA on or before October 16, 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 VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301029 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703 308–9364; and e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	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,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301029. 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, on its own initiative, in accordance with sections 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on barley and wheat grain, wheat hay and aspirated grain fractions at 0.010 parts per million (ppm), barley hay at 0.20 ppm, and barley straw at 0.020 ppm. These tolerances will expire and are revoked on December 31, 2001. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

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 FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18-related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemptions for Zinc Phosphide on Barley and Wheat and FFDCA Tolerances

EPA has authorized under FIFRA section 18 the use of zinc phosphide on barley and wheat for control of meadow voles and field mice in Idaho. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of zinc phosphide in or on barley and wheat grain, hay and straw and wheat aspirated grain fractions. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be

consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on December 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 barley and wheat grain, hay and straw and wheat aspirated grain fractions after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. 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.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether zinc phosphide meets EPA's registration requirements for use on barley and wheat or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of zinc phosphide by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Idaho to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for zinc phosphide, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7) .

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of zinc phosphide and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on barley and wheat grain, wheat hay and aspirated grain fractions at 0.010 ppm, barley hay at 0.20 ppm, and barley straw at 0.020 part per million (ppm). EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follow.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by zinc phosphide are discussed in this unit.

B. Toxicological Endpoint

1. *Acute toxicity*. No toxicology studies were identified by EPA which demonstrated the need for an acute dietary risk assessment.

2. *Short- and intermediate-term toxicity*. Based on the acute dermal LD_{50} study in rabbits, no appropriate toxic effects were identified for risk assessment. In that study no mortalities were observed at 5,000 milligrams/kilograms (mg/kg). At the lowest observed adverse effect level (LOAEL) of 2,000 mg/kg, there was a decrease in body weight. Based on the physical properties of the chemical, dermal absorption is expected to be very low, since zinc phosphide reacts with water and stomach acid to produce the toxic gas phosphine from oral, but not dermal, exposure. As no endpoint of toxicological concern for dermal exposure has been identified, no dermal penetration data were required. The requirement for an acute inhalation study has been waived, thus, zinc phosphide has been placed in Toxicity Category I for acute inhalation exposure.

3.*Chronic toxicity*. EPA has established the Reference Dose (RfD) for zinc phosphide at 0.0001 mg/kg/day. This RfD is based on a subchronic oral study in rats with a no observed adverse effect level (NOAEL) of 0.1 mg/kg/day and an uncertainty factor of 1,000 based on increased mortality, increase in absolute and relative liver weight and hematological changes at the LOAEL of 1 mg/kg/day. An uncertainty factor of 100 was applied to account for both the interspecies extrapolation and intraspecies variability. An additional UF of 10 was applied to account for the lack of reproductive data, and the lack of chronic toxicity data in a non-rodent species.

4. *Carcinogenicity*. Zinc phosphide has not been classified as to its carcinogenic potential since cancer studies have been waived. Although this chemical has food uses, dietary exposure is expected to be minimal.

C. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.284) for the residues of phosphine resulting from the use of zinc phosphide, in or on a variety of raw agricultural commodities at levels ranging from 0.01 ppm in or on grapes to 0.1 ppm in or on grasses (rangeland). There is no reasonable expectation of secondary residues in meat, milk, poultry or eggs. Any residues of zinc phosphide ingested by livestock would be metabolized to naturally occurring phosphorous compounds. Risk assessments were conducted by EPA to assess dietary exposures and risks from zinc phosphide as follows:

Acute and chronic exposure and risk. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. In our best scientific judgment, the proposed use of zinc phosphide on wheat and barley will not result in acute or chronic human dietary exposure to zinc phosphide due to the following:

Zinc phosphide is not systemic.

Applications are made prior to the grain head formation.

Residue data show that residues of phosphine are less than the limit of quantification (<0.010 ppm) in wheat and barley grain.

The grain will be highly processed prior to human consumption.

There is no expectation of secondary residues in meat, milk, poultry, and eggs as a result of the registered and proposed uses.

2. *From drinking water*. Zinc phosphide degrades rapidly to phosphine (PH_3) and zinc ions (Zn^{2+}), both of which adsorb strongly to soil and are common nutrients in soil. Zinc phosphide and its degradation products appear to have low potential for ground and surface water contamination. Therefore, dietary exposure is not expected from either ground or surface water fed drinking water.

3. *From non-dietary exposure*. Zinc phosphide is currently registered for use on residential non-food sites. A detailed residential exposure assessment is contained in the RED for zinc phosphide (RED Zinc Phosphide, EPA 738–R–98–006, July 1998). The residential exposure assessment evaluated exposure from accidental ingestion of zinc phosphide. No other residential exposure assessment was required. It is stated in the RED that the Agency believes that ''accidental ingestion'' of zinc phosphide baits should not be included in the FQPA determination for tolerance setting.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Zinc phosphide, aluminum phosphide and magnesium phosphide all generate phosphine gas.

EPA does not have, at this time, available data to determine whether zinc phosphide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, zinc phosphide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that zinc phosphide has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute and chronic risk*. There is no drinking water, residential, nor dietary component to acute and chronic aggregate exposure to zinc phosphide residues. Thus, acute and chronic aggregate exposure assessments are not required.

2. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. No short- or intermediate-term dermal, oral or inhalation toxicological endpoints were identified for zinc phosphide. Thus, no short- or intermediate-term risk assessments are required.

3. *Aggregate cancer risk for U.S. population*. Although zinc phosphide is registered for use on food crops, no chronic toxicity or carcinogenicity studies were required because chronic exposure to zinc phosphide or its byproducts were considered to be negligible. Thus, data are not available to classify zinc phosphide in terms of carcinogenicity and a cancer risk assessment was not performed.

4. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to zinc phosphide residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Acute and chronic risk*. There is no drinking water, residential, nor dietary component to acute and chronic aggregate exposure to zinc phosphide residues. Thus, acute and chronic aggregate exposure assessments are not required.

2. *Short- or intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. No short- or intermediate-term dermal, oral or inhalation toxicological endpoints were identified for zinc phosphide. Thus, no short- or intermediate-term risk assessments are required.

3. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to zinc phosphide residues.

V. Other Considerations

A. Metabolism in Plants and Animals

The nature of the residue in plants is adequately understood. The residue of concern is zinc phosphide measured as phosphine.

There is no expectation of secondary residues in meat, milk, poultry, and eggs as a result of the registered uses. Residues of zinc phosphide ingested by livestock would be immediately converted to phosphine and metabolized to naturally occurring phosphorous compounds.

B. Analytical Enforcement Methodology

Adequate enforcement methodology (colorimetric and GLC/FPD) is available (Pesticide Analytical Method II under aluminum phosphide) to enforce the tolerance expression.

C. Magnitude of Residues

Residues of phosphine resulting from the use of zinc phosphide are not expected to exceed 0.010 ppm in/on barley grain and wheat grain, 0.20 ppm in barley hay, 0.020 ppm in barley straw, 0.010 ppm in wheat hay, 0.010 ppm in wheat straw, 0.010 ppm in aspirated grain fractions under the use conditions of this section 18 exemption.

D. International Residue Limits

No CODEX, Canadian or Mexican Maximum Residue Levels have been established for zinc phosphide.

E. Rotational Crop Restrictions

Data for confined accumulation in rotational crops has been waived because the physical properties of zinc phosphide precludes transfer of residues to rotated crops (Zinc Phosphide RED, EPA 738–R–98–006, July 1998). Thus, rotational crop restrictions are not required.

VI. Conclusion

Therefore, tolerances are established for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on barley and wheat grain, wheat hay and aspirated grain fractions at 0.010 ppm, barley hay at 0.20 ppm, and barley straw at 0.020 ppm.

VII. 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–301029 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 October 16, 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, 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, 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, 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 VII.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 the docket control number OPP–301029, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 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).

VIII. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances 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 tolerances 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).

IX. 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: August 8, 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.

2. Section 180.284 is amended by alphabetically adding the following commodities to the table in paragraph (b) to read as follows:

§ 180.284 Zinc phosphide; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ Revocation Date
* *	*	* *
Barley, grain	0.010	12/31/01
Barley, hay	0.20	12/31/01
Barley, straw	0.020	12/31/01
Wheat, aspirated grain fractions	0.010	12/31/01
Wheat, grain	0.010	12/31/01
Wheat, hay	0.010	12/31/01
Wheat, straw	0.010	12/31/01

* * * * *

[FR Doc. 00–20731 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 00–208]

Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of the rules adopted in the Tribal Order amending the Commission's universal service rules to provide additional, targeted support under the Commission's low-income programs to create financial incentives for eligible telecommunications carriers to serve, and deploy telecommunications facilities in, areas that previously may have been regarded as high risk and unprofitable. The document was published in the **Federal Register** on August 4, 2000. Some of the rules contained information collection requirements.

DATES: The amendments to 47 CFR 54.401(d), 54.403(a)(2), 54.403(a)(3), 54.403(a)(4)(ii), 54.405(b), 54.409(c), 54.411(d), and 54.415(c) published at 65 FR 47883 (August 4, 2000) are effective September 5, 2000.

FOR FURTHER INFORMATION CONTACT: Gene Fullano, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: On June 30, 2000, the Commission adopted in the *Tribal Order*, 65 FR 47883 (August 4, 2000), measures to promote telecommunications subscribership and infrastructure deployment within American Indian and Alaska Native tribal communities; to establish a framework for the resolution of eligible telecommunications carrier designation requests under section 214(e)(6) of the Telecom Act; and to apply the framework to pending petitions for designation as eligible telecommunications carriers. A summary was published in the **Federal Register**. See 65 FR 47883, August 4, 2000. Some of the rules contained information collection requirements. We stated that the ''rules contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of these sections.'' The information collections were approved by OMB on July 31, 2000. See OMB Nos. 3060–0774 and 3060–0810. This publication satisfies our statement that the Commission would publish a document announcing the effective date of the rules. It also amends the Commission's universal service rules to provide additional, targeted support under the Commission's low-income programs to create financial incentives for eligible telecommunications carriers to serve, and deploy telecommunications facilities in, areas that previously may have been regarded as high risk and unprofitable.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–20789 Filed 8–15–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 981216308–9124–02; I.D. 040500B]

RIN 0648–AJ67

Atlantic Highly Migratory Species (HMS) Fisheries; Vessel Monitoring Systems

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

ACTION: Delay of effectiveness.

SUMMARY: NMFS delays until October 1, 2000, the effective date of a section of a final rule published May 28, 1999, which requires certain vessel owner/

operators to install a NMFS-approved vessel monitoring system (VMS).

DATES: The effective date of 50 CFR 635.69 is 12:01 a.m. October 1, 2000.

ADDRESSES: Copies of the Highly Migratory Species Fishery Management Plan (HMS FMP), the final rule and supporting documents can be obtained from Chris Rogers, Acting Chief, Highly Migratory Species Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Steve Meyers, NMFS, (301) 713–2347, or Buck Sutter and Jill Stevenson (727) 570–5447.

SUPPLEMENTARY INFORMATION: The final regulations to implement the HMS FMP and Amendment 1 to the Atlantic Billfish Fishery Management Plan (64 FR 29090, May 28, 1999) included a provision requiring an owner or operator of a commercial vessel permitted to fish for Atlantic HMS under § 635.4 and that fishes with a pelagic longline to install a NMFS-approved VMS unit on board the vessel and operate the VMS unit whenever the vessel leaves port with pelagic longline gear on board. The VMS requirement of the final rule (§ 635.69) was to be effective September 1, 1999.

On August 9, 1999, NMFS delayed the effective date of this final rule until January 1, 2000 (64 FR 43101). On October 14, 1999, NMFS again delayed the effective date of this final rule until June 1, 2000 (64 FR 55633). On April 19, 2000, NMFS further delayed the effective date of implementation of the VMS regulations until September 1, 2000 (65 FR 20918).

On August 1, 2000, NMFS published a final rule (65 FR 47214) to reduce bycatch by prohibiting the use of pelagic longline fishing gear in three areas: the year-round DeSoto Canyon closure in the Gulf of Mexico starting November 1, 2000; the year round East Florida Coast closure beginning on February 1, 2001; and the seasonal Charleston Bump closure from February 1 through April 30 each year, beginning in 2001.

Since publication of the final rule implementing the time area closures, NMFS has received several requests for an additional delay of the VMS requirement until the effective dates of the new closed areas (November 1, 2000 in the Gulf of Mexico and February 1, 2001 in the Atlantic Ocean). These requests included the information that many vessels have not yet purchased VMS units, as vessel owners have been waiting for the resolution of litigation against NOAA Fisheries over the regulatory requirement for these devices.

Because the regulations implementing the new time area closures will not require the use of VMS for enforcement purposes until November 1, 2000 (the initial effective date of the DeSoto Canyon closed area), NMFS agrees that a short delay in the VMS requirement will not compromise NMFS' ability to enforce the fishery closures. An October 1, 2000, effective date would give an additional month for vessel owners to acquire and install the units. Although the designated Atlantic Ocean closed areas are not effective until February 1, 2001, requiring all vessels using pelagic longlines to operate VMS units in all fishing areas as of October 1, 2000 will facilitate tracking and monitoring of vessels as they begin to modify fishing practices in response to the bycatch reduction strategy.

NMFS thus delays the effective date of the VMS regulations at 50 CFR 635.69 until October 1, 2000.

Dated: August 10, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 00–20717 Filed 8–10–00; 4:51 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000803226–0226–01; I.D. 070500D]

RIN 0648–AO15

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 35 to the Northeast Multispecies Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 35 (Framework 35) to the Northeast Multispecies Fishery Management Plan (FMP) to exempt a fishery from the Gulf of Maine (GOM)/Georges Bank (GB) Regulated Mesh Area mesh size regulations and closed area restrictions. Framework 35 establishes an exempted small mesh whiting fishery in the GOM. The exempted fishery is authorized in an area near Provincetown, MA, from September 1 through November 20 each year, and requires the use of raised footrope trawl gear.

DATES: Effective September 1, 2000.

ADDRESSES: Copies of the Framework 35 document, its Regulatory Impact Review (RIR), the Environmental Assessment, and other supporting documents for the framework adjustment are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. These documents are also available online at http://www.nefmc.org.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, One Blackburn Drive, Gloucester, MA 01930–2298, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Peter Christopher, Fishery Policy Analyst, 978–281–9288.

SUPPLEMENTARY INFORMATION: The Northeast Multispecies regulations, at 50 CFR 648.80(a)(7)(i)(A), specify that in order for any fishery to occur in the GOM/GB Regulated Mesh Area, it must be shown to have a bycatch of regulated multispecies that is less than 5 percent of the catch of all species. This regulation is intended to prevent the bycatch and discard of large amounts of regulated multispecies that could be caught in fisheries targeting other species. Small mesh bottom trawl fisheries are of particular concern because of the interactions of bottom fish, the limited selectivity of small mesh, and the high potential of regulated multispecies bycatch. However, to provide for the ability to conduct fisheries that have a bycatch of regulated multispecies that is low, the Northeast Multispecies regulations allow fisheries to occur if they can be proven to have less than 5 percent bycatch of regulated multispecies.

In 1995, the Massachusetts Division of Marine Fisheries (MADMF) began testing the raised footrope trawl design with a single Provincetown otter trawl vessel in a small area in Cape Cod Bay to determine whether modified whiting trawl gear would sufficiently reduce bycatch of regulated multispecies. A raised footrope trawl was designed so that the mouth of the net fished above the ocean floor, thereby reducing bycatch of flatfish, lobster, and other bottom dwelling species while still catching species that remain above the

ocean floor, such as whiting. After developing a gear that successfully reduced bycatch of flatfish and caught whiting undamaged by bottom debris and hard-bodied, bottom dwelling species, the MADMF proceeded with an expansion of the fishery in 1996. From 1996 through 1999, the fishery was expanded to a maximum of 43 vessels. Expansion of the fishery allowed the MADMF to evaluate the effectiveness of the modified gear when used by a relatively large number of vessels. Enforceability of the gear requirements, fishermen's willingness to change gear specifications, and ease of adapting to and using the new gear were examined. In addition, expansion of the fishery provided the ability for the MADMF to collect significant amounts of data through observed fishing trips and vessel trip reports. Expansion to additional areas was also authorized by NMFS through experimental fisheries.

In the fall of 1999, the MADMF requested that NMFS exempt the fishery based on the low bycatch rates of regulated multispecies, particularly flatfish. In order to meet the qualifications for an exempted fishery under the FMP, data collected from the experimental fishery must demonstrate that the fishery results in bycatch of regulated multispecies that is less than 5 percent, by weight, of the total catch and that such exemption will not jeopardize fishing mortality objectives (50 CFR 648.80(a)(7)(i)(A)). NMFS takes a conservative approach in applying the 5 percent criteria by requiring that it be met on a trip-by-trip basis as recommended by the New England Fishery Management Council (Council). NMFS informed the MADMF that because of the trip-by-trip requirement the fishery did not qualify for an exemption.

Recognizing the success of the gear in dramatically reducing bycatch, the Council, at its January 18, 2000, meeting, initiated Framework 35 to establish the raised footrope trawl exempted small mesh whiting fishery based on the significant reductions of bycatch of regulated species encountered in the fishery.

While the fishery has not met the trip-by-trip bycatch reductions, the overall reduction of regulated multispecies bycatch has been significant with the raised footrope trawl gear compared to landings and bycatch of regulated multispecies in regulated multispecies directed fisheries. The overall percentage of raised footrope trawl discards in 1999 compared to January through November 1999, landings in the directed regulated multispecies fisheries ranged from 2.2 percent (GOM winter flounder) to less than 0.01 percent. GOM cod bycatch in the 1999 raised footrope trawl fishery represented approximately 0.93 percent of the landings of cod in the directed regulated multispecies fishery from January through November 1999. In addition, bycatch of regulated multispecies in the 1999 raised footrope trawl fishery represented a relatively low percentage of overall regulated multispecies discards, ranging from 0.02 percent for witch flounder to 5.95 percent for GOM cod. Also, the raised footrope trawl has demonstrated significant overall reductions in bycatch compared to traditional whiting trawl gear. In the area near Provincetown in 1997, for example, regulated flatfish bycatch with traditional whiting nets was approximately 66 lb (29.9 kg) per hour. With the raised footrope trawl, the bycatch rate was approximately 7 lb (3.18 kg) per hour—a reduction of approximately 89 percent. Results in 1998 and 1999 were similar. Since bycatch of cod and other roundfish was known to be a continued problem with the modified gear, the MADMF prosecuted the fishery in areas low in cod and other roundfish concentrations.

During October and November, the area encompassed by this exempted fishery falls almost entirely within the October/November GOM rolling closure area (Rolling Closure V). Framework 35 allows the exempted fishery to operate within the closed area under a letter of authorization. Operation of this fishery in the closed area should not pose a threat to flatfish, but could pose a threat to cod if high concentrations are present. However, cod bycatch is not expected to be significant. First, the season for this exempted fishery is September 1 through November 20. Historically, cod bycatch in the experimental raised footrope trawl fishery increased in November and cod bycatch after November 20 has represented 50 percent of the bycatch of cod for the entire experimental fishing season (September through December). Second, during the development of Framework 33 to the FMP, the Northeast Fishery Science Center (NEFSC) provided evidence that cod concentrations in the southern portion of block 124 (the portion of the closed area overlapped by the exempted area) is low. Cod concentrations appear to be approximately five times higher in the northwestern and west-central parts of block 124 (areas not overlapped by the proposed exempted fishery area), in the autumn, based on NEFSC trawl survey data from 1994 through 1998. Further, the use of exempted fishery authorization letters will allow NMFS to identify vessels participating in the fishery on a day-to-day basis, providing the ability for simplified monitoring of the fishery.

Framework 35 establishes the exempted whiting raised footrope trawl fishery in an area in upper Cape Cod Bay. The exempted area is a modification of the areas authorized for previous experimental fisheries, but falls completely within the areas studied under the experiment. The exempted area is based on the highest concentrations of observed and reported fishing activity during the experimental fisheries.

Requirements of the exempted fishery include gear specifications for the raised footrope trawl and bycatch restrictions. Gear restrictions include: minimum mesh size; prohibition on net strengtheners; headrope specifications including number and distribution of floats; ground gear (legs) specifications; footrope specifications; drop chain specifications (with an option for a sweepless net configuration); and chain-sweep specifications. Because Small Mesh Areas 1 and 2 in the GOM (already exempted fisheries) require the use of a raised footrope trawl, these specifications also apply in those areas, with the exception of the minimum mesh size and prohibition on net strengthener use. The only modifications to the current gear requirements in Small Mesh Areas 1 and 2 is an option to use a sweepless raised footrope trawl net and a change of the footrope length specification. The change to the footrope length is implemented through this framework to correct the regulations which mistakenly stated that the footrope must be at least 20 ft (6.1 m) longer than the headrope. To be consistent with the original design of the MADMF's net, the footrope must be no greater than 20 ft (6.1 m) longer than the headrope. Modifying the mesh size and strengthener requirements in Small Mesh Areas 1 and 2 is outside the scope of this framework.

While enrolled in the raised footrope trawl whiting fishery, vessels are restricted to retaining only the following species: Whiting, offshore hake, red hake, butterfish, dogfish, herring, mackerel, scup, and squid, up to the amounts allowed by the regulations for each species. Retention of all other species is prohibited. Vessels fishing in the raised footrope trawl fishery may fish in other small mesh fisheries, but are subject to the most restrictive measures, regardless of where they are fishing.

Economic Impact Analysis

The economic impacts of exempting the raised footrope trawl whiting fishery were analyzed in the RIR section of the Council's framework document and the supplement to that document. When compared to taking no action, implementation of the exempted fishery under Framework 35 is likely to generate approximately $1.25 million in revenues for vessels fishing primarily out of the ports of Gloucester and Provincetown, MA, based on 1997 through 1999 averages. Existing area closures, gear restrictions, and fishing effort controls would otherwise limit the potential participants. Other alternatives, such as gear modifications and additional areas, were considered throughout the development of the fishery and during the experimental fishery phase. However, the gear specifications included in this framework maximize flexibility of the industry while minimizing bycatch. Exemption in additional areas is not warranted due to insufficient information to determine bycatch levels. Framework 35 also results in minor modifications to the gear specifications in Small Mesh Areas 1 and 2. These modifications are expected to result in minimal costs to vessels. Vessels that fish in Small Mesh Areas 1 and 2 are already required to use raised footrope trawl gear and only minimal costs would be required to modify their existing gear, if any modifications need to be made at all.

Abbreviated Rulemaking

NMFS is making these adjustments to the regulations under the framework abbreviated rulemaking procedure in 50 CFR part 648, subpart F. This procedure requires the Council, when making specifically allowed adjustments to the FMP, to develop and analyze the action over the span of at least two Council meetings where public comments are accepted. The Council must provide the public with advance notice of both the framework proposals and the associated analyses, and provide an opportunity to comment on them specifically prior to and at the second Council meeting. Upon review of the analyses and public comments, the Council may recommend to the Regional Administrator, Northeast Region (Regional Administrator), that the measures be published as a final rule, or as a proposed rule if additional public comment is necessary.

The initial and final meetings for Framework 35 at which public comment was received were on January 18, 2000, and May 3, 2000, respectively. The Council also discussed the raised footrope whiting exempted fishery at previous meetings on other actions, including the Council meeting on November 16 through 19, 1999, the Council's Groundfish Committee on December 13, 1999, and January 14, 2000, and at the Groundfish Committee Advisory Panel meetings on December 13, 1999, and January 13, 2000. Documents summarizing the Council's proposed action and the analyses of biological, economic, and social impacts of this action and alternative actions were available for public review 1 week prior to the final meeting, as is required under the framework adjustment process. No written comments were received.

Classification

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

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

This final rule contains collection-of-information requirements subject to the PRA. These requirements have been approved by OMB. The OMB Control numbers and estimated response times are as follows:

1. Call-in to NMFS Region for enrollment into Raised Footrope Trawl Exempted Whiting Fishery (§ 648.80(a)(14)(i)(A)) approved under 0648–0422 at 2 minutes/response.

2. Call-in to NMFS Region to withdraw from the Raised Footrope Trawl Exempted Whiting Fishery (§ 648.80(a)(14)(i)(A)) approved under 0648–0422 at 2 minutes/response.

The estimated response times include the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 *et seq.*, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. Nevertheless, the socioeconomic impacts on affected small entities were considered in the EA/RIR contained in the supporting analyses for Framework 35 and the supplement to Framework 35. The economic impacts are described in the **SUPPLEMENTARY INFORMATION** section of the preamble to this final rule.

The Assistant Administrator for Fisheries, NOAA (AA), finds that, because public meetings held by the Council to discuss the management measures implemented by this final rule provided adequate prior notice and opportunity for public comment, further notice and opportunity to comment on this final rule is unnecessary. Therefore, the AA, under 5 U.S.C. 553(b)(B), finds good cause exists to waive prior notice and additional opportunity for public comment.

This final rule establishes an exempted small mesh whiting fishery in the Gulf of Maine and vessel operators who choose to participate in this fishery would be required to use a raised footrope trawl gear. Existing area closures, gear restrictions, and fishing effort controls would otherwise limit vessel operators from fishing for whiting in this area. Therefore, this action relieves a restriction, under 5 U.S.C. 553(d)(1) and is not subject to a 30-day delay in effectiveness. This final rule also results in minor modifications to the gear specifications in Small Mesh Areas 1 and 2. Vessels that fish in these areas are already required to use raised footrope trawl gear. The minor modifications made by this rule will provide vessels with an option to use sweepless raised footrope trawl net and will clarify that the footrope may not be more than 20 ft longer than the headrope. By providing another gear option, this rule does not impose a restriction. Furthermore, complying with the clarified requirement that the footrope be no more than 20 ft longer than the headrope will require only a minimal amount of time. In addition, participation in the raised footrope trawl gear fishery is voluntary and vessel operators can choose whether or not to modify their gear, if necessary, to participate in this fishery. Therefore, it is not necessary to delay for 30 days implementation of the gear modification provisions associated with this final rule.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 11, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.14, paragraphs (a)(35) and (a)(43) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(35) Fish with, use, or have on board within the area described in § 648.80(a)(1), nets with mesh size smaller than the minimum mesh size specified in § 648.80(a)(2), except as provided in § 648.80(a)(3) through (6), (a)(8), (a)(9), (a)(14), (d), (e), and (i), unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

* * * * *

(43) Violate any of the provisions of § 648.80, including paragraphs (a)(3), the small-mesh northern shrimp fishery exemption area; (a)(4), the Cultivator Shoal whiting fishery exemption area; (a)(8), Small-mesh Area 1/Small-mesh Area 2; (a)(9), the Nantucket Shoals dogfish fishery exemption area; (a)(11), the Nantucket Shoals mussel and sea urchin dredge exemption area; (a)(12), the GOM/GB monkfish gillnet exemption area; (a)(13), the GOM/GB dogfish gillnet exemption area; (a)(14), the Raised Footrope Trawl Exempted Whiting Fishery; (b)(3), exemptions (small mesh); (b)(5), the SNE monkfish and skate trawl exemption area; (b)(6), the SNE monkfish and skate gillnet exemption area; (b)(7), the SNE dogfish gillnet exemption area; (b)(8), the SNE mussel and sea urchin dredge exemption area; or (b)(9), the SNE little tunny gillnet exemption area. A violation of any provision of the paragraphs in § 648.80 is a separate violation.

3. In § 648.80, paragraphs (a)(6)(iii)(C), (a)(8)(ii)(C) and (D) are revised and paragraph (a)(14) is added to read as follows:

§ 648.80 Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(6) * * *

(iii) * * *

(C) Vessels do not fish for, possess on board, or land any fish, except when fishing in the areas specified in paragraphs (a)(4), (a)(9), (a)(14), (b), and (c) of this section. Vessels may retain exempted small mesh species as provided in paragraphs (a)(4)(i), (a)(9)(i), (a)(14)(i), (b)(3), and (c)(3) of this section.

* * * * *

(8) * * *

(ii) * * *

(C) The footrope must be longer than the length of the headrope, but not more than 20 ft (6.1 m) longer than the length of the headrope. The footrope must be rigged so that it does not contact the ocean bottom while fishing.

(D) The raised footrope trawl may be used with or without a chain sweep. If used without a chain sweep, the drop chains must be a maximum of 3/8 inch (0.95 cm) diameter bare chain and must be hung from the center of the footrope and each corner (the quarter, or the junction of the bottom wing to the belly at the footrope). Drop chains must be hung at intervals of 8 ft (2.4 m) along the footrope from the corners to the wing ends. If used with a chain sweep, the sweep must be rigged so it is behind and below the footrope, and the footrope is off the bottom. This is accomplished by having the sweep longer than the footrope and having long drop chains attaching the sweep to the footrope at regular intervals. The forward end of the sweep and footrope must be connected to the bottom leg at the same point. This attachment, in conjunction with the headrope flotation, keeps the footrope off the bottom. The sweep and its rigging, including drop chains, must be made entirely of bare chain with a maximum diameter of 5/16 inch (0.8 cm). No wrapping or cookies are allowed on the drop chains or sweep. The total length of the sweep must be at least 7 ft (2.1 m) longer than the total length of the footrope, or 3.5 ft (1.1 m) longer on each side. Drop chains must connect the footrope to the sweep chain, and the length of each drop chain must be at least 42 inches (106.7 cm). One drop chain must be hung from the center of the footrope to the center of the sweep, and one drop chain must be hung from each corner. The attachment points of each drop chain on the sweep and the footrope must be the same distance from the center drop chain attachments. Drop chains must be hung at intervals of 8 ft (2.4 m) from the corners toward the wing ends. The distance of the drop chain that is nearest the wing end to the end of the footrope may differ from net to net. However, the sweep must be at least 3.5 ft (1.1 m) longer than the footrope between the drop chain closest to the wing ends and the end of the sweep that attaches to the wing end.

* * * * *

(14) *Raised Footrope Trawl Exempted Whiting Fishery.* Vessels subject to the minimum mesh size restrictions specified in paragraph (a)(2) of this section may fish with, use, or possess nets in the Raised Footrope Trawl Whiting Fishery area with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (a)(14)(i) of this section. The Raised Footrope Trawl Whiting Fishery area (copies of a map depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA

Point	N. Lat.	W. Long.
RF 1	42°01.9′	70°14.7′
RF 2	41°59.45′	70°23.65′
RF 3	42°07.85′	70°30.1′
RF 4	42°15.05′	70°08.8′
RF 5	42°08.35′	70°04.05′
RF 6	42°04.75′	70°16.95′
RF 1	42°01.9′	70°14.7′

(i) *Requirements.* (A) A vessel fishing in the Raised Footrope Trawl Whiting Fishery under this exemption must have on board a valid letter of authorization issued by the Regional Administrator. To obtain a letter of authorization, vessel owners must write to or call during normal business hours the Northeast Region Permit Office and provide the vessel name, owner name, permit number, and the desired period of time that the vessel will be enrolled.

Since letters of authorization are effective the day after they are requested, vessel owners should allow appropriate processing and mail time. To withdraw from a category, vessel owners must write to or call the Northeast Region Permit Office. Withdrawals are effective the day after the date of request. Withdrawals may occur after a minimum of 7 days of enrollment.

(B) Up to and including April 30, 2002, all nets must comply with a minimum mesh size of 2.5-inch (6.35-cm) square or diamond mesh, subject to the restrictions as specified in paragraph (a)(14)(i)(D) of this section. An owner or operator of a vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than whiting and offshore hake subject to the applicable possession limits as specified in § 648.86, except for the following allowable incidental species: Red hake; butterfish; dogfish; herring; mackerel; scup; and squid.

(C) Beginning May 1, 2002, in addition to the requirements specified in paragraph (a)(14)(i)(B) of this section, all nets must comply with a minimum mesh size of 3-inch (7.62-cm) square or diamond mesh, subject to the restrictions as specified in paragraph (a)(14)(i)(D) of this section. An owner or operator of any vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to 10,000 lb (4,536 kg); red hake; butterfish; dogfish; herring; mackerel; scup; and squid.

(D) All nets must comply with the minimum mesh sizes specified in paragraphs (a)(14)(i)(B) and (C) of this section. Counting from the terminus of the net, the minimum mesh size is applied to the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length.

(E) Raised footrope trawl gear is required and must be configured as specified in paragraphs (a)(8)(ii)(A) through (D) of this section.

(F) Fishing may only occur from September 1 through November 20 of each fishing year.

(G) A vessel enrolled in the Raised Footrope Trawl Whiting Fishery may fish for small-mesh multispecies in exempted fisheries outside of the Raised Footrope Trawl Whiting Fishery exemption area, provided that the vessel complies with the more restrictive gear, possession limit and other requirements specified in the regulations of that exempted fishery for the entire participation period specified on the vessel's letter of authorization. For example, a vessel may fish in both the Raised Footrope Trawl Whiting Fishery and the Cultivator Shoal Whiting Fishery Exemption Area and would be restricted to a minimum mesh size of 3 inches (7.62 cm), as required in the Cultivator Shoal Whiting Fishery Exemption Area, the use of the raised footrope trawl, and the catch and bycatch restrictions of the Raised Footrope Trawl Whiting Fishery, except for red hake, which is restricted to 10 percent of the total catch under the Cultivator Shoal Whiting Fishery.

(ii) *Sea sampling.* The Regional Administrator shall conduct periodic sea sampling to evaluate the bycatch of regulated species.

* * * * *

4. In § 648.81, paragraph (g)(2)(v) is added to read as follows:

§ 648.81 Multispecies closed areas.

* * * * *

(g) * * *

(2) * * *

(v) That are fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(a)(14), and in the Gulf of Maine Rolling Closure Area V, as specified in paragraph (g)(1)(v) of this section.

* * * * *

[FR Doc. 00–20847 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211039–0039–01; I.D. 081000C]

Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the third seasonal apportionment of the 2000 halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 11, 2000, until 1200 hrs, A.l.t., October 1, 2000.

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

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

The Pacific halibut bycatch allowance for the GOA trawl shallow-water species fishery, which is defined at § 679.21(d)(3)(iii)(A), was established by the Final 2000 Harvest Specifications for Groundfish for the GOA (65 FR 8298, February 18, 2000) for the third season, the period July 4, 2000, through September 30, 2000, as 200 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the third seasonal apportionment of the 2000 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for species included in the shallow-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are: pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ''other species.''

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent exceeding the third seasonal apportionment of the 2000 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the

public interest. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: August 11, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–20801 Filed 8–11–00; 4:23 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 159
Wednesday, August 16, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206–AJ07

Pay Under the General Schedule; Locality-Based Comparability Payments

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations to change the boundaries of two locality pay areas for 2001 by adding an area of application to the Boston-Worcester-Lawrence, MA–NH–ME–CT, locality pay area and the San Francisco-Oakland-San Jose, CA, locality pay area. We propose to add the State of Rhode Island as an area of application to the Boston locality pay area and Monterey County, CA, as an area of application to the San Francisco locality pay area. This proposal is based on changes in the criteria for defining areas of application that were recommended by the Federal Salary Council, a body composed of experts in the fields of labor relations or pay setting and representatives of Federal employee organizations.

DATES: We must receive comments on or before October 16, 2000.

FOR FURTHER INFORMATION CONTACT: Allan Hearne, (202) 606–2838; FAX: (202) 606–4264; EMAIL: payleave@opm.gov.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200, FAX: (202) 606–0824, or email: *payleave@opm.gov.*

SUPPLEMENTARY INFORMATION: Section 5304(f) of title 5, United States Code, authorizes the President's Pay Agent (the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of the Office of Personnel Management (OPM)) to provide for such pay localities as the Pay Agent considers appropriate. In so doing, the Pay Agent must give thorough consideration to the views and recommendations of the Federal Salary Council, a body composed of experts in the fields of labor relations or pay setting and representatives of Federal employee organizations. The President appoints the members of the Federal Salary Council, who submit annual recommendations about the locality pay program for General Schedule employees. The establishment or modification of pay area boundaries must conform with the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553).

Based on the Council's recommendations in 1993, the Pay Agent approved using Metropolitan Statistical Area definitions as the basis for pay areas. OMB defines Metropolitan Statistical Areas based on population size, population density, and commuting patterns. The Council also recommended and the Pay Agent approved criteria for adding certain adjacent counties as ''areas of application.''

In its letter of October 22, 1999, to the Pay Agent, the Federal Salary Council recommended making two changes to the area of application criteria for 2001. The first change would create a new set of ''Full State'' criteria to treat a State smaller than 115 percent of the average county size as a single county for application of the existing county criteria. This change would make the State of Rhode Island an area of application to the Boston locality pay area. The Council recommended this change because nearby higher-paying locality pay areas virtually surround Rhode Island, agencies in Rhode Island have reported difficulties in filling positions because of higher locality rates in Boston and Hartford, and counties in Rhode Island are so small that no single county passes the existing criteria.

The second change would reduce the percent of population living in urbanized areas criterion from 90 percent to 80 percent. This change would qualify Monterey County, CA, as an area of application to the San Francisco locality pay area. The Council recommended this change because a significant portion of Monterey County is devoted to Federal parkland and military installations, making it difficult to pass the population density criterion even though there is a significant level of commuting between Monterey and San Francisco.

In its 1999 report to the President, the Pay Agent tentatively agreed to make the changes recommended by the Federal Salary Council. This notice solicits public comment on the proposal to add the State of Rhode Island as an area of application to the Boston locality pay area and Monterey County, CA, as an area of application to the San Francisco locality pay area.

The new criteria for adding an adjacent area as an area of application are:

A. *County-wide areas of application.* To be included in the pay area, the affected county must:

1. Currently be in the Rest of U.S. pay area and be contiguous to a pay locality (exclusive of any other areas of application);

2. Contain at least 2,000 General Schedule (GS) employees;

3. Have a significant level of urbanization based on 1990 Census data, defined as a population density of more than 200 persons per square mile or at least 80 percent of the population in urbanized areas; and

4. Demonstrate some economic linkage with the pay locality, defined as commuting at a level of 5 percent or more into or from the county under consideration and the central core of the metropolitan area as identified by the Census Bureau.

B. *Partial-county areas of application in New England.* To be in the pay area, the partial county must:

1. Currently be in the Rest of U.S. pay area and be contiguous to the pay locality (exclusive of any other areas of application);

2. Contain at least 2,000 GS employees;

3. Be part of an entire county that has a population density of more than 200 persons per square mile or at least 80 percent of the population in urbanized areas; and

4. Be part of an entire county that demonstrates some economic linkage with the pay locality, defined as commuting at a level of 5 percent or

more into or from the county under consideration and the central core of the metropolitan area as identified by the Census Bureau.

C. *Federal facilities crossing pay locality boundaries.* To be in the pay locality, the portion of a Federal facility which crosses pay locality boundaries and which is not in the pay locality must:

1. Contain at least 1,000 GS employees;

2. Have the duty stations of the majority of GS employees within 10 miles of the locality; and

3. Have a significant number of its employees commuting from the pay locality.

D. *Full-State areas of application.* In order to be evaluated for area of application status, an entire State may be considered as one county for purposes of applying the county-wide area-of-application criteria if:

1. No part of the State is already in a separate metropolitan pay area;

2. The State is adjacent to the pay area (exclusive of any other areas of application); and

3. The State is smaller than 115 percent of the average county size in square miles in the lower 48 States plus Washington, DC, as determined by OPM using land area data published by the Census Bureau and the number of counties in the United States as determined by the Census Bureau.

After application of the above criteria, the entire State must still pass the county-wide area-of-application criteria before it can become an area of application.

Go to *http://www.opm.gov/oca/2000tbls/GSannual/html/locdef.htm* for a full listing of locality pay areas. The proposed changes would go into effect on January 1, 2001, and would apply to locality payments for pay periods beginning on or after January 1, 2001.

E.O. 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is proposing to amend part 531 of title 5, Code of Federal Regulations, as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316;

Subpart B also issued under 5 U.S.C. 5303(g), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under 5 U.S.C. 5304, 5305, and 5553; sections 302 and 404 of FEPCA, Pub. L. 101–509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102–378, 106 Stat. 1356;

Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336;

Subpart F also issued under 5 U.S.C. 5304, 5305(g)(1), and 5553; and E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682;

Subpart G also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101–509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, 3 CFR, 1991 Comp., p. 376.

Subpart F—Locality-Based Comparability Payments

2. In § 531.603, paragraphs (b)(2) and (b)(29) are revised to read as follows:

§ 531.603 Locality pay areas.

* * * * *

(b) * * *

(2) Boston-Worcester-Lawrence, MA–NH–ME–CT—consisting of the Boston-Worcester-Lawrence, MA–NH–ME–CT CMSA, plus the State of Rhode Island;

* * * * *

(29) San Francisco-Oakland-San Jose, CA—consisting of the San Francisco-Oakland-San Jose, CA CMSA, plus Monterey County, CA;

* * * * *

[FR Doc. 00–20793 Filed 8–15–00; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF SPECIAL COUNSEL

5 CFR Part 1800

RIN 3255–ZA00

Filing Complaints of Prohibited Personnel Practice or Other Prohibited Activity; Filing Disclosures of Information

AGENCY: Office of Special Counsel.

ACTION: Proposed rule; public comment period.

SUMMARY: The U.S. Office of Special Counsel (OSC) proposes to revise its regulations to: Provide basic information about OSC jurisdiction over complaints of improper employment practices, and over disclosures of information of wrongdoing in federal agencies (also known as ''whistleblower disclosures''); implement a requirement that complaint filers use an OSC form (Form OSC–11, ''Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity'') to submit allegations of improper employment practices (other than alleged Hatch Act violations); outline procedures to be followed by OSC when filers submit complaints (other than Hatch Act allegations) in formats other than an OSC complaint form (Form OSC–11); revise and update descriptions of information needed by OSC to process both complaints alleging Hatch Act violations and whistleblower disclosures; and update contact information for sending complaints and disclosures to OSC, and for obtaining OSC complaint and disclosure forms. Current and former Federal employees, employee representatives, other Federal agencies, and the general public are invited to comment on the proposed regulatory revisions.

DATES: Submit comments by October 16, 2000.

ADDRESSES: Any comments about this proposed regulatory change should be sent by mail to Kathryn Stackhouse, Attorney, Planning and Advice Division, U.S. Office of Special Counsel, 1730 M Street, NW, Suite 300, Washington, DC 20036–4505, or by facsimile to Ms. Stackhouse at (202) 653–5151.

FOR FURTHER INFORMATION CONTACT: Kathryn Stackhouse, Attorney, Planning and Advice Division, by mail at the address shown above, or by telephone at (202) 653–8971. The proposed regulatory change will also be available for review on OSC's Web site (at *www.osc.gov*).

SUPPLEMENTARY INFORMATION: Current OSC regulations, at 5 CFR 1800.1, describe information needed by OSC to process complaints alleging improper employment practices (including prohibited personnel practices defined at 5 U.S.C. 2302(b), other violations of law defined at 5 U.S.C. 1216, and violations of the Hatch Act under chapters 15 and 73 of title 5). OSC regulations at 5 CFR 1800.2 describe information needed by OSC to process whistleblower disclosures. The regulations permit complaints or disclosures to be submitted in any written form, and specify an OSC

address to which such matters should be sent. OSC proposes to revise §§ 1800.1 and 1800.2 for the purposes outlined in the Summary section, above. A brief explanation of each purpose follows:

(1) *Provide basic information about OSC jurisdiction over complaints of improper employment practices and whistleblower disclosures.* Sections 1800.1 and 1800.2 outline procedures for filing complaints and disclosures, with no reference to OSC's basic jurisdiction. The regulatory revision proposed in this notice would provide jurisdictional information in each section, as an aid to persons considering the filing of a complaint or disclosure with OSC.

(2) *Implement a requirement that complaint filers use an OSC complaint form to submit allegations of improper employment practices (other than alleged Hatch Act violations).* Most complaints received by OSC consist of allegations of improper employment practices other than Hatch Act violations. Section 1800.1, at subsecs. (b)(1)–(6), outlines the types of information that should be provided in a complaint, and indicates that complaints can be submitted in any written format. Given this latitude, there have been considerable disparities in the way complaint information is presented to OSC.

OSC recently revised its complaint form, which—along with a revised OSC form for whistleblower disclosures—is awaiting clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). *See* 65 FR 41512 (July 5, 2000). The revised form consists of standard questions seeking factual information of the kind outlined in the current OSC regulation. It also contains several enhancements, including information for potential filers about: (a) Agencies and employees outside OSC's jurisdiction; (b) election of remedies; (c) OSC deferral policies in cases involving certain discrimination and veterans rights claims; (d) legal elements required for OSC to establish reprisal for whistleblowing (investigation of which is a high priority); and (e) appeal rights to the Merit Systems Protection Board (MSPB, or ''the Board'') in connection with whistleblower reprisal allegations.

Mandatory use of the OSC form, rather than any written format chosen by a filer, would help to: (a) Enable complainants to obtain useful information about OSC jurisdiction and procedures before filing the complaint; (b) produce more consistent, effective, and reliable presentations of facts needed by OSC to review, follow up on, and investigate complaints of improper employment practices; and (c) make more efficient use of OSC's limited resources, by reducing the time spent by staff in answering threshold questions about jurisdiction and procedures, and in soliciting basic information about allegations in complaints.

OSC also believes that mandatory use of the redesigned form by persons alleging reprisal for whistleblowing would benefit those filers and OSC during the complaint process, as well as complainants who later seek corrective action later in Individual Right of Action (IRA) appeals to the Board under 5 U.S.C. 1221. The complaint form was redesigned, in part, to provide filers (before and while filing a complaint) with a better understanding of the elements of a whistleblower reprisal claim, and to facilitate OSC's review of such claims.

Also, under 5 U.S.C. 1214(a)(3), complainants who file whistleblower reprisal allegations with OSC may file an IRA with the Board if: (a) OSC notifies them that it is closing the matter, or (b) 120 days have passed without notification by OSC that it will seek corrective action on their behalf. In such cases, MSPB has jurisdiction over only those disclosures and personnel actions reported in the prior OSC complaint. OSC's redesign of its complaint form included consultation with MSPB, in an effort to provide appellants in IRA cases with a consistent mechanism by which to identify the disclosures and personnel actions first reported to OSC. The revised form includes a section (Part 2) in which complainants alleging reprisal for whistleblowing would identify the key components of the allegation (description of the disclosure, person to whom disclosure was made, date of the disclosure, and personnel action(s) taken or threatened because of the disclosure), along with other information pertinent to the allegations. Part 2 of Form OSC–11 has been designed to be a segregable part of the complaint form, a copy of which can be submitted by appellants to the MSPB in IRA cases as evidence of the disclosures and personnel actions submitted to OSC.

In the comparatively small number of cases in which complainants report new disclosures or personnel actions while their initial complaint is pending, OSC will, at its discretion, require filers to submit a report of these events in the Part 2 format; alternatively, OSC will document the events in the Part 2 format, and furnish a copy of that record to the complainant if and when OSC closes the matter without seeking corrective action.

By mandating use of the complaint form, filers alleging reprisal for whistleblowing can make and retain a copy of Part 2 of the form for submission to the Board, as evidence of the required jurisdictional elements in an IRA case. Upon clearance of the revised form under the Paperwork Reduction Act, it will be placed on OSC's Web site (at *www.osc.gov*), for printing by prospective complaint filers and submittal to OSC (pending OSC's anticipated development of electronic filing procedures).

(3) *Outline procedures to be followed by OSC when filers submit complaints (other than Hatch Act allegations) in formats other than an OSC complaint form (Form OSC–11).* The revision of § 1800.1 proposed in this notice would provide that if a person uses a format other than the required OSC form to file a complaint (other than a Hatch Act allegation), the material submitted will be returned to the filer with a blank Form OSC–11 to fill out and return to OSC. Processing of the complaint will begin upon OSC's receipt of a completed Form OSC–11.

(4) *Revise and update descriptions of information needed by OSC to process both complaints alleging Hatch Act violations and whistleblower disclosures.* OSC proposes to continue to permit filers of complaints alleging Hatch Act violations, and filers of whistleblower disclosures, to submit such matters to OSC in any written format. (Possible written formats include OSC's complaint and disclosure forms—Forms OSC–11 and OSC 12, respectively). Sections 1800.1 and 1800.2 currently describe information needed by OSC to review and evaluate complaints and disclosures. The proposed revision of § 1800.1 tailors the description to Hatch Act allegations for filers who submit such matters in formats other than an OSC complaint form. The proposed revision of § 1800.2 updates the description of information needed in whistleblower disclosures to OSC, for filers who submit them in formats other than an OSC disclosure form.

(5) *Update contact information for sending complaints and disclosures to OSC, and for obtaining OSC complaint and disclosure forms.* Since OSC's current regulations were published, its mailing address for complaints and disclosures has changed, and a Web site has been established at which many OSC forms and publications are made available to the public. The proposed revision of §§ 1800.1 and 1800.2 updates both sections with current

mailing and Web site address information.

Procedural Determinations

Regulatory Flexibility Act Certification (5 U.S.C. 605): As acting head of the agency, I certify that this proposed revision to current regulations will not have a significant economic impact on a substantial number of small entities. The OSC primarily handles matters involving individuals who are current or former Federal government employees, applicants for federal employment, certain state or local government employees, and representatives of these individuals. These revised regulations affect only the provision of additional information about filing a complaint with OSC and require a form to be used for certain complaints, which form requests substantially the same information as that required to be provided in current regulations.

Paperwork Reduction Act (PRA): OSC has submitted modified versions of Forms OSC–11 and OSC–12 to OMB for extension of its approval (with change) of the forms previously approved under the PRA (OMB Control Number 3255–0002). OMB approval for the current version of both forms expires on August 31, 2000. The modified forms include the following proposed changes: (1) Style, format, and other minor revisions that do not appear to impose significant new burdens, such as requests for fax numbers, e-mail addresses, and details of certain allegations in a different format; (2) addition of explanatory information about OSC jurisdiction, elements required to prove some claims, and certain procedural rights; and (3) description of new and revised Privacy Act routine uses published after the prior OMB approval. Notices, and a summary description of proposed modifications to the forms, were published in the **Federal Register** at 65 FR 20504 (April 17, 2000) and 65 FR 41512 (July 5, 2000). The forms proposed for approval are available by contacting OSC, or on the agency Web site at *www.osc.gov*.

Unfunded Mandates Reform Act (UMRA): This proposed revision does not impose any Federal mandates on State, local, or tribal governments, or on the private sector within the meaning of the UMRA.

National Environmental Policy Act (NEPA): This proposed revision would not have any significant impact on the environment under NEPA.

Executive Order 12630 (Government Actions and Interference with Constitutionally Protected Property Rights): This proposed revision is not a policy that has taking implications under Executive Order 12630.

Executive Order 12866 (Regulatory Planning and Review): This proposed revision is not a significant regulatory action under § 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under § 6(a)(3) of Executive Order 12866. OSC anticipates that the economic impact of this revision will be insignificant. The revision simply provides additional information about OSC jurisdiction and procedures, and requires use of a form by some complaints to collect information already specified in current OSC regulations.

Executive Order 12988 (Civil Justice Reform): This proposed rule meets applicable standards of § § 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks): This proposed revision is not economically significant under Executive Order 12866 and does not concern an environmental health or safety risk to children.

Executive Order 13132 (Federalism): This proposed revision does not have new federalism implications under Executive Order 13132. The Hatch Act, at title 5 of the U.S. Code, chapter 15, prohibits certain political activities of covered state and local government employees. The OSC has jurisdiction to issue advisory opinions on political activity by those employees, and to bring an enforcement action before the Merit Systems Protection Board for prohibited activity by a covered state or local government employee. However, this proposed revision does not substantively affect the rights of state and local government employees. Rather, it provides additional information on OSC jurisdiction, and prohibited political activity.

List of Subjects in 5 CFR Part 1800

Administrative practice and procedure, Government employees, Investigations, Law enforcement, Political activities (Government employees), Reporting and recordkeeping requirements, Whistleblowing.

For the reasons stated in the preamble, OSC proposes to amend 5 CFR part 1800 as follows:

PART 1800—FILING OF COMPLAINTS AND DISCLOSURES

1. The heading for part 1800 is revised as set forth above:

2.–3. The authority citation for Part 1800 continues to read as follows:

Authority: 5 U.S.C. 1212(e).

4. Section 1800.1 is revised to read as follows:

§ 1800.1 Filing complaints of prohibited personnel practices or other prohibited activities.

(a) The Office of Special Counsel (OSC) has investigative jurisdiction over the following prohibited personnel practices against current or former Federal employees and applicants for Federal employment:

(1) Discrimination, including discrimination based on marital status or political affiliation (see § 1810.1 of this chapter for information about OSC's deferral policy);

(2) Soliciting or considering improper recommendations or statements about individuals requesting, or under consideration for, personnel actions;

(3) Coercing political activity, or engaging in reprisal for refusal to engage in political activity;

(4) Deceiving or obstructing anyone with respect to competition for employment;

(5) Influencing anyone to withdraw from competition to improve or injure the employment prospects of another;

(6) Granting an unauthorized preference or advantage to improve or injure the employment prospects of another;

(7) Nepotism;

(8) Reprisal for whistleblowing (whistleblowing is generally defined as the disclosure of information about a Federal agency by an employee or applicant who reasonably believes that the information shows a violation of any law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety);

(9) Reprisal for:

(i) Exercising certain appeal rights;

(ii) Providing testimony or other assistance to persons exercising appeal rights;

(iii) Cooperating with the Special Counsel or an Inspector General; or

(iv) Refusing to obey an order that would require the violation of law;

(10) Discrimination based on personal conduct not adverse to job performance;

(11) Violation of a veterans' preference requirement; and

(12) Taking or failing to take a personnel action in violation of any law, rule, or regulation implementing or directly concerning merit system principles at 5 U.S.C. 2302(b)(1).

(b) OSC also has investigative jurisdiction over allegations of the following prohibited activities:

(1) Violation of the Federal Hatch Act at title 5 of the U.S. Code, chapter 73, subchapter III;

(2) Violation of the state and local Hatch Act at title 5 of the U.S. Code, chapter 15;

(3) Arbitrary and capricious withholding of information prohibited under the Freedom of Information Act at 5 U.S.C. 552, (except for certain foreign and counterintelligence information);

(4) Activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking;

(5) Involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action (unless the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure); and

(6) Violation of uniformed services employment and reemployment rights under 38 U.S.C. 4301, *et seq.*

(c) Complaints of prohibited personnel practices or other prohibited activities within OSC's investigative jurisdiction should be sent to: U.S. Office of Special Counsel, Complaints Examining Unit, 1730 M Street, NW, Suite 201, Washington, DC 20036–4505.

(d) Complaints alleging a prohibited personnel practice, or a prohibited activity other than a Hatch Act violation, must be submitted on Form OSC–11 (''Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity'').

(1) The form includes a section (Part 2) that must be completed in connection with allegations of reprisal for whistleblowing, including identification of:

(i) Each disclosure involved;

(ii) The date of each disclosure;

(iii) The person to whom each disclosure was made; and

(iv) The type and date of any personnel action that occurred because of each disclosure.

(2) If a complainant who has alleged reprisal for whistleblowing seeks to supplement a pending OSC complaint by reporting a new disclosure or personnel action, then, at OSC's discretion:

(i) The complainant will be required to document the disclosure or personnel action in the Part 2 format, or

(ii) OSC will document the disclosure or personnel action in the Part 2 format, a copy of which will be provided to the complainant upon OSC's closure of the complaint.

(e) Complaint forms are available by writing to OSC at the address shown in paragraph (c) of this section; by calling OSC at (1) (800) 872–9855; or by printing it from OSC's Web site (at *www.osc.gov*).

(f) Except for complaints alleging only a Hatch Act violation, OSC will not process a complaint submitted in any format other than a completed Form OSC–11.

(g) Complaints alleging only a Hatch Act violation may be submitted in any written form to the address shown in paragraph (c) of this section, but should include:

(1) The name, mailing address, and telephone number(s) of the complainant(s), and a time when the person(s) making the disclosure(s) can be safely contacted, unless the matter is submitted anonymously;

(2) The department or agency, location, and organizational unit complained of; and

(3) A concise description of the actions complained about, names and positions of employees who took these actions, if known to the complainant, and dates, preferably in chronological order, together with any documentary evidence the complainant may have.

5. Section 1800.2 is revised to read as follows:

§ 1800.2 Filing disclosures of information.

(a) OSC is authorized by law (at 5 U.S.C. 1213) to provide an independent and secure channel for use by current or former federal employees and applicants for Federal employment in disclosing information that they reasonably believe shows wrongdoing by a Federal agency. The law requires OSC to determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety. If so, OSC must refer the information to the agency head involved for investigation and a written report on the findings to the Special Counsel. The law does not give OSC jurisdiction to investigate the disclosure.

(b) Employees, former employees, or applicants for employment wishing to file a whistleblower disclosure with OSC should send the information to: U.S. Office of Special Counsel, Disclosure Unit, 1730 M Street, NW, Suite 201, Washington, DC 20036–4505.

(c) A disclosure of the type of information described in paragraph (a) of this section should be submitted in writing, using any of the following formats:

(1) Filers may use Form OSC–12 (''Disclosure of Information''), which provides more information about OSC jurisdiction and procedures for processing whistleblower disclosures. This form is available from OSC by writing to the address shown in paragraph (b) of this section; by calling OSC at (1) (800) 572–2249; or by printing it from OSC's Web site (at *www.osc.gov*).

(2) Filers may use another written format, but the submission should include:

(i) The name, mailing address, and telephone number(s) of the person(s) making the disclosure(s), and a time when that person(s) can be safely contacted by OSC;

(ii) The department or agency, location and organizational unit complained of; and

(iii) A statement as to whether the filer consents to the disclosure of his or her identity to the agency by OSC in connection with any referral to the appropriate agency.

Dated: August 8, 2000.

Timothy Hannapel,

Acting Special Counsel.

[FR Doc. 00–20671 Filed 8–15–00; 8:45 am]

BILLING CODE 7405–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–15–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models A36 and B36TC Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Raytheon Aircraft Corporation (Raytheon) Beech Models A36 and B36TC airplanes. The proposed AD would require you to inspect for the installation of firewall sealant and install firewall sealant if not present. The proposed AD is the result of a report that firewall sealant was not found during a routine production inspection. The actions specified by the proposed AD are intended to correct the absence of sealant and prevent the consequent entry of smoke or fire into the flight compartment or cabin in the event of an engine compartment fire.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before September 18, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–15–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may inspect comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

You may get the service information referenced in the proposed AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140; on the Internet at <http://www.raytheon.com/rac/servinfo/53–3375.pdf>. This file is in Adobe Portable Document Format. The Acrobat Reader is available at <http://www.adobe.com/>.

You may examine this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4153; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this AD? We invite your comments on the proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date specified above, before taking action on the proposed rule. We may change the proposals contained in this notice in light of the comments received.

Are there any specific portions of the AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might necessitate a need to modify the proposed rule. You may examine all comments we receive. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this proposal.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on the ease of understanding this document, and 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.faa.gov/language/.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–15–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this AD? Raytheon recently notified FAA that a Beech Model A36 airplane did not have sealant between the faying surfaces of the part number (P/N) 109–361023–13 tube assembly fitting and the P/N 36–430054–69 upper firewall panel. Raytheon found this condition during a routine production process inspection.

Other airplanes that were part of this particular production process are:

Beech Model A36
serial numbers E–3113 through E–3231
E–3233 through E–3263
E–3265 through E–3267
E–3269, E–3271, E–3273, and E–3277
Model B36TC
serial numbers EA–594 through EA–644

What are the consequences if the condition is not corrected? This condition, if not corrected, could result in smoke or fire penetrating the firewall and entering the flight compartment or cabin.

Relevant Service Information

What service information applies to this subject? Raytheon has issued Mandatory Service Bulletin No. SB 53–3375, dated December 1999.

What are the provisions of this service bulletin? The service bulletin describes procedures for inspecting for, and applying, sealant between the tube assembly fitting and the upper firewall panel on the airplanes specified above.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA decided? After examining the circumstances and reviewing all available information related to the events described above, we have determined that:

- The unsafe condition referenced in this document could exist on other Raytheon Beech Models A36 and B36TC airplanes of the same type design;
- These airplanes should have the actions specified in the above service bulletin incorporated; and
- The FAA should take AD action in order to correct this unsafe condition.

What does this proposed AD require? This proposed AD would require you to:

- Inspect for the installation of firewall sealant; and
- Install firewall sealant if not present.

What are the differences between the service bulletin and the proposed AD? Raytheon Aircraft requires you to inspect and, if necessary, install firewall sealant as soon as possible after receiving the service bulletin, but no later than the next 25 flight hours. We propose a requirement that you inspect and, if necessary, install firewall sealant within 50 hours time-in-service (TIS) of operation after the effective date of the proposed AD. We do not have justification to require this action within 25 hours TIS. Compliance times such as this are utilized when we have identified an urgent safety of flight situation. We believe that 50 hours TIS will give the owners/operators of the affected airplanes enough time to have the proposed actions accomplished without compromising the safety of the airplanes.

Cost Impact

How many airplanes does this proposed AD impact? We estimate that the proposed AD would affect 134 airplanes in the U.S. registry.

What is the cost impact of the proposed action for the affected airplanes on the U.S. Register? We estimate that it would take approximately 1 workhour per airplane to accomplish the proposed inspection, at an average labor rate of $60 an hour. Based on the figures presented above, we estimate that the total cost impact of the proposed inspection on U.S. operators is $8,040, or $60 per airplane.

We estimate that it would take approximately 2 workhours per airplane to accomplish the proposed modification, at an average labor rate of $60 an hour. Based on the figures presented above, we estimate that the total cost impact of the proposed modification on U.S. operators is $120 per airplane.

The manufacturer will allow warranty credit for labor and parts to the extent noted in the service bulletin.

Regulatory Impact

Does this proposed AD impact relations between Federal and State governments? The proposed regulations would 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. It is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Does this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if put into effect 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. We have placed a copy of the draft regulatory evaluation prepared for this action in the Rules Docket. You may obtain a copy of it 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, under the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) 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. FAA amends Section 39.13 by adding a new airworthiness directive (AD) to read as follows:

Raytheon Aircraft Company: Docket No. 2000–CE–15–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplanes, certificated in any category:

Beech Model A36
serial numbers E–3113 through E–3231
E–3233 through E–3263
E–3265 through E–3267
E–3269, E–3271, E–3273, and E–3277
Model B36TC
serial numbers EA–594 through EA–644

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct the lack of a firewall seal and consequent progression of fire and smoke through the firewall panel into the flight compartment or cabin in the event of an engine compartment fire.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Actions	Compliance time	Procedures
(1) Inspect for sealant between the faying surfaces of the part number (P/N) 109–361023–13 tube assembly fitting and the P/N 36–430054–69 upper firewall panel. (i) If sealant is present, no further action is necessary. (ii) If sealant is not present, apply sealant to the tube assembly and the upper firewall panel.	Inspection required within 50 hours time-in-service after the effective date of this AD, and sealant application required before further flight after the inspection.	Accomplish all actions in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon mandatory Service Bulletin SB 53–3375, Issued: December 1999.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, 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 (e) of this AD. You should include in the request an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* You can contact Jeff Pretz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4153; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140; on the Internet at <http://www.raytheon.com/rac/servinfo/53–3375.pdf>. This file is in Adobe Portable Document Format. The Acrobat Reader is available at <http://www.adobe.com/>. You may examine this document at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 9, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–20778 Filed 8–15–00; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 240

[Release No. 33–7880; 34–43133; File No. S7–13–00]

Revision of the Commission's Auditor Independence Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Notice of additional hearings.

SUMMARY: On June 27, 2000, the Securities and Exchange Commission proposed rule amendments regarding auditor independence (copies of the Proposing Release are available on the Commission's website at <www.sec.gov/rules/proposed/34–42994.htm>). On July 26, 2000, the Commission held an initial public hearing in Washington, D.C. on its proposed rule amendments. We are now announcing that we will hold additional public hearings on the proposed rule amendments on September 13, 2000 in New York, New York and on September 20, 2000 in Washington, D.C. The purpose of the hearings is to give the public the opportunity to present views

regarding the issues raised and questions posed in the Proposing Release.

DATES: The public hearings will be held on September 13, 2000 in New York, New York and on September 20, 2000 in Washington, D.C. (addresses to be announced). The hearings on both days will begin at 9:00 a.m. Parties who wish to testify at either hearing must submit a written request to the Commission specifying on which date they prefer to testify. The Commission must receive these requests on or before August 25, 2000. Persons requesting to testify must also submit three copies of their oral statement, or a summary of their intended testimony, to the Commission. The Commission must receive these submissions on or before September 5, 2000. Interested parties who do not wish to appear at the hearings may submit written testimony by the end of the comment period for the Proposing Release (September 25, 2000) for inclusion in the public comment file.

ADDITIONAL INFORMATION: Requests to appear, oral statements or summaries of testimony, and other written testimony or comments should be mailed to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20459 or filed electronically at the following e-mail address: rule-comments@sec.gov. All requests to appear, oral statements or summaries of testimony, and other written testimony or comments should refer to Comment File No. 87–13–00. In addition, the words ''Request to Testify'' should be clearly noted on the subject line of the request. Copies of all requests and other submissions and transcripts of the hearing will be available for public inspection and copying in the Commission's Public Reference Room at 450 Fifth Street, NW, Washington, DC 20549. Electronically submitted requests and other materials will be posted on the Commission's intenet web site (www.sec.gov) following the hearings.

FOR FURTHER INFORMATION CONTACT: John M. Morrissey, Deputy Chief Accountant, or W. Scott Bayless, Associate Chief Accountant, Office of the Chief Accountant, at (202) 942–4400.

SUPPLEMENTARY INFORMATION:

I. Summary of Rule Proposals

The public hearings concern the Commission's proposed rule amendments regarding auditor independence. As more fully described in the Proposing Release, the proposals modernize our requirements by providing governing principles for determining whether an auditor is independent in light of: investments by auditors or their family members in audit clients, employment relationships between auditors or their family members and audit clients, and the scope of services provided by audit firms to their audit clients. The proposals would, among other things, significantly reduce the number of audit firm employees and their family members whose investments in audit clients are attributed to the auditor. They would also identify certain non-audit services that, if provided to an audit client, would impair an auditor's independence. The scope of services proposals would not extend to services provided to non-audit clients. The proposals also would provide a limited exception for accounting firms that have certain quality controls and satisfy other conditions. Finally, the proposals would require companies to disclose in their annual proxy statements certain information about, among other things, non-audit services provided by their auditors during the last fiscal year. The Commission will consider the hearing record in connection with its rulemaking proposals.

II. Procedures for Hearing

After August 25, 2000, we will publish a schedule of appearances for the hearings to be held on September 13 and 20. Based on the number of requests received, we may not be able to accommodate all requests. As we did for the hearings held on July 26, we also may limit the time for formal presentations or group presentations into a series of panels. Time will be reserved for members of the Commission and Commission staff to pose questions to the witnesses concerning their testimony as well as other matters pertaining to the Proposing Release. The Commission has designated Jonathan G. Katz, Secretary of the Commission, as the hearing officer.

Dated: August 10, 2000.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–20667 Filed 8–15–00; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–103735–00; REG–110311–98; REG–103736–00]

RIN 1545–AX81; 1545–AW26; 1545–AX79

Modification of Tax Shelter Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cross-reference notice of proposed rulemaking.

SUMMARY: These proposed rules relate to the modification of tax shelters under sections 6011, 6111, and 6112. The proposed rules provide the public with additional guidance needed to comply with the disclosure rules, the registration requirement, and the list maintenance requirement applicable to tax shelters. The proposed rules affect corporations participating in certain reportable transactions, persons responsible for registering confidential corporate tax shelters, and organizers of potentially abusive tax shelters. In the rules and regulations portion of this issue of the **Federal Register**, the IRS is issuing temporary regulations modifying the rules relating to the requirement that certain corporate taxpayers file a statement with their Federal corporate income tax returns under section 6011(a), the registration of confidential corporate tax shelters under section 6111(d), and the maintenance of lists of investors in potentially abusive tax shelters under section 6112. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by November 14, 2000.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–103735–00; REG–110311–98; REG–103736–00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–103735–00; REG–110311–98; REG–103736–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option of the IRS Home Page or by submitting comments directly to the IRS Internet site at http://www.irs.gov/tax_regs/regslist.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Catherine Moore, (202) 622–3070; concerning submissions, Guy Traynor, (202) 622–7180.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking previously have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). No material changes to these collections of information are proposed in these regulations.

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

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

Background

The temporary regulations amend the Income Tax Regulations (26 CFR part 1) regarding rules relating to the filing and records requirements for certain corporate taxpayers under section 6011. The temporary regulations also amend the temporary procedure and administration regulations (26 CFR part 301) regarding the registration of confidential corporate tax shelters under section 6111 and the maintenance of lists of investors in potentially abusive tax shelters under section 6112.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because these regulations impose no new collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) or electronically generated comments that are submitted timely to the IRS. The IRS and Treasury request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information: The principal author of these regulations is Catherine Moore, Office of the Associate Chief Counsel (Passthroughs and Special Industries). 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 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301, which were proposed to be amended on August 29, 1984, and March 2, 2000, are proposed to be further amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.6011–4 as proposed to be added at 65 FR 11271 (March 2, 2000) is amended as follows:

1. The first sentence of paragraph (a) is revised.

2. Paragraph (d)(1), second sentence, is amended by removing the language ''LM:PF'' and adding ''LM:PFTG:OTSA'' in its place.

3. Paragraphs (e) and (g) are revised.

The revisions read as follows:

§ 1.6011–4 Requirement of statement disclosing participation in certain transactions by corporate taxpayers.

(The text of the amendments to this proposed section is the same as the text of the amendments to § 1.6011–4T published elsewhere in this issue of the **Federal Register**.)

PART 301— PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

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

Par. 4. Section 301.6111–2 as proposed to be added at 65 FR 11274 (March 2, 2000) is amended as follows:

1. Paragraph (b)(3)(ii) is amended by removing the word ''corporate''.

2. Paragraph (c) is amended as follows:

a. The last two sentences of paragraph (c)(1) are revised.

b. Paragraph (c)(2) is revised.

c. Paragraph (c)(3) is added.

3. Paragraphs (f) and (g)(1) are revised.

4. Paragraph (h) is amended by adding three sentences at the end of the paragraph.

The revisions and additions read as follows:

§ 301.6111–2 Confidential corporate tax shelters.

(The text of the amendments to this proposed section is the same as the text of the amendments to § 301.6111–2T published elsewhere in this issue of the **Federal Register**.)

Par. 5. Section 301.6112–1 as proposed to be added at 49 FR 34246 (August 29, 1984) and 65 FR 11272 (March 2, 2000) is amended as follows:

0. The section heading is added.

1. A–4(a) is revised.

2. The last two sentences of A–5 are removed and a new sentence is added in their place.

3. A–6 is amended as follows:

a. Paragraph (b) is amended by removing the language ''and'' at the end of the paragraph.

b. Paragraph (c) is amended by removing the period at the end of the paragraph and adding ''; and'' in its place.

c. Paragraph (d) is added immediately after paragraph (c).

4. The last sentence of A–7 is revised.

5. A–8 is amended as follows:

a. In A–8, introductory text and paragraphs (a) through (e) are redesignated as paragraph (a)

introductory text and paragraphs (a)(1) through (a)(5), respectively.

b. New paragraph (b) is added immediately after Example (2) in newly designated paragraph (a)(5).

6. The last two sentences of A–9 are amended by removing the language ''paragraph (e)'' and adding ''paragraph (a)(5)'' in its place.

7. One sentence is added at the end of A–10.

8. A–11 is amended as follows:

a. In A–11, introductory text and paragraphs (a) and (b) are redesignated as paragraph (a) introductory text and paragraphs (a)(1) and (a)(2), respectively.

b. New paragraph (b) is added.

9. A–17 is amended as follows:

a. Paragraph (a)(3) is revised.

b. Paragraph (c) is added.

10. The first and second sentences of A–19 are amended by removing the language ''paragraph (d) or paragraph (e)'' and adding ''paragraph (a)(4) or (5)'' in its place.

11. A–22 is amended by adding three sentences before the last sentence.

The additions and revisions read as follows:

§ 301.6112–1 Questions and answers relating to the requirement to maintain a list of investors in potentially abusive tax shelters.

(The text of the amendments to this proposed section is the same as the text of the amendments to § 301.6112–1T published elsewhere in this issue of the **Federal Register**.)

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 00–20541 Filed 8–11–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010–AC59

Valuation of Federal Geothermal Resources

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: MMS withdraws its August 19, 1999, Advance Notice of Proposed Rulemaking (Advance Notice) regarding the valuation of Federal geothermal resources. After further analysis, we conclude that the concerns that prompted the Advance Notice can be satisfactorily addressed using alternative valuation methods available in existing regulations. This notice terminates the geothermal rulemaking process initiated by the Advance Notice.

DATES: The advance notice of proposed rulemaking is withdrawn as of August 16, 2000.

ADDRESSES: See **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Charles Brook, Royalty Valuation Division, MMS; telephone, (303) 275–7250; E-mail, Charles.Brook@mms.gov; mailing address, Minerals Management Service, Royalty Valuation Division, P.O. Box 25165, MS 3153, Denver, Colorado 80225–0165.

SUPPLEMENTARY INFORMATION: MMS published an Advance Notice of Proposed Rulemaking in the **Federal Register** on August 19, 1999 (64 FR 45213), requesting public comments on new methods of valuing, for royalty purposes, Federal geothermal resources that are not subject to a sales transaction (the ''no-sales'' resources). MMS took this action in response to concerns raised by several California congressional representatives and their constituent county governments over declining royalties. The concerns centered around the use of the netback procedure to value no-sales electrical generation resources. MMS also solicited comments on valuation standards for direct-use resources.

The comment period on the Advance Notice closed on October 18, 1999. MMS also held a public workshop on October 7, 1999 (64 FR 50026), and met with several industry representatives on December 7, 1999.

MMS received written comments from 20 respondents, including representatives of States, county governments, and industry; members of a municipal utility; and a Member of Congress. All of the comments focused on the valuation of electrical generation resources. Fourteen of the 20 respondents—all of the industry representatives, the members of the municipal utility, a Member of Congress, and a State representative—commented on the existing netback valuation procedure. The remaining 6 respondents commented on other geothermal valuation procedures. MMS received no comments on the valuation of direct-use resources.

The comments did not reveal a preferred valuation method for no-sales resources. In general, advocates of one valuation method found fault with, or were fundamentally opposed to, other methods. Some respondents also questioned the merits of the rulemaking, stating that MMS had not fully presented its reasons for the new valuation rules.

Based on the comments received, both written and verbal, the impact of declining royalties appears to affect only a few county governments and geothermal lessees operating within those counties. Both MMS and the lessees involved have taken steps to mitigate this impact by exploring alternative valuation methods within the existing regulatory structure. These efforts are proving successful and are satisfying the concerns of the affected county governments and Members of Congress. Accordingly, MMS believes it is no longer necessary to pursue a rulemaking for geothermal valuation and withdraws its August 19, 1999, Advance Notice.

Dated: August 10, 2000.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 00–20815 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CO–001b; FRL–6851–2]

Clean Air Act Proposed Full Approval of Operating Permit Program; Approval of Expansion of State Program Under Section 112(l); State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the operating permit program submitted by the State of Colorado. Colorado's program was submitted for the purpose of meeting the Federal Clean Air Act directive that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the State's jurisdiction.

In the ''Rules and Regulations'' section of this **Federal Register**, the EPA is promulgating full approval of the Colorado program as a direct final rule without prior proposal because the state is currently running the program and the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule.

In addition, EPA is also approving the expansion of Colorado's program for receiving delegation of section 112

standards to include non-part 70 sources. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action must do so at this time.

DATES: Comments must be received in writing on or before September 15, 2000.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mail Code 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the above address. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Health and Environment, Air Quality Control Division, 4300 Cherry Creek Drive S., Denver, CO 80222–1530.

FOR FURTHER INFORMATION CONTACT: Patricia Reisbeck, EPA, Region VIII, (303) 312–6435.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final notice of the same title which is located in the Rules section of this **Federal Register**.

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

Dated: August 4, 2000.

Jack W. McGraw,

Regional Administrator, Region 8.

[FR Doc. 00–20724 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Finding on a Petition to Include Over 2,500 Foreign Species in the List of Threatened and Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service announce a 90-day finding for a petition to list over 2,500 foreign species as threatened and endangered. Under the Endangered Species Act of 1973, as amended (Act). The petitioner did not present substantial scientific or commercial information indicating that the listing of over 2,500 foreign species may be warranted.

DATES: The finding announced in this document was made on August 9, 2000.

ADDRESSES: Data, information, comments or questions concerning this petition should be sent to the Office of Scientific Authority, U.S. Fish and Wildlife Service, Mail Stop ARLSQ–750, Washington, D.C. 20240. The petition finding, and comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Susan Lieberman, at the above address (phone: 703–358–1708; fax: 703–358–2276; e-mail: *r9osa@fws.gov*.)

SUPPLEMENTARY INFORMATION

Background

Section 4(b)(3)(A) of the Act, requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is based upon all information submitted with and referenced in the petition and all other information available to us at the time the finding is made. To the maximum extent practicable, this finding is to be made within 90 days following receipt of the petition, and promptly published in the **Federal Register**. If the finding is positive, section 4(b)(3)(B) of the Act requires us to promptly commence a review of the status of the species and to disclose our findings within 12 months.

We have made a 90-day finding on a petition to list over 2,500 foreign species as endangered or threatened under the Act. We received the petition from PEER, Public Employees for Environmental Responsibility, on May 21, 1997. PEER included a copy of the 1996 IUCN Red List of Threatened Animals with the petition as the only supporting documentation to substantiate the petition.

PEER requested that we list all foreign species, subspecies, and distinct vertebrate populations that are classified as Critically Endangered, Endangered, Vulnerable, Conservation Dependent, or Near Threatened in the 1996 IUCN Red List of Threatened Animals as endangered or threatened under ESA. This petition covers approximately 1,000 mammals, 1,000 birds, 200 reptiles, 100 amphibians, and over 500 other fish species currently not listed under the Act.

The 1996 IUCN Red List of Threatened Animals consists of lists of the species that are considered Threatened; of Lower Risk: Conservation Dependent; of Lower Risk: Near Threatened; and Extinct/Extinct in the Wild. The list includes, for each species its scientific name, common name (if known), the range countries, and an IUCN criteria code. The IUCN criteria code value is based on an evaluation of five criteria established by the IUCN. The code provides a general idea of the status of a species, but does not provide specific information. The IUCN criteria do not provide sufficient information to address the five factors that we must consider under the Act. Especially omitted from the IUCN information is an assessment of the threats to the species' survival, such as the likelihood of various factors (such as habitat changes or disease) to effect the survival of the species.

In addition, the list does not provide the references or data on which IUCN bases the code for each species. As stated on page Intro15, individuals, groups of individuals, active Specialist Groups, or other non-government organizations that are knowledgeable about the species assessed the code values. In many cases, one individual may have made the assessment based on limited data or information without peer review. Given the sheer volume of species and subspecies listed, it was not feasible to include how the assessment was made or how much data is available to make the assessment. This book does not provide substantial information to determine if further investigation is warranted.

We agree that there may be species listed in the book that meet the criteria established for listing under the Act, but the information is not available to assess which species would warrant further analysis. That information is also not readily available in our files for the more than 2,500 species involved. In order for us to make a positive 90-day finding, the petitioner must provide enough information to warrant further investigation on each species covered by the petition (50 CFR 424.14(b)) . We are currently evaluating our process for determining which foreign species would most critically warrant listing under the Act.

When evaluating petitions for listing of species under the Act, a ''not-substantial information'' finding is made when a petitioner does not

provide sufficient information on the status and distribution of a petitioned species. We have reviewed the petition and other readily available information and literature in our files.

We find the petition does not present substantial information to indicate that the listed actions may be warranted.

References Cites

1996 IUCN Red List of Threatened Animals

Author: The primary author of this finding is Dr. Susan Lieberman, U.S. Fish and Wildlife Service, Office of Scientific Authority, (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 9, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–20746 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000809230–0230–01; I.D. 062000D]

RIN 0648–AM46

Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 2000 Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes recreational measures for the 2000 summer flounder and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder and black sea bass resources.

EFFECTIVE DATE: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m., local time, on September 15, 2000.

ADDRESSES: Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment and Regulatory Impact Review are available from Dan Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790.

Written comments on the proposed specifications should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope, ''Comments—2000 Summer Flounder and Black Sea Bass Recreational Measures.'' Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, (978) 281–9104, fax (978) 281–9135, e-mail myles.a.raizin@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) outlines the process for specifying annual recreational measures. The FMP has established Monitoring Committees (Committees) for each of the three fisheries composed of representatives from the Atlantic States Marine Fisheries Commission (Commission), the Mid-Atlantic Fishery Management Council (Council), the New England and South Atlantic Fishery Management Councils, and NMFS. The Committees are required to review annually scientific and other relevant information and to recommend measures necessary to achieve the recreational harvest limits for the summer flounder, scup, and black sea bass fisheries. These measures are limited to minimum fish sizes, possession limits, and closed seasons. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) then consider the Committees' recommendations and any public comment in making their recommendations to the Council. The Council reviews the Demersal Committee recommendations, makes its own decision, in turn, and submits its recommendation to NMFS.

Final specifications for the 2000 summer flounder, scup, and black sea bass fisheries were published on May 24, 2000 (65 FR 33486), and included a coastwide recreational harvest limit of 7.41 million lb (3.361 million kg) for summer flounder, 1.24 million lb (0.562 million kg) for scup, and 3.14 million lb (1.42 million kg) for black sea bass. Recreational measures were not established as part of those specifications, since final recreational catch data were not available when the Council made its recommendation to NMFS.

Scup

On January 12, 2000, the Council submitted the annual recreational measures for the FMP. The submission proposed measures for scup that included a minimum size of 7 inches (17.78 cm) total length (TL) with a 50-fish possession limit and no closed season. After careful review of the Council's submission of recommendations for recreational measures for the scup fishery, NMFS returned the scup submission to the Council on March 10, 2000, because the Council submission indicated the proposed measures would result in landings in excess of the 1.24 million lb (0.562 million kg) recreational harvest. The 2000 harvest limit recommended by the Council was unchanged from the 1999 level. However, based on the estimated 1999 recreational harvest of scup of 1.82 million lb (0.899 million kg), a 32-percent reduction in harvest would be required to prevent landings from exceeding the harvest limit.

The Council analysis compared its recommendation of a minimum size of 7 inches (17.78 cm) TL with a 50-fish possession limit and no closed season yields to the 1999 measures, which imposed the 7-inch (17.78-cm) minimum size only. The analysis indicates the Council's proposal would achieve only a 1-percent reduction from the estimated 1999 level. The documents accompanying the Council recommendation did not provide justification for this divergence based on biological factors. Because there was insufficient information in the submission for NMFS to develop an acceptable alternative, the submission was returned to the Council. Pending a resubmission of scup measures by the Council, a minimum size limit of 7 inches (17.78 cm) remains in effect for scup in Federal waters, with the individual states regulating recreational scup fishing in their waters.

Summer Flounder

NMFS specified 2000 quotas for the summer flounder fishery which include a TAL of 18.52 million lb (8.40 million kg), a commercial quota of 11.11 million lb (5.039 million kg), and a recreational harvest limit of 7.41 million lb (3.361 million kg).

Current summer flounder recreational measures require a 15-inch (3,810-cm) TL minimum size, an 8-fish possession limit, and an open season from May 29 to September 11. When it made its recommendation, the Council used available Marine Recreational Fisheries Statistical Survey (MRFSS) data through October to project total 1999 landings of 8.5 million lb (3.855 million kg) or 15 percent more than the 7.41-million lb (3.361-million kg) recreational harvest limit for 1999. Final MRFSS landings figures of 8.4 million lb (3.81 million kg) now available uphold the projection. The fact that the management measures in 1999 resulted in landings in excess of a 7.41-million lb (3.361-million kg) harvest limit indicates that further constraints on the recreational fishery are required for 2000.

The Council and Commission met at the Council's December 1999 meeting and voted to recommend a 15.5-inch (39.27-cm) TL minimum fish size, an 8-fish possession limit, and an open season from May 10 to October 2 (*i.e.,* a closed season from January 1–May 9 and October 3–December 31) to meet the requirements of the 7.41-million lb (3.361-million kg) recreational harvest limit. Because regulations differed by state in 1999, the Council and Commission voted to base reductions on 1998 landings and on the number of fish, rather than on pounds of fish. In 1998, the regulations were consistent from state to state. As such, assuming recreational fishing effort in 2000 will be similar to that in 1998, a 41-percent reduction in recreational landings (in number of fish) is needed to achieve the recreational harvest limit of 7.41 million lb (3.361 million kg) for 2000. Assuming a 95 percent compliance rate, the Council's recommendation could reduce recreational landings by 44 percent.

Under an interim rule that is effective until September 5, 2000 (March 7, 2000; 65 FR 11909), the states can select a different combination of minimum fish sizes, possession limits, and closed seasons that result in the 41-percent reduction required to achieve the harvest limit in 2000. The interim regulations specify that the default measures will be the measures published in the final rule to implement annual summer flounder recreational measures, and equivalency of any other measures proposed by a state will be determined in comparison to those measures. Once a state's equivalency proposal is approved by the Commission, the Commission will recommend to NMFS that a notification be published in the **Federal Register** to waive the default measure and notify the public of the equivalent measures. The Council is developing an amendment to the FMP that will consider a permanent measure to implement conservation equivalencies.

On April 25, 2000, during the last stages of review of the final specifications for the 2000 summer flounder, scup, and black sea bass fisheries, published on May 24, 2000, the United States Court of Appeals for the District of Columbia Circuit (Court) issued an opinion on a challenge to the 1999 summer flounder specifications by a number of environmental groups. The Court noted that the 1999 quota, when adopted, had only an 18-percent likelihood of meeting the conservation goals of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Court invalidated the 1999 quota and remanded the case to NMFS for further proceedings. The Court set a minimum standard for harvest quotas to comply with the Magnuson-Stevens Act, namely that quotas must have at least a 50-percent probability of achieving the target fishing mortality rate. The preamble to the final specifications for the 2000 summer flounder, scup, and black sea bass fisheries, published on May 24, 2000, stated that NMFS considers it a matter of the highest urgency to address the remand of the Court and will work with the Council and the Commission to implement the decision.

Black Sea Bass

The FMP specifies that the 2000 TAL will be allocated to the commercial and recreational fisheries based on relative landings for the period 1983 to 1992. Based on a TAL of 6.17 million lb (2.798 million kg), the commercial quota is 3.02 million lb (1.37 million kg) (49 percent) for 2000, and the recreational harvest limit is 3.15 million lb (1.429 million kg) (51 percent), which is identical to the 1999 harvest limit. Using available data at the time the Council submitted its recommendations, landings for 1999 were projected to be 1.97 million lb (0.893 million kg) or 1.18 million lb (0.535 mt) less than the 1999 harvest limit. Final recreational landings data now available indicate landings were 1.95 million lb (0.884 million kg), upholding the projection. Current black sea bass recreational measures require a 10-inch (25.40-cm) TL minimum size, no possession limit, and no closed season. NMFS is publishing the recommendation of the Council which is to maintain these measures for the 2000 recreational fishery.

Classification

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, as follows:

The regulatory impact review [prepared by the Mid-Atlantic Fishery Management Council] analyzed various management measures from the standpoint of determining the resulting changes in revenue for party/charter vessels. Data on costs and revenues for party/charter vessels were not available. Therefore, revenues for party/charter vessels participating in these fisheries were estimated by employing various assumptions. The effects of measures were analyzed by employing quantitative approaches to the extent possible. Where quantitative data were not available, qualitative analyses were conducted. An estimated 1.468 million trips were taken by anglers aboard party and charter boats in 1998 in the Northeast Region. About 0.20 percent of those trips would have been affected by the implementation of the summer flounder measures proposed under the preferred alternative for the 2000 fishing year (15.5-inch (39.27-cm) total length (TL) size limit, 8-fish possession limit, and a closed season from January 1, to May 9, and October 3, to December 31). In other words, 2,935 (0.20 percent) angler trips taken aboard party/charter boats in 1998 landed at least one summer flounder that was less than 15.5 inches (39.27 cm) TL, landed more than 8 summer flounder, or landed at least one summer flounder during the proposed closed season. In 1998, an 8-fish possession limit and a 15-inch (38.10-cm) TL minimum size limit was in place. Thus, the proposed one-half inch size increase and the seasonal closure in 2000 would have affected 2,935 angler trips in 1998. Assuming angler effort in 2000 will be similar to 1998, party/charter boat revenues associated with these trips can be estimated by multiplying the number of potentially affected trips in 2000 by the average fee paid by anglers. Steinback *et al.* estimated that the average party/charter boat fee paid by anglers was $52.00 in the Northeast Region in 1994. Adjusted to its 2000 equivalent ($59.12) and multiplied by the number of potentially affected trips, this results in party and charter boat gross revenues of $173,517. Analysis of Northeast logbook data indicated that 274 party/charter vessels participated in the summer flounder fishery in 1998. Assuming that the same number of vessels will participate in 2000, the potential impact per boat could be up to a $633 (173,517/274) reduction in gross revenues, or a 0.20-percent reduction when compared to 1998. However, losses of this magnitude are not likely to occur, given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder after they reach their possession limit or after the closed season,

and because of the numerous alternative target species available to anglers. Very little information is available to estimate empirically how sensitive the affected party/charter boat anglers might be to the proposed regulations. While keeping fish is moderately important to anglers in the Mid-Atlantic, over 42 percent of anglers in New England in 1994 indicated that catching fish to eat was not an important reason for their marine fishing. Although these anglers are not likely to be the ones constrained by the regulations, the findings of this study generally concur with previous studies that found non-catch reasons for participating in marine recreational fishing were rated much higher than keeping fish for food. In combination with the numerous alternative target species available to anglers, the findings of the Steinback et al. study suggest that at least some of the potentially affected anglers would not reduce their effort when faced with the landings restrictions proposed under the preferred alternative. Therefore, party/charter revenue losses per boat could range anywhere from no revenue losses up to 0.20 percent, on average, of total expected boat revenue in 2000. Three other alternatives the Council analyzed produced reductions of 54, 46, and 49 percent in catch with revenue losses estimated between 0 and 6.85 percent.

For black sea bass, the preferred alternative for the 2000 fishing year maintains the minimum size limit at 10 inches (25.40 cm) TL. Thus, it can be assumed that there will be no additional recreational fishing trips affected in 2000. As such, the size limit proposed under the preferred alternative will not likely alter party/charter boat revenue in 2000. The Council analyzed one alternative that would add a 20-fish possession limit to the management measures for the black sea bass recreational fishery. Of the estimated 1.468 million trips taken by anglers aboard party and charter boats in 1998 in the Northeast Region about 0.57 percent would have been affected by the implementation of the black sea bass measures proposed under non-preferred Alternative 1 for the 2000 fishing year (10-inch (25.40-cm) TL size limit, 20-fish possession limit). In other words, 8,366 (0.57 percent) angler trips taken aboard party/charter boats in 1998 landed at least one black sea bass that was less than 10 inches (25.40 cm), or landed more than 20 black sea bass. In 1998, a 10-inch (25.40-cm) minimum size limit was in place along with a closure from August 1, to August 15; there was no possession limit. Since no closure is proposed for black sea bass in 2000, a direct comparison of effort between 1998 and 2000 results in a small decrease in potentially affected trips. However, party/charter revenue losses per boat under this alternative could range anywhere 0 to 0.57 percent, on average, of total expected boat revenue in 2000.

Accordingly, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 11, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.103, paragraph (b) is revised to read as follows:

§ 648.103 Minimum fish sizes.

* * * * *

(b) The minimum size for summer flounder is 15.5 inches (39.27 cm) TL for all vessels that do not qualify for a moratorium permit, and party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members, or charter boats holding a moratorium permit if fishing with more than three crew members.

* * * * *

[FR Doc. 00–20846 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–22–U

Notices

Federal Register
Vol. 65, No. 159
Wednesday, August 16, 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.

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (1999) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of August 2000, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in August for the following periods:

	Period
Antidumping Duty Proceeding	
Argentina:	
Oil Country Tubular Goods, A–357–810	8/1/99–7/31/00
Seamless Line and Pressure Pipe, A–357–809	8/1/99–7/31/00
Australia: Corrosion-Resistant Carbon Steel Flat Products, A–602–803	8/1/99–7/31/00
Belgium:	
Cut-to-Length Carbon Steel Plate A–423–805	8/1/99–7/31/00
Industrial Phosphoric Acid, A–423–602	8/1/99–12/31/99
Brazil:	
Cut-to-Length Carbon Steel Plate, A–351–817	8/1/99–7/31/00
Seamless Line and Pressure Pipe A–351–826	8/1/99–7/31/00
Canada:	
Corrosion-Resistant Carbon Steel Flat Products, A–122–822	8/1/99–7/31/00
Cut-to-Length Carbon Steel Plate, A–122–823	8/1/99–7/31/00
Pure Magnesium, A–122–814	8/1/99–7/31/00
Cut-to-Length Carbon Steel Plate, A–405–802	8/1/99–7/31/00
Finland:	
Cut-to-Length Carbon Steel Plate, A–405–802	8/1/99–7/31/00
France:	
Corrosion-Resistant Carbon Steel Flat Products, A–427–808	8/1/99–7/31/00
Industrial Nitrocellulose, A–427–009	8/1/99–7/31/00
Germany:	
Cold-Rolled Carbon Steel Flat Products, A–428–814	8/1/99–7/31/00
Corrosion-Resistant Carbon Steel Flat Products, A–428–815	8/1/99–7/31/00
Cut-to-Length Carbon Steel Plate, A–428–816	8/1/99–7/31/00
Seamless Line and Pressure Pipe, A–428–820	8/1/99–7/31/00
Israel: Industrial Phosphoric Acid, A–508–604	8/1/99–12/31/99
Italy:	
Grain Oriented Electrical Steel, A–475–811	8/1/99–7/31/00
Oil Country Tubular Goods, A–475–816	8/1/99–7/31/00
Granular Polytetrafluoroethylene Resin, A–475–703	8/1/99–7/31/00
Seamless Line and Pressure Pipe, A–475–814	8/1/99–7/31/00
Japan:	
Acrylic Sheet, A–588–055	8/1/99–12/31/99
Brass Sheet & Strip, A–588–704	8/1/99–7/31/00
Corrosion-Resistant Carbon Steel Flat Products, A–588–824	8/1/99–7/31/00
Oil Country Tubular Goods, A–588–835	8/1/99–7/31/00
Granular Polytetrafluoroethylene Resin, A–588–707	8/1/99–7/31/00
Mexico:	
Gray Portland Cement and Cement Clinker, A–201–802	8/1/99–7/31/00
Cut-to-Length Carbon Steel Plate, A–201–809	8/1/99–7/31/00
Oil Country Tubular Goods, A–201–817	8/1/99–7/31/00
Poland: Cut-to-Length Carbon Steel Plate, A–455–802	8/1/99–7/31/00
Republic of Korea:	
Cold-Rolled Carbon Steel Flat Products, A–580–815	8/1/99–7/31/00

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Corrosion-Resistant Carbon Steel Flat Products, A–580–816 8/1/99–7/31/00.	
Oil Country Tubular Goods, A–580–825	8/1/99–7/31/00
Romania: Cut-to-Length Carbon Steel Plate, A–485–803	8/1/99–7/31/00
Spain: Cut-to-Length Carbon Steel Plate, A–469–803	8/1/99–7/31/00
Sweden: Cut-to-Length Carbon Steel Plate, A–401–805	8/1/99–7/31/00
Thailand: Malleable Cast Iron Pipe Fittings,* A–549–601	8/1/99–12/31/99
The Netherlands:	
Brass Sheet & Strip,* A–421–701	8/1/99–12/31/99
Cold-Rolled Carbon Steel Flat Products, A–421–804	8/1/99–7/31/00
The People's Republic of China:	
Petroleum Wax Candles, A–570–504	8/1/99–7/31/00
Sulfanilic Acid, A–570–815	8/1/99–7/31/00
Ukraine: Uranium,* A–823–802	8/1/99–12/31/99
The United Kingdom: Cut-to-Length Carbon Steel Plate, A–412–814	8/1/99–7/31/00
Turkey: Aspirin, A–489–602	8/1/99–7/31/00
Suspension Agreements	
Japan: Color Negative Photographic Paper,* A–588–832	8/1/99–12/31/99
The Netherlands: Color Negative Photographic Paper,* A–421–806	8/1/99–12/31/99
The People's Republic of China: Honey, A–570–838	8/1/99–8/16/00
Countervailing Duty Proceedings	
Belgium: Cut-to-Length Carbon Steel Plate, C–423–806	1/1/99–12/31/99
Brazil: Cut-to-Length Carbon Steel Plate, C–351–818	1/1/99–12/31/99
Canada:	
Live Swine,* C–122–404	4/1/99–12/31/99
Pure Magnesium, C–122–815	1/1/99–12/31/99
Alloy Magnesium, C–122–815	1/1/99–12/31/99
France:	
Corrosion-Resistant Carbon Steel, C–427–810	1/1/99–12/31/99
Stainless Steel Sheet and Strip in Coils, C–427–815	11/4/98–12/31/99
Germany:	
Cold-Rolled Carbon Steel Flat Products, C–428–817	1/1/99–12/31/99
Corrosion-Resistant Carbon Steel, C–428–817	1/1/99–12/31/99
Cut-to-Length Carbon Steel Plate, C–428–817	1/1/99–12/31/99
Israel: Industrial Phosphoric Acid,* C–508–605	1/1/99–12/31/99
Italy:	
Seamless Line and Pressure Pipe, C–475–815	1/1/99–12/31/99
Oil Country Tubular Goods, C–475–817	1/1/99–12/31/99
Stainless Steel Sheet and Strip in Coils, C–425–825	11/4/98–12/31/99
Mexico: Cut-to-Length Carbon Steel Plate, C–201–810	1/1/99–12/31/99
Republic of Korea:	
Cold-Rolled Carbon Steel Flat Products, C–580–818	1/1/99–12/31/99
Corrosion-Resistant Carbon Steel Plate, C–580–818	1/1/99–12/31/99
Stainless Steel Sheet and Strip in Coils, C–580–835	11/4/98–12/31/99
Spain: Cut-to-Length Carbon Steel Plate, C–469–804	1/1/99–12/31/99
Sweden: Cut-to-Length Carbon Steel Plate, C–401–804	1/1/99–12/31/99
United Kingdom: Cut-to-Length Carbon Steel Plate, C–412–815	1/1/99–12/31/99

*Order revoked effective 01/01/2000 as a result of sunset review.

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of August 2000. If the Department does not receive, by the last day of August 2000, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries

at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 9, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for AD/CVD Enforcement.

[FR Doc. 00–20833 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809; A–583–821]

Continuation of Antidumping Duty Orders: Forged Stainless Steel Flanges From India and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of continuation of antidumping duty orders: forged stainless steel flanges from India and Taiwan.

SUMMARY: On April 6, 2000, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty orders on forged stainless steel flanges from India and Taiwan, is likely to lead to continuation or recurrence of dumping. *See Certain Forged Stainless Steel Flanges from India and Taiwan; Final Results of Expedited Sunset Reviews of Antidumping Orders*, 65 FR 18058 (April 6, 2000) (''*Final Results*''). On August 2, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty orders on forged stainless steel flanges from India and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Forged Stainless Steel Flanges from India and Taiwan*, 65 FR 47517 (August 2, 2000) (''*ITC Final Results*''). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of the continuation of the antidumping duty order on forged stainless steel flanges from India and Taiwan.

EFFECTIVE DATE: August 16, 2000.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–1930 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1999, the Department initiated, and the Commission instituted, sunset reviews (64 FR 67247 and 64 FR 67313, respectively) of the antidumping duty orders on forged stainless steel flanges from India and Taiwan, pursuant to section 751(c) of the Act. As a result of its review, the Department found on April 6, 2000 that revocation of the antidumping duty orders on forged stainless steel flanges from India and Taiwan would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the order revoked (*see Final Results*, 65 FR 18058).

On August 2, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on forged stainless steel flanges from India and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See ITC Final Results*, 65 FR 47517, and USITC Publication 3329 (July 2000), Investigation Nos. 731–TA–639 and 640 (Review).

Scope

The products covered by this order include forged stainless steel flanges (''flanges''), both finished and unfinished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order is cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading are provided for convenience and customs purposes, the written description of the subject merchandise remains dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on forged stainless steel flanges from India and Taiwan. The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year reviews of these orders not later than July 2005.

Dated: August 9, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–20830 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–814; C–122–815]

Continuation of Antidumping Duty Order on Pure Magnesium From Canada and Countervailing Duty Orders on Pure and Alloy Magnesium From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of continuation of antidumping duty order on pure magnesium from Canada and countervailing duty orders on pure and alloy magnesium from Canada.

SUMMARY: On July 5, 2000, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined

that revocation of the antidumping duty order on pure magnesium from Canada and the countervailing duty orders on pure and alloy magnesium from Canada, are likely to lead to continuation or recurrence of dumping and net countervailable subsidies, respectively. *See Pure Magnesium from Canada; Final Results of Full Sunset Review of Antidumping Order*, 65 FR 41436 (July 5, 2000), and *Pure and Alloy Magnesium from Canada; Final Results of Full Sunset Reviews of Countervailing Duty Orders*, 65 FR 41444 (July 5, 2000), respectively. On August 2, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on pure magnesium from Canada and the countervailing duty orders on pure and alloy magnesium from Canada would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Magnesium from Canada*, 65 FR 47517 (August 2, 2000). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of the continuation of the antidumping duty orders on pure magnesium from Canada and the countervailing duty orders on pure and alloy magnesium from Canada.

EFFECTIVE DATE: August 16, 2000.

For Further Information Contact: Kathryn B. McCormick or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–1930 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1999, the Department initiated, and the Commission instituted, sunset reviews of the antidumping duty order on pure magnesium from Canada and countervailing duty orders on pure and alloy magnesium from Canada (64 FR 41915 and 64 FR 41961, respectively), pursuant to section 751(c) of the Act. As a result of its reviews, the Department found on July 5, 2000, that revocation of the antidumping duty order on pure magnesium from Canada (65 FR 41436) and the countervailing duty orders on pure and alloy magnesium from Canada (65 FR 41444) would likely lead to continuation or recurrence of dumping and countervailable subsidies, respectively, and notified the Commission of the magnitude of the margin and net countervailable subsidies likely to prevail were the order revoked.

On August 2, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order and countervailing duty orders on magnesium from Canada would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Magnesium from Canada*, 65 FR 47517 (August 2, 2000) and USITC Publication 3324 (July 2000), Investigation Nos. 701–TA–309–A–B and 731–TA–528 (Review).

Scope

Antidumping Duty Order: The merchandise subject to this antidumping duty order is pure magnesium from Canada. Pure magnesium is currently classifiable under item number 8104.11.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Granular and secondary magnesium are excluded from the scope of this order.

Countervailing Duty Orders: The products covered by these countervailing duty orders are pure magnesium and alloy magnesium from Canada. Pure magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight with magnesium being the largest metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes. The merchandise is currently classifiable under HTSUS item numbers 8104.11.0000 and 8104.19.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Secondary and granular magnesium are not included in the scope of these orders.

Although the above HTSUS subheadings are provided for convenience and customs purposes, our written descriptions of the scopes remain dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of the antidumping duty order on pure magnesium from Canada and countervailing duty orders on pure and alloy magnesium from Canada, would be likely to lead to continuation or recurrence of dumping and countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on pure magnesium from Canada and countervailing duty orders on pure and alloy magnesium from Canada. The Department will instruct the U.S. Customs Service to continue to collect antidumping and countervailing duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year reviews of these orders not later than July 2005.

Dated: August 9, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–20829 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–806]

Silicon Metal From the People's Republic of China: Initiation of New-Shipper Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of New-Shipper Antidumping Administrative Review.

SUMMARY: The Department of Commerce (the Department) has received a request from Groupstars Chemical L.L.C. (Groupstars) to conduct a new-shipper administrative review of the antidumping duty order on silicon metal from the People's Republic of China (PRC). In accordance with 19 CFR 351.214(d) of the Department's regulations, we are initiating this administrative review.

EFFECTIVE DATE: August 16, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Scott Lindsay, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0648 or (202) 482–3782 respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR Part 351, (1999).

Background

On June 30, 2000, the Department received a timely request, in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(c), for a new shipper review of this antidumping duty order which has a June anniversary date.

Pursuant to 19 CFR 351.214(b)(2)(i) and 19 CFR 351.214(b)(2)(iii)(A), Groupstars' June 30, 2000 request for review certified that it did not export the subject merchandise to the United States during the period of investigation (POI) and that it is not affiliated with any company which exported subject merchandise to the United States during the POI. Pursuant to 19 CFR 351.214(b)(2)(iii)(B), Groupstars' request certified that its export activities are not controlled by the central government of the PRC.

In addition, pursuant to 19 CFR 351.214(b)(2)(iv)(A)–(C), Groupstars' request contained documentation establishing: the date after the period of investigation on which Groupstars first shipped the subject merchandise for export to the United States, the volume of that shipment, and the date of the first sale to an unaffiliated customer in the United States.

Initiation of Review

In accordance with section 751(a)(2)(B) and 19 CFR 351.214(d), we are initiating a new-shipper review of the antidumping duty order on silicon metal from the PRC. Therefore, we intend to issue the preliminary results of this review not later than 180 days after the date on which the review is initiated.

Pursuant to 19 CFR 351.214(g)(A) of the Department's regulations, the period of review (POR) for a new-shipper review initiated in the month immediately following the annual anniversary month will be the twelve-month period immediately preceding the annual anniversary month. Therefore, the POR for this new-shipper is:

Antidumping duty proceeding	Period to be reviewed
Silicon Metal from the PRC, A–570–806:	
Groupstars Chemical L.L.C	6/01/99–5/31/00

Concurrent with publication of this notice and in accordance with 19 CFR 351.214(e), we will instruct the U.S. Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the companies listed above, until the completion of the review.

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214.

Dated: August 10, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary For Import Administration.

[FR Doc. 00–20831 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 00–023. Applicant: Yeshiva University, Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, NY 10461. Instrument: Q Pix Colony Picker. Manufacturer: Genetix Ltd., United Kingdom. Intended Use: The instrument is intended to be used for as a robotic instrument for picking clones from sub clone libraries made from BACs, which have been selected for sequencing. Application accepted by Commissioner of Customs: July 26, 2000.

Docket Number: 00–026. Applicant: The University of Texas at San Antonio, Division of Life Sciences, Cajal Center for Neuroscience, 6900 North Loop 1604 West, San Antonio, TX 78249-0662. Instrument: Electron Microscope, Model JEM–1230. Manufacturer: JEOL Ltd., Japan. Intended Use: The instrument is intended to be used to study ultrastructural features of biological research specimens from experimental animals, cultured cells and viruses. The research projects include but are not limited to:

1. Examination of the synapses on dendrites of granule neurons.

2. Study of synaptogenesis as a result of high frequency granule cell activity.

3. Ultrastructural analysis of mosquito cells infected with a neurotrophic mosquito-born alpha virus.

4. Study of the axonal trajectories of interneurons and their targets.

5. Structural studies examining the uptake of angiotensin II by vascular smooth muscle cells.

6. Characterization of an in vitro model of central nervous system myelination.

7. Examination of the deposition and expression of the protein BIH-H3 and

8. Study of the mechanisms of potentiating neurotransmitters in striatal degeneration by examining ultrastructure.

Application accepted by Commissioner of Customs: August 3, 2000.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 00–20832 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

District Heating Mission to Russia; Extension

AGENCY: International Trade Administration, Department of Commerce

ACTION: Notice.

SUMMARY: The Department of Commerce announces new, extended recruitment closing dates for the following overseas trade missions. For a more complete description of each trade mission, obtain a copy of the mission statement from the Project Officer indicated below. Recruitment and selection of private sector participants for these missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

District Heating Mission to Russia, Moscow and St Petersburg, Russia, October 15–21, 2000, Recruitment closes on September 15, 2000.

For further information contact: Rachel Halpern, U.S. Department of Commerce. Tel: 202–482–4423, Fax: 202–482–0170, E-Mail: Rachel__Halpern@ita.doc.gov

Clean Energy Trade Mission to Saudi Arabia, The United Arab Emirates, Qatar and Oman, October 24–November 1, 2000, Recruitment closes on September 22, 2000.

For further information contact: Joseph Ayoub, U.S. Department of Commerce. Tel: 202–482–0313, Fax: 202–482–0170, E-Mail: Joseph__Ayoub@ita.doc.gov

National Gas and Cogeneration Technologies Business Development Mission, Rio de Janeiro and Sao Paulo, Brazil, November 5–9, 2000, Recruitment closes on October 5, 2000.

For further information contact: Sam Beatty, U.S. Department of Commerce. Tel: 202–482–4179, Fax: 202–482–0170, E-mail: Samuel__Beatty@ita.doc.gov

Power Plant Renovation & Modernization/Natural Gas Utilization/Renewable Energy, Trade Mission to South Africa, Pretoria and Johannesburg, South Africa, November 13–17, 2000, Recruitment closes on October 13, 2000.

For further information contact: John Rasmussen, U.S. Department of Commerce. Tel: 482–1889, Fax: 202–82–0170, E-mail: John__Rasmussen@ita.doc.gov

Clean Energy Trade Mission China, Beijing, Chengdu and Guangzhou, China, December 4–8, 2000, Recruitment closes on November 3, 2000.

For further information contact Kathryn Hollander, U.S. Department of Commerce. 202–482–0385, Fax: 202–482–0170, E-mail: Kathryn__Hollander@ita.doc.gov

Clean Energy Trade Mission to India, New Delhi, Chennai, Calcutta and Mumbai, India, November 26–December 5, 2000, Recruitment closes on October 26, 2000.

For further information contact: Nazir Bhagat, U.S. Department of Commerce. Tel: 202–482–3855, Fax: 202–482–5666, E-mail: Nazir__Bhagat@ita.doc.gov

FOR FURTHER INFORMATION CONTACT: Reginald Beckham, U.S. Department of Commerce. Tel: 202–482–5478, Fax: 202–482–1999.

Dated: August 8, 2000.

Thomas H. Nisbet,

Director, Promotion Planning and Support Division, Office of Export Promotion Coordination.

[FR Doc. 00–20787 Filed 8–15–00; 8:45 am]

BILLING CODE 3410–DR–U

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of a Partially Closed Meeting of the Manufacturing Extension Partnership National Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Institute of Standards and Technology's (NIST's) Manufacturing Extension Partnership National Advisory Board (MEPNAB) will meet to hold a meeting on Wednesday, September 20, 2000. The MEPNAB is composed of eight members appointed by the Director of NIST who were selected for their expertise in the area of industrial extension and their work on behalf of smaller manufacturers. The Board was set up, under the direction of the Director of NIST, to fill a need for outside input on MEP. MEP is a unique program consisting of centers in all 50 states and Puerto Rico. The centers have been created by state, federal, and local partnerships. The Board works closely with MEP to provide input and advice on MEP's programs, plans, and policies. The purpose of this meeting is to delve into areas of operation determined by the Board. The agenda includes a look at the MEP program impact, the integration team pilot, and the operation of Center boards. The portion of the meeting, which involves personnel and proprietary budget information, will be closed to the general public. All other portions of the meeting will be open to the public.

DATES: The meeting will convene on September 20, 2000, at 8 a.m. and will adjourn at 3:30 p.m. and will be held at NIST, Gaithersburg, MD. The closed portion of the meeting is scheduled from 8 a.m. to 9:15 p.m.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration with the concurrence of the General Counsel formally determined on July 12, 2000, pursuant to Section 10(d) of the Federal Advisory Committee Act, that these portions of the meeting may be properly closed because they are concerned with matters that are within the purview of 5 U.S.C. 522(c)(4), (6) and (9)(b). A copy of the determination is available for public inspection in the Central Reference and Records Inspection Facility, Room 6219, Main Commerce.

MEP's services to small manufacturers address the needs of the national market as well as the unique needs of each company. Since MEP is committed to providing this type of individualized service through its centers, the program requires the perspective of locally based experts to be incorporated into its national plans. The MEPNAB was established at the direction of the NIST Director to maintain MEP's focus on local and market-based needs. The MEPNAB was approved on October 16, 1998, in accordance with the Federal Advisory Committee Act, 5 U.S.C. app. 2., to provide advice on MEP programs, plans, and policies; to assess the soundness of MEP plans and strategies; to assess the current performance against MEP program plans, and to function in an advisory capacity. The Board will meet three times a year and reports to the Director of NIST. This will be the third meeting of the MEPNAB in 2000.

FOR FURTHER INFORMATION CONTACT: Linda Acierto, Senior Policy Advisor, Manufacturing Extension Partnership, National Institute of Standards and Technology, Gaithersburg, MD 20899–4800, telephone number (301) 975–5033.

Dated: August 10, 2000.

Karen H. Brown,

Deputy Director, NIST.

[FR Doc. 00–20807 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080900B]

Fisheries off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Notice of Court Order Requiring Actions to Reduce the Incidental Catch of Sea Turtles in the Hawaii Pelagic Longline Fishery

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

ACTION: Notice of Requirements of the Order of August 4, 2000, of the United States District Court for the District of Hawaii.

SUMMARY: This document announces the terms of the August 4, 2000, Order of the United States District Court for the District of Hawaii. This Order amends the Court's earlier Orders Of Injunction. This Order will remain in effect until NMFS completes an Environmental Impact Statement (EIS) analyzing the effect of fishing activities regulated under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP). The Order requires that NMFS complete the EIS by April 1, 2001. Under this Order, certain areas are closed year-round to fishing by vessels engaged in the Hawaii-based pelagic longline fishery and other areas are seasonally closed. In certain areas, limitations have been placed on fishing effort and 100 percent observer coverage is required. In the remaining area, fishing for swordfish is prohibited, observer coverage must be increased to 10 percent by September 21, 2000, and to 20 percent by November 2, 2000, and vessel operators are required to submit written reports to NMFS within 5 days of returning to port of any swordfish taken during that trip.

NMFS must make observer reports available to the Court by the first of each month, continue to require Hawaii longline vessels to carry and use NMFS-approved line clippers and dip nets, and continue its research into the effects of several different gear modifications to reduce or eliminate the incidental catch of sea turtles.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, Fishery Management Specialist, PIAO, 808–973–2937.

SUPPLEMENTARY INFORMATION: Background information on actions taken to implement an earlier Order of the United States District Court for the District of Hawaii was published in the **Federal Register** on December 27, 1999 (64 FR 72290) and on June 19, 2000 (65 FR 37917) and is not repeated here. In the near future, NMFS anticipates publishing regulations implementing the requirements of the Court's Order of August 4, 2000. This document is published to provide the public with notification of the requirements of that Order.

On August 4, 2000, Judge David A. Ezra, U.S. District Court for the District of Hawaii, (Court) issued an Order Further Amending the Order Modifying Provisions of Order of Injunction (Order) in *CMC* v. *NMFS*. The Court ordered that:

1. All Hawaii-based longline fishing activities, authorized under the FMP, are prohibited in an area north of the Hawaiian Islands bounded by 28° N. lat. and 44° N. lat., and between 150° W. long. and 168° W. long. This area, designated as ''Area A'', is essentially the current longline closed area (see 64 FR 72290, December 27, 1999; 65 FR 37917, June 19, 2000).

2. Effective August 10, 2000, all Hawaii-based longline fishing activities authorized under the FMP are restricted in two geographically separate areas north of the Hawaiian Islands bounded by (a) 28° N. lat. and 44° N. lat., and between 137° W. long. and 150° W. long.; and (b) 28° N. lat. and 44° N. lat., and between 168° W. long. and 173° E. long. In both these areas, which are collectively designated as ''Area B'', Hawaii-based longline fishing vessels are limited to a fleet-wide maximum of 154 longline sets between August 10, 2000 and December 31, 2000, and a maximum of 77 longline sets between January 1, 2001 and March 14, 2001. All Hawaii-based longline fishing is prohibited in Area B from the time period between March 15, 2001, and May 31, 2001.

3. All Hawaii-based longline fishing vessels must have a NMFS-approved observer on board while longline fishing in Area B. If 100 percent observer coverage is not achieved, NMFS must immediately suspend all longline fishing activities in the area until full observer coverage is attained.

4. Effective August 10, 2000, all Hawaii-based longline fishing vessels are prohibited from using longline gear to target Pacific broadbill swordfish (*Xiphias gladius*) (swordfish) in the area bounded by 28° N. lat. and 0° N. lat. (the equator), and between 137° W. long. and 173° E. long. In this area, designated as ''Area C'', longline fishing is restricted to tuna fishing only. In addition, longline fishing in Area C is prohibited from March 15 through May 31. Furthermore, the landing in any port within the territory of the United States, or sale by any longline permit-holder or its agents, of any swordfish caught by a Hawaii longline vessel in Area C is limited, whereby any ''profits'' from the landing and sale of swordfish landed in this area must be donated to charity.

5. All vessel operators must submit to NMFS, within 5 days from returning to port, a written report of any swordfish taken in Area C during that trip.

6. By September 21, 2000, NMFS is required to achieve a 10 percent level of observer coverage for the longline fishery in Area C. By November 5, 2000, NMFS must attain a minimum observer coverage level of 20 percent in the area. If at any time during these periods the observer coverage falls below the court-specified coverage levels, longline fishing must be suspended in Area C until the required coverage level is attained.

7. On the first day of each month, NMFS must provide the Court and attorneys for the U.S. Government, plaintiffs, and Defender-Intervener copies of all observer reports prepared by NMFS approved observers.

8. NMFS is directed to complete the EIS by April 1, 2001. NMFS may apply for a reasonable extension of the completion deadline upon a showing of good cause; however, if an extension is granted by the Court, all provisions of this Order will remain in effect until the EIS is completed.

9. NMFS will continue to require every vessel registered with a Hawaii longline limited entry permit to carry and use NMFS-approved line clippers and dip nets to disengage any hooked or entangled sea turtles (final rule: 65 FR 16346, March 28, 2000); and

10. NMFS will continue its research into the effects of several different gear modifications.

The Order states that it shall remain in effect until further order of the Court or until the completion of the EIS.

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

Dated: August 10, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries Service.

[FR Doc. 00–20687 Filed 8–10–00; 3:02 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000803225–0225–01; I.D. 062900B]

RIN 0648–AO34

Shad and River Herring; Interstate Fishery Management Plans

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

ACTION: Notice of determination of noncompliance; notice of declaration of a moratorium.

SUMMARY: In accordance with the Atlantic Coastal Fisheries Cooperative Management Act of 1993 (Act), NMFS, upon a delegation of authority from the Secretary of Commerce (Secretary) has determined that the State of South Carolina is not in compliance with the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for Shad and River Herring and that the measures in the ISFMP that the state has failed to implement are necessary for the conservation of American shad. Pursuant to the Act, a Federal moratorium on fishing for American shad within South Carolina state waters is hereby declared, and will be effective on January 5, 2001, if by December 15, 2000, South Carolina is not found to be in compliance with the ISFMP for Shad and River Herring. The purpose of this action is to support and encourage the development, implementation, and enforcement of the Commission's ISFMPs to conserve and manage Atlantic coastal fishery resources.

DATES: The moratorium and any necessary regulations will become effective on January 5, 2001, through a separate notification and rule unless, by December 15, 2000, the State of South Carolina is found to have adopted and implemented measures to return to compliance with the Commission's ISFMP for Shad and River Herring.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries, NMFS, 301–427–2014.

SUPPLEMENTARY INFORMATION:

Background

The Act was enacted to support and encourage the development, implementation, and enforcement of the Commission's ISFMPs to conserve and manage Atlantic coastal fishery resources. Section 806 of the Act specifies that, after notification by the Commission that an Atlantic coastal state is not in compliance with an ISFMP of the Commission, the Secretary must make a finding, no later than 30 days after receipt of the Commission's notification, on: (1) whether the state has failed to carry out its responsibilities to implement and enforce the Commission's ISFMP; and (2) whether the measures that the state has failed to implement and enforce are necessary for the conservation of the fishery in question. In making such a finding, the Act requires the Secretary to give careful consideration to the comments of the Commission, the Atlantic coastal state found out of compliance by the Commission, and the appropriate Regional Fishery Management Councils. If the Secretary finds that the state is not in compliance with the Commission's ISFMP and that the measures the state has failed to implement are necessary for the conservation of the fishery, the Secretary must declare a moratorium on fishing in that fishery within the waters of the noncomplying state. The Secretary must specify the moratorium's effective date, which may be any date within 6 months after the declaration of the moratorium.

Commission Findings of Non-Compliance

The Commission adopted Amendment 1 to the ISFMP for Shad and River Herring in October 1998. Under Amendment 1, states are required to implement and enforce an aggregate 10–fish daily creel limit in recreational fisheries for American shad or hickory shad. As of July 1, 2000, South Carolina has a 20–fish American shad creel limit for the Santee River and a reduction in the number of days that the fishery can operate in the lower part of the river. South Carolina does not have an American shad creel limit for any other waters. Therefore, the Commission found that the State of South Carolina is not in compliance with the ISFMP for Shad and River Herring.

The Commission notified the Secretary of its finding on June 9, 2000, and suggested that the Secretary use his discretionary authority under the Act to delay the date of the moratorium, if declared, for up to 6 months, because the State of South Carolina is making an effort to come into compliance.

NMFS Determination Regarding Compliance by the State of South Carolina

Based on a careful analysis of all relevant information, and taking into account comments presented by the State of South Carolina and the New England Fishery Management Council, NMFS has determined that the State of South Carolina is not in compliance with the Commission's ISFMP for Shad and River Herring. This determination is based on South Carolina's failure to implement and enforce the creel limits of the Commission's ISFMP for Shad and River Herring as specified in Amendment 1. Therefore, South Carolina must implement and enforce the American shad creel limit of 10 fish consistent with Amendment 1 to the ISFMP for Shad and River Herring in order to come back into compliance. Further, the NMFS has determined that implementation and enforcement of the creel limit by South Carolina is necessary for the conservation of the resource. The American shad resource is comprised of a number of related populations that are in varying conditions, ranging from healthy to severely overfished. Each major river along the Atlantic coast appears to have a discrete spawning stock of American shad, yet the actual status of only seven of those several dozen stocks is currently known. As the stocks move from their natal rivers they are taken in mixed-stock ocean-intercept fisheries. The contribution that each stock makes to these intercept fisheries is not currently known. The coast-wide creel limit is designed to use the precautionary approach to limit fishing mortality on each stock in their native waters and addresses the uncertainty of the status of most American shad stocks. The failure of any state to implement and enforce the requirements of Amendment 1 to the ISFMP for Shad and River Herring increases the likelihood that additional stocks will become overfished.

Although the State of South Carolina is not in compliance with the Commission's ISFMP for Shad and River Herring, because the state is making expeditious efforts to promulgate regulations that would bring the state into compliance, NMFS is delaying implementation of the moratorium until January 5, 2001. If NMFS determines that the State of South Carolina has complied with Amendment 1 to the ISFMP, NMFS will publish an appropriate announcement in the **Federal Register** rescinding the moratorium with respect to the State of South Carolina. If by December 15, 2000, the State of South Carolina has not been found to have complied with Amendment 1 to the ISFMP, NMFS will issue an interim final rule implementing the moratorium effective January 5, 2001. The interim rule may include

measures necessary to implement the moratorium, such as prohibition on possession of American shad in South Carolina waters and a prohibition on landing American shad in South Carolina. Delaying the effective date of the moratorium until January 5, 2001, will allow South Carolina time to complete its legislative process, and have the Commission review the new regulations for compliance. This delay will not significantly diminish American shad conservation efforts because the fishery will not begin again until January 2001.

If the moratorium goes into effect, NMFS will terminate it as soon as possible upon determination that the State has taken appropriate remedial actions to bring it into compliance with the ISFMP.

Dated: August 10, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 00–20845 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080800B]

ICCAT Advisory Committee; Summer Workshop

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

ACTION: Notice of meeting.

SUMMARY: The Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) announces a September 2000 workshop on compliance and rebuilding issues. More information on the workshop can be found in the **DATES** and **SUPPLEMENTARY INFORMATION** sections of this notice.

DATES: The Advisory Committee Workshop on Compliance and Rebuilding will be held from 11:30 a.m. to 5 p.m. on September 12, 2000, and from 9:30 a.m. to 11:30 a.m. on September 13, 2000.

ADDRESSES: The workshop will be held at the Holiday Inn Silver Spring, located at 8777 Georgia Avenue, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Patrick E. Moran or Kimberly Blankenbeker at 301–713–2276.

SUPPLEMENTARY INFORMATION: At its September workshop, the Advisory Committee will consider compliance and stock rebuilding issues in preparation for the upcoming ICCAT annual meeting, to be held on November 13–20, 2000, in Marrakech, Morocco. Given the sensitive nature of the issues to be discussed, the Advisory Committee will be in executive session for the duration of the workshop. No sessions of the workshop, therefore, will be open to the public.

Special Accommodations

The meeting locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Patrick E. Moran at (301) 713–2276 at least 5 days prior to the meeting date.

Dated: August 10, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–20706 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081000B]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in September, 2000 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between September 6 and September 20, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Meetings will be held in Danvers, Mansfield and Wakefield, MA and Warwick, RI. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Wednesday, September 6, 2000, 9:30 a.m.—Capacity Committee Meeting.

Location: Holiday Inn, Mansfield, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 339–1040.

The Capacity Committee will review analyses of proposals to allow the more flexible transfer of fishing permits among fisheries and effort allocations in the multispecies. One proposal would allow multispecies permit holders to acquire additional days-at-sea (DAS) from other permit holders with different rates of reduction of DAS on transfer for active and inactive DAS. Two other proposals would allow the transfer of fishing permits among different fisheries but not allow vessels in the monkfish, scallop and multispecies to acquire additional DAS. A fourth proposal would reduce unused DAS by a small percentage each year unless the DAS were put under a freeze until groundfish stocks were rebuilt.

Monday, September 11, 2000 at 9:30 a.m. and Tuesday, September 12, 2000 at 9:00 a.m.—Joint Meeting of the Groundfish Committee and Advisors.

Location: King's Grant Inn, Route 128 at Trask Lane, Danvers, MA 01923; telephone: (978) 774–6800; fax: (978) 774–6502.

The Committee and Advisors will conduct a joint meeting to continue development of management options for Amendment 13 to the Northeast Multispecies Fishery Management Plan. Since April, the Committee has been identifying a wide range of possible management measures for this Amendment. The Committee and Advisors will now refine those measures into coherent management programs that will be developed into a draft supplemental environmental impact statement and public hearing document. The Committee and Advisors are focusing on three broad approaches to groundfish management: revisions to the measures currently in place, an area-based management system, and a sector allocation system. All three approaches will be discussed at this meeting and choices will be made on the specifics of each proposal that will be recommended to the Council later this year. In addition, the Committee and Advisors will review updated assessment information on groundfish stocks, if available, and may develop preliminary recommendations on the rebuilding schedules that will be used in this Amendment. The Committee and Advisors will also consider information from the Council's Groundfish Overfishing Definitions Review Panel

and will consider, and develop recommendations for, further review or changes to specific overfishing definitions.

Tuesday, September 19, 2000 at 9:30 a.m.—Joint Meeting of the Groundfish Committee and Advisors.

Location: Sheraton Colonial Hotel, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300; fax: (781) 245–0842.

On September 19, The Committee and Advisors will conduct a joint meeting to continue development of management options for Amendment 13 to the Northeast Multispecies Fishery Management Plan. Further selection and development of the management measures under consideration will continue. The Committee and Advisors are focusing on three broad approaches to groundfish management: revisions to the measures currently in place, an area-based management system, and a sector allocation system. All three approaches will be discussed at this meeting and choices will be made on the specifics of each proposal that will be recommended to the Council later this year. In addition, the Committee and Advisors will review updated assessment information on groundfish stocks, if available, and may develop preliminary recommendations on the rebuilding schedules that will be used in this Amendment. The Committee and Advisors will also consider information from the Council's Groundfish Overfishing Definitions Review Panel and will consider, and develop recommendations for, further review or changes to specific overfishing definitions. The Committee and Advisors may also consider preliminary information from the Multispecies Monitoring Committee.

Wednesday, September 20, 2000, at 9:30 a.m.—Skate Committee Meeting.

Location: Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000; fax: (401) 732–9309.

At its first meeting, the Skate Committee will review the Skate Stock Assessment and Fishery Evaluation (SAFE) Report, which will be presented by the Skate Plan Development Team (PDT). The Committee will discuss some of the details regarding the development of the Skate Fishery Management Plan (FMP) and will identify issues for staff to develop into a ''scoping'' document for the Skate FMP. At the end of the meeting, the Committee will convene a closed session to review Advisory Panel applications and nominate individuals to serve on the Skate Advisory Panel.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: August 10, 2000.

Richard W. Surdi,

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

[FR Doc. 00–20843 Filed 8–16–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.080900C]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings.

DATES: The meetings will be held on September 6, 2000 through September 11, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: All meetings will be held at the Anchorage Sheraton Hotel, 401 E. Sixth Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council's Advisory Panel will begin at 8:00 a.m., Wednesday, September 6, and continue through Friday, September 8. The Scientific Committee will begin at 8:00 a.m. on Wednesday, September 6, and continue through Thursday, September 7.

The Council will begin their plenary session at 8:00 a.m. on Friday, September 8, continuing through Monday, September 11.

All meetings are open to the public except Executive Sessions which may be held during the week to discuss litigation and/or personnel matters.

Council

The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Oath of office to newly appointed members.
2. Election of officers.
3. Reports.
(a) Executive Director's report.
(b) Magnuson-Stevens Act reauthorization issues.
(c) Socio-economic Data Committee report.
(d) Report on the stakeholder process for Habitat Areas of Particular Concern (HAPC).
(e) Report on the status of Western Alaska salmon stocks.
4. Observer Program:
(a) Report on independent review of the North Pacific Groundfish Observer Program.
(b) Report from the Council's Observer Advisory Committee and Council discussion of program.
5. Initial review of amendment analyses on Steller sea lion/Pacific cod interactions and provide comments to NMFS.
6. Review of discussion paper and final action on crab processing sideboards.
7. Final action on amendment to prohibit non-pelagic trawl gear in Cook Inlet.

Advisory Meetings

Advisory Panel: The agenda for the Advisory Panel will mirror that of the Council listed above, with the exception of the oath of office and election of officers.

Scientific and Statistical Committee: The Scientific and Statistical Committee will address the following items on the Council agenda:

1. Observer Program issues.
2 Steller sea lion/Pacific cod interactions.
3. HAPC stakeholder process.
4. Socio-economic Data Committee report.

Other Committee/Workgroup & Industry Meetings

During the meeting week, the following groups will hold meetings to discuss various agenda issues of interest:

Crab Cooperative Industry Meeting: Thursday, September 7, 2000, 6:30 p.m.

Council/Alaska Board of Fisheries Joint Committee: Thursday, September 7, 2000, at 1:00 p.m. (Agenda will be posted on Council website: www.fakr.noaa.gov/npfmc)

Other committees and workgroups may hold impromptu meetings throughout the meeting week. Such meetings will be announced during regularly-scheduled meetings of the Council, Advisory Panel, and SSC, and will be posted at the hotel.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: August 10, 2000.

Richard W. Surdi,

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

[FR Doc. 00–20705 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, 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 October 16, 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 Group, 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: August 10, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Evaluation of the American Indian Vocational Rehabilitation Services (AIVRS) Program.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Businesses or other for-profit; Not-for-profit institutions; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 465

Burden Hours: 685

Abstract: This submission is for a one-time data collection for the Evaluation of the American Indian Vocational Rehabilitation Services (AIVRS) Program. The information will be used by the Department of Education to improve the design of the program, answer questions about the program, and justify its budget. There are very limited reporting requirements for this program, so the information is needed to describe consumer characteristics, services provided, and program outcomes. Most of the information will come from project directors, but there will also be interviews with project staff, tribal representatives, advisory group members, service providers, and State VR agency staff.

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 4050, Regional Office Building 3, Washington, DC 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 Sheila Carey at (202) 708–6287 or via her internet address Sheila__Carey@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. 00–20745 Filed 8–15–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No.: 84.017A]

Office of Postsecondary Education, International Research and Studies Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Purpose of Program: The International Research and Studies Program provides grants to conduct research and studies to improve and strengthen instruction in modern foreign languages, area studies, and other international fields to provide full understanding of places in which the foreign languages are commonly used.

Eligible Applicants: Public and private agencies, organizations and institutions, and individuals.

Deadline for Transmittal of Applications: November 6, 2000.

Applications Available: September 8, 2000.

Available Funds: $626,739. The estimated amount of funds available for new awards under this competition is based on the Administration's request for this program for FY 2001. The actual level of funding, if any, is contingent on final congressional action.

Estimated Range of Awards: $50,000–$150,000 per year.

Estimated Average Size of Awards: $104,457 per year.

Estimated Number of Awards: 6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department, General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 82, 85, 86, 97, 98, and 99; and (b) the regulations for this program in 34 CFR parts 655 and 660.

For Applications or Information Contact: Jose L. Martinez, International Research and Studies Program, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street NW, Suite 600, Washington, DC 20006–8521. Telephone: (202) 502–7635. The email address for Mr. Martinez is:

jose__martinez@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.

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Program Authority: 20 U.S.C. 1125.

Dated: August 11, 2000.

Claudio R. Prieto,

Acting Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 00–20811 Filed 8–15–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Regional Transmission Organization West

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of meetings.

SUMMARY: This notice announces BPA's intention to hold two public meetings to consider issues associated with BPA's proposal to join the Northwest Regional Transmission Organization (RTO West).

DATES: As part of the public process associated with the formation of the RTO, BPA has established a public comment period. Written comments are due to the address below no later than September 8, 2000. In addition, BPA will host two public meetings: the first in Spokane, Washington, on August 22, 2000, and the second in Portland, Oregon, on August 25, 2000. Comments may also be made at these public meetings.

ADDRESSES: BPA invites comments and suggestions on the major issues associated with BPA's proposal to join RTO West. Send comment letters to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon, 97212. The phone number of the Communications office is 503–230–3478 in Portland; toll-free 1–800–622–4519 outside of Portland. Comments may also be sent to the BPA Internet address: *comment@bpa.gov.*

The meetings will be held at the Ramada Inn, Spokane International Airport, Spokane, Washington, on Tuesday, August 22, 2000, from 1:00 p.m. to 5:00 p.m., and at the Sheraton Portland Airport Hotel, Columbian Room, 8235 NE Airport Way, Portland, Oregon, from 1:00 p.m. to 4:00 p.m.

FOR FURTHER INFORMATION, CONTACT: Mike Hansen—KC–7, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–4328, fax number 503–230–5844. Additional information is also available on the official RTO West web site at *www.rtowest.com*, or BPA's web site at *www.bpa.gov.*

SUPPLEMENTARY INFORMATION: In December 1999, the Federal Energy Regulatory Commission (FERC) issued Order 2000, which encourages the formation of RTOs. The goal of that order is to promote efficiency in the wholesale electricity marketplace and to ensure that consumers pay the lowest price possible for reliable service. The order also requires utilities to file RTO proposals with FERC by October 15, 2000, with the RTOs to be fully operating by December 15, 2001.

FERC encouraged the federal power marketing administrations (PMAs), including BPA, to participate in RTO development. In response, on May 16, 2000, the U.S. Department of Energy directed the PMAs to participate in the development of RTOs and to file with FERC by the October 15 deadline. BPA began working collaboratively with Avista, Idaho Power Company, Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., and Sierra Pacific Power Company to form an RTO. These Filing Utilities have reached consensus on the structure of RTO West, developed a set of RTO principles, established an RTO Collaborative Process Plan, and clarified roles, responsibilities, and process related to the formation of RTO West. The Collaborative Process Plan committed RTO West to host Regional Workshops to encourage broader participation in the development of RTO West and to receive input on issues associated with RTO West formation.

Interested regional parties are included in the RTO West Regional Representatives Group (RRG), which is charged with reviewing and discussing issues and recommending approaches to the successful formation of an RTO in the Northwest. In addition, the several technical workgroups, working in conjunction with the RRG, are developing papers that will be shared with the region in August. The papers will also be available on the RTO web site at www.rtowest.com.

BPA, as a Federal agency, has responsibilities under the National Environmental Policy Act (NEPA). Environmental information must be available to decisionmakers and to the public before decisions are made and before actions are taken. In response to a need for a sound policy to guide its business direction under changing market conditions, BPA prepared the Business Plan Environmental Impact Statement (Business Plan EIS, DOE/EIS–

0183, June 1995). In the subsequent Business Plan Record of Decision (Business Plan ROD), issued August 15, 1995, the BPA Administrator selected the Market-Driven alternative.

The Business Plan EIS was intended to support a number of business decisions, including transmission system development and operation. The Business Plan EIS and ROD also documented a NEPA strategy for tiering subsequent business decisions. Consistent with that strategy, BPA will review the EIS to determine whether the environmental impacts associated with participation in an RTO-like organization are adequately analyzed. After incorporating information received during the public process associated with RTO West, BPA intends to prepare a ROD tiered to the Business Plan ROD, explaining any decision to join the RTO. The RTO West ROD will provide a summary of potential environmental impacts with reference to the appropriate discussions in the Business Plan EIS.

The comment period and the two public meetings are an integral part of BPA's decisionmaking process for whether or not to join the RTO. The Spokane public meeting will also incorporate an RTO West briefing as part of the RTO's commitment to host regional workshops.

Issued in Portland, Oregon, on August 8, 2000.

J.A. Johansen,

Administrator and Chief Executive Officer.

[FR Doc. 00–20786 Filed 8–15–00; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC96–10–000 and ER96–1663–000]

California Power Exchange Corporation; Notice of Filing

August 10, 2000.

Take notice that on July 31, 2000, the California Power Exchange Corporation (CalPX) filed the annual report of its Compliance Unit pursuant to the Commission's October 30, 1997 order in this proceeding, 81 FERC ¶ 61,122 at 61,553, and its March 15, 2000 Notice of Extension of Time in this proceeding. CalPX has served copies on all parties on the official service list in Docket Nos. EC96–19–000 *et al.* and on the California Public Utilities Commission, the California Energy Commission, the California Electricity Oversight Board, the Arizona Corporation Commission, the Nevada Public Service Commission and the Oregon Public Utility Commission.

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 August 30, 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 filed a motion to intervene. Copies of this filing are on filed with 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).

David P. Boergers,

Secretary.

[FR Doc. 00–20785 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–344–000]

Dominion Transmission, Inc.; Notice of Technical Conference

August 10, 2000.

On June 15, 2000, Dominion transmission, Inc. (formerly CNG Transmission Corporation) (Dominion) filed in compliance with Order No. 637. Several parties have protested various aspects of Dominion's filing. Take notice that the technical conference to discuss the various issues raised by Dominion's filing will be held on Thursday, September 7, 2000, at 10:00 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. This technical conference may extend to Friday, September 8, 2000. Parties protesting aspects of Dominion's filing should be prepared to discuss alternatives.

All interested parties and Staff are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 00–20758 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–40–001]

Florida Gas Transmission Company; Notice of Amendment

August 10, 2000.

Take notice that on August 1, 2000, Florida Gas Transmission Company (FGT), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP00–40–001 an amendment to its application in Docket No. CP00–40–000, pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations, to reflect: (1) changes in Phase V shippers; (2) changes in proposed facilities requirements, including changes in compressor horsepower and pipeline requirements; and (3) pipeline route modifications (including modifications to facilities located in Mobile and Baldwin Counties, AL; and Citrus, Hernando, Bay and Washington Counties, FL) that were requested by landowners, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Any questions regarding the application should be directed to Mr. Stephen T. Veatch, Director of Certificates and Regulatory Reporting, Suite 3997, 1400 Smith Street, Houston, Texas 77002 or call (713) 853–6549.

FGT states that its pipeline and horsepower modifications are due to the requirement to deliver natural gas to the west coast of Florida for Tampa Electric Company, a new shipper, instead of the east coast markets which were to be served by Enron North America Corp. and Dynegy who both exercised rights to terminate their contracts. FGT continue to request that the Commission find that the costs of the proposed Phase V Expansion can be rolled-in to establish rates for service under its incrementally priced Rate Schedule FTS–2. FGT states that the maximum rates applicable to Rate Schedule FTS–2 are expected to be lower as a result of such rolling-in of costs and thus, will not require subsidies from existing shippers.

By this amendment FGT proposes significant changes to the pipeline facilities proposed in its original application. Some of the originally proposed pipeline facilities will be modified (located in Greene County,

MS; Mobile and Baldwin Counties, AL; and Gilchrist; Columbia, Suwanee, Bradford, and Clay Counties, FL), some will be deleted (located in Hillsborough, Polk, Volusia, Orange, and Osceola Counties, FL), and there are some new pipeline additions proposed. FGT proposed 35.5 miles of new pipeline additions in Gilchrist, Levy, and Hillsborough Counties, Florida. In addition, compressor horsepower will be modified at seven compressor stations (located in Mobile County, AL; and Santa Rosa, Gadsden, Bradford, Marion, Citrus, and Orange Counties, FL), and a new 14,650 horsepower compressor station will be constructed in Hillborough County, Florida.

For the total Phase V expansion as amended, FGT proposes to: (1) Acquire an undivided interest in Koch Gateway Pipeline Company's (Koch Gateway) Mobile Bay Lateral in Mobile County, Alabama that will give FGT capacity of 300,000 Dth per day; (2) construct construct approximately 191.5 miles of various diameter pipeline, additional compression totaling 125,215 horsepower, three delivery points, one new supply measurement station, and various other miscellaneous facilities. The proposed Phase V expansion will add an incremental capacity of approximately 305,819 MMBtu per day, on an annual daily average basis (net of turn-back). FGT estimates the total cost to be $476 million, including an estimated $10 million for the proposed acquisition of an interest in the Mobile Bay Lateral.

FGT requests that the Commission issue a preliminary determination on non-environmental issues by November 1, 2000, and a final determination on all certificate issues on or before April 15, 2001. FGT further requests that the Commission allow for a construction period sufficient to accommodate phased in-service dates for specific facilities of October 1, 2001, April 1, 2002, January 1, 2003, and May 1, 2003.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before August 31, 2000, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to interevene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties, or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or other requesting intervenors status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction referred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for FGT to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–20749 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–434–000]

Ozark Gas Transmission, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

August 10, 2000.

Take notice that on August 4, 2000, Ozark Gas Transmission, L.L.C. (Ozark) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to be effective September 3, 2000:

1st Rev. First Revised Sheet No. 13
First Revised No. 19
Original Sheet No. 19A
First Revised Sheet No. 86
First Revised Sheet No. 86A
First Revised Sheet No. 87

Ozark states that the purpose of this filing is to comply with requirements of FERC Order Nos. 637, 637–A and 637–B that pipelines make tariff filings to remove from their tariffs provisions inconsistent with the removal of the price ceiling on short-term capacity releases.

Ozark further sates that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions. Questions concerning this filing may be directed to counsel for Ozark, James F. Bowe, Jr., Dewey, Jr., Dewey Ballantine LLP, at (202) 429–1444, fax (202) 429–1579, or jbowe@deweyballantine.com.

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, N.E., Washington, D.C. 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 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).

David P. Boergers,

Secretary.

[FR Doc. 00–20757 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–436–000]

Paiute Pipeline Company; Notice of Compliance Filing

August 10, 2000.

Take notice that on August 7, 2000, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective March 27, 2000:

Second Revised Sheet No. 107
Third Revised Sheet No. 111
Second Revised Sheet No. 112
First Revised Sheet No. 113A
First Revised Sheet No. 113B
Second Revised Sheet No. 116

Paiute indicates that the purpose of its filing is to comply with the Commission's regulations adopted in Order Nos. 637 and 637–A which (1) remove the rate ceiling for capacity release transactions of less than one year, and (2) modify the scope of a shipper's right of first refusal upon expiration of a service agreement.

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, N.E., Washington, D.C. 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 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.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–20759 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–375–001]

Panhandle Eastern Pipe Line Company; Notice of Compliance Filing

August 10, 2000.

Take notice that on August 7, 2000, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective March 27, 2000.

Sub Seventh Revised Sheet No. 278
Sub Second Revised Sheet No. 278A

Panhandle asserts that the purpose of this filing is to comply with the Commission's Letter Order issued on July 28, 2000 in Docket No. RP00–375–000, 92 FERC ¶ 61,100 (2000). As directed by the Commission, Panhandle has modified Section 15.4(a) of the General Terms and Conditions to provide that the waiver of the price cap for short-term capacity release transactions is effective until September 30, 2002. Panhandle has also modified Section 15.4(b)(ii) to provide that unless shipper is exempt from bidding on a 31 day or less release that is not a rollover, a party must submit a bid for an assignment of less than one year until September 30, 2002.

Panhandle states that a copy of this filing is available for public inspection during regular business hours at Panhandle's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in 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. 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).

David P. Boergers,

Secretary.

[FR Doc. 00–20752 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–431–000]

Sea Robin Pipeline Company; Notice of Compliance Filing

August 10, 2000.

Take notice that on August 4, 2000, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets to be effective March 27, 2000 and September 4, 2000 as listed on Appendix A attached to the filing.

Sea Robin states that the purpose of this filing is to comply with the Commission's Regulation of Short-Term Natural Gas Transportation Service, and Regulation of Interstate Natural Gas Transportation Services in Docket Nos. RM98–10–000 and RM98–12–000 issued on February 9, 2000, 90 FERC ¶ 61,109 (Order No. 637) as clarified in Docket Nos. RM98–10–001, et al. issued on May 19, 2000, 91 FERC ¶ 61,169 (Order No. 637–A) and Docket Nos. RM98–10–005, et al. issued on July 26, 2000, 92 FERC ¶ 61,062 (Order No. 637–B). Specifically, the proposed changes revise the applicable sections of the General Terms and Conditions of Sea Robin's tariff to remove the price cap for short-term capacity releases until September 30, 2002 and to modify the applicability of the right of first refusal as directed by Order Nos. 637, 637–A and 637–B.

Sea Robin states that a copy of this filing is available for public inspection during regular business hours at Sea Robin's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing are being served on all affected customers and applicable 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 protestsants 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).

David P. Boergers,

Secretary.

[FR Doc. 00–20754 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–432–000]

Texas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 10, 2000.

Take notice that on August 4, 2000, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective March 27, 2000:

Second Revised Sheet No. 194
Third Revised Sheet No. 196
Fifth Revised Sheet No. 198
Fifth Revised Sheet No. 204A

This filing is being submitted to modify Texas Gas's tariff in compliance with Section 284.8(i) of the Commission's regulations promulgated in Order Nos. 637 and 637–A. Section 284.8(i) waives, for capacity release transactions of less than one year, until September 30, 2002, the maximum rate ceiling which would otherwise apply to those transactions. Order No. 637 requires pipelines to file by August 7, 2000, to remove any tariff provisions inconsistent with this waiver. Accordingly the tariff sheets submitted herewith modify Section 25 of the General Terms and Conditions of Texas Gas FERC Gas Tariff consistent with this temporary waiver of the price cap in Section 248.8(i) of the Commission's regulations.

Copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

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 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).

David P. Boergers,

Secretary.

[FR Doc. 00–20755 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–369–001]

Trunkline Gas Company; Notice of Compliance Filing

August 10, 2000.

Take notice on August 7, 2000, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective March 27, 2000:

Sub Fourth Revised Sheet No. 190
Sub Sixth Revised Sheet No. 191
Sub Fourth Revised Sheet No. 192
Sub Third Revised Sheet No. 197

Trunkline asserts that the purpose of this filing is to comply with the Commission's Letter Order issued on July 28, 2000 in Docket No. RP00–369–000, 92 FERC ¶ 61,101 (2000). As directed by the Commission, Trunkline has modified Section 9 of the General Terms and Conditions to provide that the waiver of the price cap for short-term capacity release transactions is effective until September 30, 2002, regardless of when the capacity release expires.

Trunkline states that a copy of this filing is available for public inspection during business hours at Trunkline's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protect this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in 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. 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 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–20751 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–376–001]

Trunkline LNG Company; Notice of Compliance Filing

August 10, 2000.

Take notice that on August 7, 2000, Trunkline LNG Company (TLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1–A, the following tariff sheets to be effective March 27, 2000:

Sub First Revised Sheet No. 82
Sub First Revised Sheet No. 83
Sub First Revised Sheet No. 89

TLNG asserts that the purpose of this filing is to comply with the Commission's Letter Order issued on July 28, 2000 in Docket No. RP00–376–000, 92 FERC ¶ 61,101 (2000). As directed by the Commission, TLNG has modified Section 9 of the General Terms and Conditions to provide that the waiver of the price cap for short-term capacity release transactions is effective until September 30, 2002, regardless of when the capacity release expires.

TLNG states that a copy of this filing is available for public inspection during regular business hours at TLNG's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing are being served on all affected customers, applicable state

regulatory agencies and parties to this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in 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. 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).

David P. Boergers,

Secretary.

[FR Doc. 00–20753 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–433–000]

Williams Gas Pipelines Central, Inc.; Notice of Filing

August 10, 2000.

Take notice that Williams Gas Pipelines Central, Inc. (Williams) on August 4, 2000, tendered for filing, pursuant to Article 9.7(d) of the General Terms and Conditions of its FERC Gas Tariff, the following tariff sheets:

Sixteenth Revised Sheet No. 6A
First Revised Sheet No. 251
Second Revised Sheet No. 255
First Revised Sheet No. 256

Williams proposes herein to remove the maximum rate ceiling on capacity release transaction of less than one year as provided in Section 284.8(i). Williams proposes to modify Section 11.4(d) on Sheet No. 255 to provide that the maximum rate ceiling will not apply to capacity release transaction of less than one year for the period March 26, 2000, through September 30, 2002. Williams also proposes to delete language in Section 11.3(b) on Sheet No. 251 which created an exception to the posting and bidding requirements for capacity releases at maximum rate. Finally, Williams proposes to add a footnote to Sheet No. 6A stating that the maximum rates do not apply to releases of less than one year for the period stated above.

Williams states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

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, N.E., Washington, D.C. 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 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).

David P. Boergers,

Secretary.

[FR Doc. 00–20756 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. EC00–120–000, et al.]

South Beloit Water, Gas and Electric Company, et al.; Electric Rate and Corporate Regulation Filings

August 8, 2000.

Take notice that the following filings have been made with the Commission:

1. South Beloit Water, Gas and Electric Company

[Docket No. EC00–120–000]

Take notice that on August 3, 2000, South Beloit Water, Gas and Electric Company filed an application under Section 203 of the Federal Power Act requesting authorization to transfer ownership and operational control of its jurisdictional transmission facilities to American Transmission Company LLC (ATCLLC).

Comment date: September 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Dynegy Midwest Generation, Inc.

[Docket No. EG00–235–000]

Take notice that on August 4, 2000, Dynegy Midwest Generation, Inc., 1000 Louisiana, Suite 5800, Houston, Texas filed with the Federal Energy Regulatory Commission an amendment to its application in the above-referenced docket for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Comment date: August 29, 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. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company

[Docket No. ER94–1378–000]

Take notice that on August 4, 2000, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company filed a request to withdraw its filing at Docket No. ER94–1378–000.

Copies of the filing have been provided to the Public Service Commission of Maryland, the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission and all parties of record.

Comment date: August 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. California Independent System Operator Corporation

[Docket No. ER00–2019–002]

Take notice that on August 3, 2000, the California Independent System Operator Corporation (ISO), tendered for filing changes to the ISO Tariff to comply with the Commission's order in California Independent System Operator Corporation, 91 FERC ¶ 61,205 (2000). These changes include provision for the following: Commission review of decisions of the Revenue Review Panel; the ability of non-jurisdictional Participating TOs either to file their Transmission Revenue Requirements with the Commission or submit them to the ISO; the West Central TAC Area having the same Transition Date as the other three TAC Areas, unless the ISO provides additional information demonstrating the need for a deferral; and elimination of the ''buy down'' provision. Additionally, this filing contains tariff sheets submitted in order to reflect the sum of recent amendments to the ISO Tariff; to correct

typographical errors and inadvertent omissions; and to embody changes to tariff language which the ISO intended to provide in recent amendments, but which were not reflected in those amendments.

The ISO also tendered for filing an errata concerning the ISO's August 3, 2000 filing in the above-referenced docket. The errata filing provides a tariff sheet which was inadvertently omitted from the August 3, 2000 filing. The ISO states that this filing has been served upon all parties in this proceeding.

The ISO states that this filing has been served upon all parties in this proceeding.

Comment date: August 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. South Carolina Electric & Gas Company

[Docket No. ER00–3356–000]

Take notice that on August 3, 2000, South Carolina Electric & Gas Company (SCE&G), tendered for filing a service agreement establishing Cinergy Services, Inc. as a firm point-to-point customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Cinergy Services, Inc. and the South Carolina Public Service Commission.

Comment date: August 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Northern Indiana Public Service Company

[Docket No. ER00–3357–000]

Take notice that on August 3, 2000, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and SkyGen Energy Marketing LLC (SKYM).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to SKYM pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of August 4, 2000.

Copies of this filing have been sent to SkyGen Energy Marketing LLC, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: August 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Energy Alternatives, Inc.

[Docket No. ER00–3358–000]

Take notice that on August 3, 2000, Energy Alternatives, Inc. (EA), petitioned the Commission for acceptance of EA Rate Schedule FERC No. 1; EA the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

EA intends to engage in wholesale electric power and energy purchases and sales as a marketer. EA may also engage in other nonjurisdictional activities, such as facilitating the purchase and sale of wholesale energy without taking title to the electricity, selling electricity to retail customers in states in which retail electric power competition has been implemented, and arranging services in related areas such as transmission and fuel supplies. EA is a wholly-owned subsidiary of Midwest Energy Systems, a Minnesota corporation, which is a wholly-owned subsidiary of Dakota Electric Association, a Minnesota cooperative corporation.

Comment date: August 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Northern Indiana Public Service Company

[Docket No. ER00–3359–000]

Take notice that on August 3, 2000, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Cargill-Alliant LLC (CRGL).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to CRGL pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of August 4, 2000.

Copies of this filing have been sent to Cargill-Alliant LLC, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: August 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Northern Indiana Public Service Company

[Docket No. ER00–3360–000]

Take notice that on August 3, 2000, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and SkyGen Energy Marketing LLC (SKYM).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to SKYM pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of August 4, 2000.

Copies of this filing have been sent to SkyGen Energy Marketing LLC, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: August 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Consumers Energy Company

[Docket No. ER00–3361–000]

Take notice that on August 4, 2000, Consumers Energy Company (Consumers), tendered for filing executed transmission service agreements with Aquila Energy Marketing Corporation (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 agreements have effective dates of August 1, 2000.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and the Customer.

Comment date: August 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Avista Corporation

[Docket No. ER00–3362–000]

Take notice that on August 4, 2000, Avista Corporation (AVA), tendered for

filing notice that a Mutual Netting Agreement assigned Rate Schedule FERC No. 257, previously filed with the Federal Energy Regulatory Commission by Avista Corporation, formerly known as The Washington Water Power Company, under the Commission's Docket No. ER99–3–000 with The Montana Power Trading & Marketing Company is to be terminated, effective August 10, 2000 by the request of The Montana Power Trading & Marketing Company, per its letter dated July 31, 2000.

Notice of the cancellation has been served upon The Montana Power Trading & Marketing Company.

Comment date: August 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–3363–000]

Take notice that on August 4, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies), tendered for filing an executed Delivery Scheduling and Balancing Agreement between the Companies and The Legacy Energy Group, LLC.

Comment date: August 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Ameren Services Company

[Docket No. ER00–3364–000]

Take notice that on August 4, 2000, Ameren Services Company (ASC), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between ASC and El Paso Merchant Energy, L.P. and Engage Energy US, L.P. (the parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff.

Comment date: August 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Ameren Services Company

[Docket No. ER00–3365–000]

Take notice that on August 4, 2000, Ameren Services Company (ASC), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between ASC and El Paso Merchant Energy, L.P. and Engage Energy US, L.P. (the parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff.

Comment date: August 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. New York State Electric & Gas Corporation

[Docket No. ER00–3366–000]

Take notice that on August 4, 2000, New York State Electric & Gas Corporation (NYSEG), tendered for filing as an initial rate schedule pursuant to Part 35 of the Federal Energy Regulatory Commission's regulations, 18 CFR Part 35, an Interconnection Agreement (IA) with Madison Windpower, LLC (Madison). The IA provides for interconnection service to Madison at the rates, terms, charges, and conditions set forth therein. NYSEG is requesting that the IA become effective as of August 7, 2000.

Copies of this filing have been served upon the New York State Public Service Commission, Madison and the New York Independent System Operator, Inc.

Comment date: August 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Navajo Refining Company, Complainant v. SFPP, L.P., Respondent

[Docket No. OR00–7–000]

Take notice that on August 4, 2000, pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206) and the Procedural Rules Applicable to Oil Pipeline Procedures (18 CFR 343.1(a)), Navajo Refining Company (Navajo) filed a Complaint in this proceeding. Navajo alleges that SFPP, L.P. (SFPP) has violated and continues to violate the Interstate Commerce Act, 49 U.S.C. App. section 1 *et seq.* by charging unjust and unreasonable rates for the transportation in interstate commerce of petroleum products in its East Line from El Paso, Texas to points in New Mexico and Arizona.

Navajo respectfully requests that the Commission: (1) Examine SFPP's rates and charges for its jurisdictional interstate East Line service and declare that such rates and charges are unjust and unreasonable; (2) order refunds and reparations to Navajo, including appropriate interest thereon, for the applicable refund and reparation periods to the extent the Commission finds that such rates and charges are unlawful; (3) determine just, reasonable, and nondiscriminatory rates for SFPP's jurisdictional interstate East Line service; (4) award Navajo reasonable attorneys' fees and costs; and (5) order such other relief as may be appropriate.

Navajo states that it has served the Complaint on SFPP. Pursuant to Rule 206(f) of the Commission's Rules of Practice and Procedure, answers to this Complaint are due on August 24, 2000.

Comment date: August 24, 2000, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall also be due on or before August 24, 2000.

Standard Paragraph

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, 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 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).

David P. Boergers,

Secretary.

[FR Doc. 00–20748 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

August 10, 2000.

a. Type of Filing: Notice of Intent to File an Application for a New License.

b. Project No.: 2698.

c. Date Filed: July 25, 2000.

d. Submitted By: Nantahala Power and Light—current licensee.

e. Name of Project: East Fork Hydroelectric Project.

f. Location: On the East Fork of the Tuckasegee River in Jackson County, NC. The project does not utilize federal lands.

g. Filed Pursuant to: Section 15 of the Federal Power Act.

h. Licensee Contact: John C. Wishon, Nantahala Power and Light, 301 NP&L Loop, Franklin, NC 28734 (828) 369–4604.

i. FERC Contact: Steve Kartalia, steve.kartalia@ferc. fed.us, (202) 219–2942.

Effective date of current license: May 1, 1965.

Expiration date of current license: Jnauary 31, 2006,

Description of the Project: The project consists of the following three developments:

The Cedar Cliff Development consists of the following existing facilities: (1) A 590-foot-long, 173-foot-high earth and rockfill dam with two spillway sections; (2) a 121-acre reservoir at a normal water surface elevation of 2,330 feet USC & GS datum; (3) a 1,138-foot-long penstock; (4) a powerhouse containing a single generating unit with an installed capacity of 6,375, kW, and (5) other appurtenances.

The Bear Creek Development consists of the following existing facilities: (1) A 760-foot-long, 215-foot-high earth and rockfill dam with a gated spillway; (2) a 476-acre reservoir at a normal water surface elevation of 2,560 feet USC & GS datum; (3) a 1,494-foot-long penstock; (4) a powerhouse containing a single generating unit with an installed capacity of 9,000 kW; and (5) other appurtenances.

The Tennessee Creek Development consists or the following existing facilities: (1) The 385-foot-long, 140-foot-high earth and rockfill East Fork dam with a gated spillway; (2) a 225-foot-long, 21-foot-long, 21-foot-high saddle dam; (3) a 40-acre reservoir at a normal water surface elevation of 3,080 feet USC & GS datum; (4) the 810-foot-long, 174-foot-high earth and rockfill Wolf Creek dam with a gate spillway; (5) a 183-acre reservoir at a normal water surface elevation of 3,080 feet USC & GS datum; (6) a powerhouse containing a single generating unit with an installed capacity of 10,800 kW; (7) a 9.73-mile-long, 69 kV transmission line; and (8) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Coommission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by January 31, 2004.

David P. Boergers,

Secretary.

[FR Doc. 00–20750 Filed 8–15–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6850–7]

Acid Rain NO_X Emission Reduction Program—Permit Modification for Alternative Emission Limitation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of permit modification adopting Alternative Emission Limitation.

SUMMARY: Under Title IV of the Clean Air Act, EPA established the Acid Rain NO_X Emission Reduction Program to reduce the adverse effects of acidic deposition. EPA adopted nitrogen oxides (NO_X) emission limits and issued permits to affected sources. EPA is issuing an Acid Rain permit modification for one unit. The permit modification adds to a permit an Alternative Emission Limitation for NO_X emissions for a Phase I unit in accordance with the Acid Rain Program regulations. The Alternative Emission Limitation is less stringent than the standard limit for this type of unit but is the minimum rate that the unit can achieve during long-term dispatch operation with low NO_X burners.

ADDRESSES: *Administrative Records.* The administrative record for the permit modification, except information protected as confidential, may be viewed during normal operating hours at the following location: EPA Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, IL.

FOR FURTHER INFORMATION CONTACT: Susan Siepkowski, EPA Region 5, (312) 353–2654.

SUPPLEMENTARY INFORMATION: In today's action, EPA is issuing permit modification that adds to a permit an Alternative Emission Limitation for NO_X emissions for a Phase I unit in accordance with parts 72 and 76 of the Acid Rain Program regulations. The unit involved, J.H. Campbell, Unit 1, is in Ottawa County, Michigan and will be required to meet an annual average emissions limit for NO_X of 0.49 lb/mmBtu, instead of the otherwise applicable standard limit of 0.45 lb/mmBtu. The unit's designated representative is William M. Ritchie.

Dated: August 3, 2000.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 00–20729 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6850–9]

Meeting of the Small Community Advisory Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Small Community Advisory Subcommittee will meet on August 29, 2000, in Washington, DC from 3–5 pm EDT.

The Small Community Advisory Subcommittee was established by the U.S. Environmental Protection Agency as a standing subcommittee of the Local Government Advisory Committee. The August meeting will focus on the panel's comments on the proposed National Primary Drinking Water Standard for Arsenic.

The Committee will hear comments from the public between 3 p.m. and 3:05 p.m. on August 29, 2000. Each individual or organization wishing to address the Committee will be allowed a minimum of three minutes. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come, first serve basis.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available after the meeting and can be obtained by written request from the DFO. This meeting will be conducted by telephone and only a limited number of lines are available. Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. However, seating and call-in numbers will be allocated on a first come, first serve basis.

DATES: The meeting will begin at 3 pm on Tuesday, August 29 and conclude no later than 5 p.m. on the same day.

ADDRESSES: The meetings will be held at the EPA Office located at 1200 Pennsylvania Ave. NW, Washington, DC in room 3428 Ariel Rios North.

Requests for Minutes and other information can be obtained by writing the DFO at 1200 Pennsylvania Ave., NW (1306A), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The DFO for this Subcommittee is Steven Wilson. He is the point of contact for information concerning any Subcommittee matters and can be reached by calling (202) 564–3646.

Dated: July 31, 2000.

Steven Wilson,

Designated Federal Officer, Small Community Advisory Subcommittee.

[FR Doc. 00–20730 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6852–3]

National Drinking Water Advisory Council Contaminant Candidate List and 6-Year Review of Existing Regulations Working Group; Notice of Open Meeting

AGENCY: . Environmental Protection Agency.

ACTION: Notice.

Under Section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the Contaminant Candidate List (CCL) Regulatory Determination and 6-Year Review of Existing Regulation Working Group of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on September 25–26, 2000, from 8:30–5:00 pm ET (approximately), at RESOLVE, 1255 23rd Street, NW., Suite 275, Washington, DC 20037. The meeting will be open to the public to observe and statements will be taken from the public as time allows. Seating is limited.

This is the third meeting to address 6-year review of existing regulations. The major purpose of the meeting is to continue discussions on the development of a protocol for selecting existing National Primary Drinking Water Regulation (NWPDRs) for possible revision. The working group will attempt to finalize the draft framework in order to provide specific recommendations to the full NDWAC by November 2000. If the working group is unable to finalize the protocol at this meeting, an additional meeting may be scheduled for later in the year.

For more information, contact Tara Cameron, Designated Federal Officer, Contaminant Candidate List and Regulatory Determination and 6-Year Review of Existing Regulations Working Group, U.S. EPA (4607), Office of Ground Water and Drinking Water, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The telephone number is 202–260–3702, fax 202–260–3762, and e-mail *cameron.tara@epa.gov.*

Dated: August 8, 2000.

Charlene E. Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 00–20808 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34203C; FRL–6595–7]

Organophosphate Pesticide; Availability of Revised Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the revised risk assessments and related documents for one organophosphate pesticide, chlorpyrifos. In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management ideas or proposals. These actions are in response to a joint initiative between EPA and the Department of Agriculture (USDA) to increase transparency in the tolerance reassessment process for organophosphate pesticides.

DATES: Comments, identified by docket control number OPP–34203C, must be received by EPA on or before October 16, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34203C in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on chlorpyrifos, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

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

To access information about organophosphate pesticides and obtain electronic copies of the revised risk assessments and related documents mentioned in this notice, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/.

B. *In person.* The Agency has established an official record for this action under docket control number OPP–34203C. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as 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 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.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is

imperative that you identify docket control number OPP–34203C in the subject line on the first page of your response.

1. *By mail*. Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. Submit electronic comments by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP–34203C. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

IV. What Action is EPA Taking in this Notice?

EPA is making available for public viewing the revised risk assessments and related documents for one organophosphate pesticide, chlorpyrifos. These documents have been developed as part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation. The documents being released to the public through this notice provide information on the revisions that were made to the chlorpyrifos preliminary risk assessments, which was released to the public October 27, 1999 (64 FR 57876) (FRL–6389–3) through a notice in the **Federal Register**.

In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management proposals or otherwise comment on risk management for chlorpyrifos. The Agency is providing an opportunity, through this notice, for interested parties to provide written risk management proposals or ideas to the Agency on the chemical specified in this notice. Such comments and proposals could address ideas about how to manage dietary, occupational, or ecological risks on specific chlorpyrifos use sites or crops across the United States or in a particular geographic region of the country. To address dietary risk, for example, commenters may choose to discuss the feasibility of lower application rates, increasing the time interval between application and harvest (''pre-harvest intervals''), modifications in use, or suggest alternative measures to reduce residues contributing to dietary exposure. For occupational risks, commenters may suggest personal protective equipment or technologies to reduce exposure to workers and pesticide handlers. For ecological risks, commentors may suggest ways to reduce environmental exposure, e.g., exposure to birds, fish, mammals, and other non-target organisms. EPA will provide other opportunities for public participation and comment on issues associated with the organophosphate tolerance reassessment program. Failure to participate or comment as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments and proposals must be received by EPA on or before October 16, 2000 at the addresses given under the **ADDRESSES** section. Comments and proposals will become part of the Agency record for the organophosphates specified in this notice.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: August 8, 2000.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00–20810 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6852–4]

Regulatory Reinvention (XLC) Pilot Projects; Project XLC Phase I (Planning) Project Agreement: Clermont County, OH.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Project XLC Phase I (Planning) Project Agreement.

SUMMARY: EPA is requesting comments on a proposed Project XLC Phase I (Planning) Project Agreement (PA) for Clermont County (hereafter ''Clermont''). The PA is a voluntary agreement developed collaboratively by Clermont, the Ohio Environmental Protection Agency (OEPA), and EPA. Project XLC, announced in the Federal Register on November 1, 1995, (60 FR 55569), gives regulated sources the flexibility to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits.

Clermont County is one of the fastest developing counties in Ohio, located just east of Cincinnati. The County is experiencing significant changes in population density and rural demographics. The Clermont County XLC Project focuses on the East Fork of the Little Miami River (EFLMR) watershed. The specific waters within the County considered under this Agreement include the EFLMR mainstream and tributaries, and Harsha Lake, which is located centrally within the EFLMR basin. The EFLMR is a major tributary to the Little Miami River, which is a designated State and National Scenic River and is the State of Ohio's largest Exceptional Warmwater Habitat stream.

Clermont County proposes a comprehensive watershed management plan for the EFLMR. The major goal of this watershed plan is to address environmental management of its resources with an aggressive and innovative approach so that it can maintain a balance between economic growth and the preservation of its rural character and environment, and where possible strive to improve the environment and protection of the area's natural resources. The County will work in partnership with the Ohio Environmental Protection Agency (OEPA) and EPA to design and implement a plan to maintain and improve water quality, land use and economic development in the County. The development of this watershed plan will empower the local community to work with the County to review current water quality standards and establish meaningful measures of environmental conditions that are based on the specific characteristics of the EFLMR and its tributaries. Once the water quality goals are established for the watershed, the primary responsibility for achieving those goals will be at the local level. The command and control regulatory framework will be replaced with a collaborative goal setting approach. As part of the watershed management plan, Clermont County will develop a sampling and monitoring program, and a County Environmental Protection Plan that will enable the County to compile data on existing watershed environmental conditions. New findings from the sampling program pertaining to the chemical and biological characteristics of the EFLMR will be used in computer-based simulations to make predictions regarding point and non-point source pollution. The plan will also use the information to identify which policy and capital changes regarding the land management policies must be made in order to attain the County's water quality goals in the watershed. In addition, the County anticipates using an effluent trading system in which pollution credits may be exchanged among point and non-point sources.

No regulatory flexibility is needed for the initial planning phase of this Project. More specific details regarding regulatory flexibility will be identified in the development of subsequent phases that will implement the planning developed during the initial phase. This multi-phased approach is expected to achieve superior environmental performance through greater local responsibility and management of point and nonpoint sources. The Project is comprehensive in scope and will include development issues closely tied to water quality such as land use, development procedures, open space and farmland preservation, and economic development. Most importantly, the County is being proactive-investing in watershed management controls not currently regulated by the National Pollutant Discharge Elimination System permits and much sooner than would otherwise be required under a waste load allocation and Total Maximum Daily Loads developed by OEPA. Because the watershed is rapidly developing and degraded water quality is expected if existing regulations and practices are continued, the baseline for this proactive approach to superior environmental performance is defined as no adverse trends in water quality indicators.

DATES: The period for submission of comments ends on August 30, 2000.

ADDRESSES: All comments on the proposed Phase I (Planning) Project Agreement should be sent to: Mr. Christopher Murphy, US EPA, Region 5 Water Division (WA–16J), 77 West Jackson Boulevard, Chicago, IL 60604, or Ms. Lisa Reiter US EPA, Ariel Rios Building, Mail Code 1802, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Comments may also be faxed to Christopher Murphy (312) 886–0168 or Lisa Reiter (202) 260–3125. Comments may also be received via electronic mail sent to: *murphy.christopher@epa.gov* or *reiter.lisa@epa.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the Project Fact Sheet or the proposed Phase I (Planning) Project Agreement, contact: Christopher Murphy, US EPA, Region 5 Water Division (WA–16J), 77 West Jackson Boulevard, Chicago, IL 60604, or Ms. Lisa Reiter, US EPA, Ariel Rios Building, Mail Code 1802, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. The PA and related documents are also available via the Internet at the following location: *http://www.epa.gov/ProjectXL.* In addition, a hard copy of the proposed PA will be available at Clermont County's Office of Environmental Quality, Clermont County, 2379 Clermont Center Drive, Batavia, OH 45103—contact Paul Braasch, Clermont County Project XLC Coordinator for a copy: (513) 732–7745.

Questions to EPA regarding the documents can be directed to Christopher Murphy at (312) 886–0172 or Lisa Reiter at (202) 260–9041. To be included on the Clermont County Project XLC mailing list about future public meetings, XLC progress reports and other mailings from Clermont County on the XLC project, contact Paul Braasch, Clermont County Project XLC Coordinator, Office of Environmental Quality, Clermont County, 2379 Clermont Center Drive, Batavia, OH 45103. For information on all other aspects of the XLC Program, contact Christopher Knopes at the following address: Office of Environmental Policy Innovation, US EPA, Mail Code 1802, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Additional information on Project XLC, including documents referenced in this notice, other EPA policy documents related to Project XLC, Regional XLC contacts, application information, and descriptions of existing XLC projects and proposals, is available via the Internet at http://www.epa.gov/ProjectXL.

Dated: August 10, 2000.

Elizabeth A. Shaw,

Director, Office of Environmental Policy and Innovation.

[FR Doc. 00–20809 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6851–1]

Public Water System Supervision Program Revision for the State of South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State of South Dakota has revised its Public Water System Supervision (PWSS) primacy program by changing its definition of ''public water system'' and adding administrative penalty authority.

Having determined that these revisions meet all pertinent requirements in the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, and EPA's implementing regulations at 40 CFR parts 141 and 142, the EPA approves them.

Today's approval action does not extend to public water systems in Indian Country as that term is defined in 18 U.S.C. 1151. Please see **SUPPLEMENTARY INFORMATION**, Item B.

DATES: Any member of the public is invited to submit written comments and/or request a public hearing on this determination by September 15, 2000. Please see **SUPPLEMENTARY INFORMATION,** Item C for information on submitting comments and requesting a hearing. If no hearing is requested or granted, then this action shall become effective September 15, 2000. If a public hearing is requested and granted, then this determination shall not become effective until such time following the hearing as the Regional Administrator issues an order affirming or rescinding this action.

ADDRESSES: Written comments and requests for a public hearing should be addressed to: Rebecca W. Hanmer, Acting Regional Administrator, c/o Linda Himmelbauer (8P-W-MS), U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, CO 80202–2466.

Reviewing Documents

All documents relating to this determination are available for inspection at the following locations: (1) U.S. EPA Region 8, Municipal Systems Unit, 999 18th Street (4th floor), Denver, Colorado 80202–2466; (2) South Dakota Department of Environment and Natural Resources, Drinking Water Program, 523 East Capital Avenue, Pierre, South Dakota 57501.

FOR FURTHER INFORMATION CONTACT: Linda Himmelbauer, Municipal Systems Unit, EPA Region 8 (8P–W–MS), 999 18th Street, Suite 500, Denver, Colorado 80202–2466, telephone 303–312–6263.

SUPPLEMENTARY INFORMATION: Effective January 9, 1984, EPA approved South Dakota's application for assuming primary enforcement authority for the PWSS program, pursuant to section 1413 of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300g–2, and 40 CFR part 142 (see 48 FR 55173.) The South Dakota Department of Environment and Natural Resources (DENR) administers South Dakota's PWSS program.

A. Why are Revisions to State Programs Necessary?

States with primary PWSS enforcement authority must comply with the requirements of 40 CFR part 142 for maintaining primacy. They must adopt regulations that are at least as stringent as the National Primary Drinking Water Regulations (NPDWRs) at 40 CFR part 141. (40 CFR 142.10(a).) Changes to state programs may be necessary as federal primacy requirements change, as states must adopt all new and revised NPDWRs in order to retain primacy. (40 CFR 142.12(a).)

In 1996, Congress amended the SDWA to require that states with primary PWSS enforcement authority adopt certain authorities for administrative penalties. (SDWA section 1413(a)(6), 42 U.S.C. 300g–2(a)(6).) In 1988, EPA adopted a corresponding requirement for primacy states in its regulations in 40 CFR 142.10(f). (63 FR 23362, 23367.) To meet this new requirement, South Dakota enacted several new statutory provisions, S.D.C.L. sections 34A–3A–26, 34A–3A–27, and 34A–3A–28. EPA finds that these provisions fulfill the applicable requirements for administrative penalty authority.

The 1996 SDWA amendments also expanded the definition of a ''public water system'' subject to the SDWA and EPA's NPDWRs. EPA incorporated this change into its regulations in 1998 (63 FR 23362, 23366). In 1999, South Dakota adopted the broader definition in S.D.C.L. section 34A–3A–2(8). EPA finds that South Dakota's new definition is at least as stringent as the corresponding federal one.

B. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in South Dakota?

South Dakota is not authorized to carry out its Public Water System Supervision program in Indian country, as defined in 18 U.S.C. 1151. This includes, but is not limited to: Lands within the exterior boundaries of the following Indian Reservations located within the State of South Dakota:

a. Cheyenne River Indian Reservation.
b. Crow Creek Indian Reservation.
c. Flandreau Indian Reservation.
d. Lower Brule Indian Reservation.
e. Pine Ridge Indian Reservation.
f. Rosebud Indian Reservation.
g. Standing Rock Indian Reservation.
h. Yankton Indian Reservation.

EPA held a public hearing on December 2, 1999, in Badlands National Park, South Dakota, and accepted public comments on the question of the location and extent of Indian country within the State of South Dakota. In a forthcoming **Federal Register** notice, EPA will respond to comments and more specifically identify Indian country areas in the State of South Dakota.

C. Requesting a Hearing and Submitting Written Comments

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of the responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of South Dakota. A notice will also be sent to the person(s) requesting the hearing as well as to the State of South Dakota. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. A final determination will be made upon review of the hearing record.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 00–20728 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested.

August 8, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing

effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 16, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0202.

Title: Section 87.37 Developmental license.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit, individuals or households, state, local or tribal government, not-for-profit institutions.

Number of Respondents: 12.

Estimated Time Per Response: 8 hours per response.

Total Annual Burden: 96 hours.

Needs and Uses: The information collection requirement contained in Section 87.37 is needed to gather data on developmental programs for which a developmental authorization was granted to determine whether the developmental authorization should be renewed or whether to initiate proceedings to include such operations within the normal scope of the Aviation Services. If the information was not collected the value of developmental programs in the Aviation Service would be severely limited.

OMB Approval Number: 3060–0222.

Title: Section 97.213 Remote control of a station.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Individuals or households.

Number of Respondents: 500.

Estimated Time Per Response: .2 hour per response.

Total Annual Burden: 100 hours.

Needs and Uses: The recordkeeping requirement in Section 97.213 consist of posting a photocopy of the station license, a label with the name, address and telephone number of the station licensee, and the name of at least one authorized control operator. The requirement is necessary so that quick resolution of any harmful interference problems can be achieved and to ensure that the station is operating in accordance with the Communications Act of 1934, as amended.

OMB Approval Number: 3060–0259.

Title: Section 90.263 Substitution of frequencies below 25 MHz.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit, state, local or tribal government.

Number of Respondents: 60.

Estimated Time Per Response: .5 hour per response.

Total Annual Burden: 30 hours.

Needs and Uses: The information collection requirement contained in Section 90.263 is needed to require applicants to provide a supplemental information showing that the proposed use of frequencies below 25 MHz are needed from a safety standpoint and that frequencies above 25 MHz will not meet the operational needs of the applicant. The information is used to evaluate the applicant's need for such frequencies and the interference potential to other stations operating on the proposed frequencies.

OMB Approval Number: 3060–0264.

Title: Section 80.413 On-board station equipment records.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit, individuals or households, state, local or tribal government, not-for-profit institutions.

Number of Respondents: 1,000.

Estimated Time Per Response: 2 hours per response.

Total Annual Burden: 2,000 hours.

Needs and Uses: The recordkeeping requirement contained in Section 80.413 is needed to demonstrate that all on-board repeaters and transmitters are properly operating pursuant to a station authorization issued by the FCC. The information is used by FCC Compliance and Information Bureau personnel during inspections and investigations to determine what mobile units and repeaters are associated with on-board stations aboard a particular vessel.

OMB Approval Number: 3060–0297.

Title: Section 80.503 Cooperative use of facilities.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit, individuals or households, state, local or tribal government, not-for-profit institutions.

Number of Respondents: 100.

Estimated Time Per Response: 16 hours per response.

Total Annual Burden: 1,600 hours.

Needs and Uses: The recordkeeping requirements contained in Section 80.503 are needed to ensure licensees which share private facilities operate within the specified scope of service, on a non-profit basis, and do not function as communications common carriers providing ship-shore public correspondence services. The information is used by FCC Compliance and Information Bureau personnel during inspection and investigations to insure compliance with applicable rules.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–20788 Filed 8–15–00; 8:45 am]

BILLING CODE 6712–01–U

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 August 30, 2000.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Aline Tyo Baker, Robert Quincy Baker, III, William Richard Baker, Pamela Kaye Baker, Harold Potter, Katheryn Juanita Potter, Robert Q. Baker Trust, all of Coshocton, Ohio; to acquire voting shares of Ohio Heritage Bancorp, Coshocton, Ohio, and thereby indirectly acquire voting shares of Ohio Heritage Bank, Coshocton, Ohio.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Edwin L. Adler, Lake Angelus, Michigan; to retain voting shares of Clarkston Financial Corporation, Clarkston, Michigan, and thereby indirectly retain voting shares of Clarkston State Bank, Clarkston, Michigan.

C. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Gentwo, LLLP, Wayzata, Minnesota; to acquire voting shares of Anchor Bancorp, Inc., Wayzata, Minnesota, and thereby indirectly acquire voting shares of Anchor Bank, N.A., Wayzata, Minnesota; Anchor Bank, West St. Paul, N.A., West St. Paul, Minnesota; Anchor Bank St. Paul, St. Paul, Minnesota; Heritage National Bank, North St. Paul, Minnesota; and Anchor Bank Farmington, N.A., Farmington, Minnesota.

Board of Governors of the Federal Reserve System, August 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–20742 Filed 8–15–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 8, 2000.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Cumberland Bancorp, Inc., Nashville, Tennessee; to acquire 50 percent of the voting shares of Insurors Bank of Tennessee (in organization), Nashville, Tennessee.

2. InsCorp, Inc., Nashville, Tennessee; to become a bank holding company by acquiring 50 percent of the voting shares of Insurors Bank of Tennessee (in organization), Nashville, Tennessee.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Inter-Mountain Bancorp., Inc., Bozeman, Montana; to merge with Westbanco, West Yellowstone, Montana, and thereby indirectly acquire First Security Bank of West Yellowstone, West Yellowstone, Montana.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Central Financial Corporation, Hutchinson, Kansas; to acquire 20 percent of the voting shares of New Frontier Bancshares, Inc., St. Charles, Missouri, and thereby indirectly acquire New Frontier Bank, St. Charles, Missouri, a de novo bank (in organization).

Board of Governors of the Federal Reserve System, August 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–20743 Filed 8–15–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The Federal Trade Commission (FTC) is soliciting public comments on the proposal to extend through November 30, 2003 the current PRA clearance for information collection requirements contained in its Alternative Fuel Rule. That clearance expires on November 30, 2000.

DATES: Comments must be filed by October 16, 2000.

ADDRESSES: Send comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Alternative Fuel Rule: Paperwork comment.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Neil Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room S–4302, 601 Pennsylvania Ave., N.W., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public

comment before requesting that OMB extend the existing paperwork clearance for the Alternative Fuel Rule.

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) 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; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The Alternative Fuel Rule, 16 CFR Part 309 (Control Number: 3084–0094), issued under the Energy Policy Act of 1992, Pub. L. 102–486, requires disclosure of specific information on labels posted on fuel dispensers for non-liquid alternative fuels and on labels on alternative fueled vehicles (AFVs). To ensure the accuracy of these disclosures, the Rule also requires that sellers maintain records substantiating product-specific disclosures they include on these labels.

Burden Statement

It is common practice for alternative fuel industry members to determine and monitor fuel ratings in the normal course of their business activities. This is because industry members must know and determine the fuel ratings of their products in order to monitor quality and to decide how to market them. ''Burden'' for PRA purposes is defined to exclude effort that would be expended regardless of any regulatory requirement. 5 CFR 1320.2(b)(2). Moreover, as originally anticipated when the Rule was promulgated in 1995, many of the information collection requirements and the originally-estimated hours were associated with one-time start up tasks of implementing standard systems and processes.

Other factors also limit the burden associated with the Rule. Certification may be a one-time event or require only infrequent revision. Disclosures on electric vehicle fuel dispensing systems may be useable for several years. (Label specifications were designed to produce labels to withstand the elements for several years.) Nonetheless, there is still some burden associated with posting labels. There also will be some minimal burden associated with new or revised certification of fuel ratings and recordkeeping. The burden on vehicle manufacturers is limited because only newly-manufactured vehicles will require label posting and manufacturers produce very few new models each year. Finally, there will be some burden, also minor, associated with recordkeeping requirements.

Estimated total annual hours burden: 1,500 total burden hours, rounded.

Non-liquid alternative fuels: Recordkeeping: Staff estimates that all 1,600 industry members will be subject to the Rule's recordkeeping requirements (associated with fuel rating certification) and that compliance will require approximately one-tenth hour each per year for a total of 160 hours.

Certification: Staff estimates that the Rule's fuel rating certification requirements will affect approximately 350 industry members (compressed natural gas producers and distributors and manufacturers of electric vehicle fuel dispensing systems) and consume approximately one hour each per year for a total of 350 hours.

Labeling: Staff estimates that labeling requirements will affect approximately nine of every ten industry members (or roughly 1,400 members), but that the number of annually affected members is only 280 because labels may remain effective for several years (staff assumes that in any given year approximately 20% of 1,400 industry members will need to replace their labels). Staff estimates that industry members require approximately one hour each per year for labeling their fuel dispensers for a total of 280 hours.

Sub-total: 790 hours (160 + 350 + 280)

AFV manufacturers: Recordkeeping: Staff estimates that all 58 manufacturers will require 30 minutes to comply with the Rule's recordkeeping requirements for a total of 29 hours.

Producing labels: Staff estimates 2.5 hours as the average time required of manufacturers to produce labels for each of the five new AFV models introduced among them each year for a total of 12.5 hours.

Posting labels: Staff estimates 2 minutes as the average time to comply with the posting requirements for each of the approximately 20,000 new AFVs manufactured each year for a total of 667 hours.

Sub-total: approximately 708 hours (29 + 12.5 + 667)

Thus, total burden for these industries combined is approximately 1,500 hours (790 + 708).

Estimated labor costs: $27,000, rounded.

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. According to Bureau of Labor Statistics staff, the average compensation for producers and distributors in the fuel industry is $19.42 per hour and $8.42 per hour for service station employees; the average compensation for workers in the vehicle industry is $19.14 per hour.

Non-liquid alternative fuels: Certification and labeling: Generally, all of the estimated hours except for recordkeeping will be performed by producers and distributors of fuels. Thus, the associated labor costs would be $12,234.60 (630 hours × $19.14).

Recordkeeping: only 1/6 of the total 160 hours will be performed by the producers and distributors of fuels; the other 5/6 is attributable to service station employees (1/6 = 27 hours × $19.42 = $524.34 + (5/6 = 133 hours × $8.42 = $1,119.86) = $1,644.20, for an estimated labor cost to the entire industry of $13,878.80.

AFV manufacturers: The maximum labor cost to the entire industry is approximately $13,551.12 per year for recordkeeping and producing and posting labels (708 total hours × $19.14/hour).

Thus, estimated total labor cost for both industries for all paperwork requirements is $27,000 ($13,878.80 + $13,551.12) per year, rounded to the nearest thousand.

Estimated annual non-labor cost burden: $8,000, rounded.

Non-liquid alternative fuels: Staff believes that there are no current start-up costs associated with the Rule, inasmuch as the Rule has been effective since 1995. Industry members, therefore, have in place the capital equipment and means necessary, especially to determine automotive fuel ratings and comply with the Rule. Industry members, however, incur the cost of procuring fuel dispenser and AFV labels to comply with the Rule. The estimated annual fuel labeling cost, based on estimates of 360 fuel dispensers (assumptions: An estimated 20% of 900 total retailers need to replace labels in any given year given an approximate five-year life for labels—*i.e.*, 180 retailers—multiplied by an average of two dispensers per retailer) at thirty-eight cents for each label (per industry sources), is $136.80.

AFV manufacturers: Here, too, staff believes that there are no current start-up costs associated with the Rule, for the same reasons as stated immediately above regarding the non-liquid alternative fuel industry. However,

based on the labeling of an estimated 20,000 new and used AFVs each year at thirty-eight cents for each label (per industry sources), the annual AFV labeling cost is estimated to be $7,600. Estimated total annual non-labor cost burden associated with the Rule, therefore, would be $8,000 ($136.80 + $7,600.00), rounded to the nearest thousand.

Debra A. Valentine,

General Counsel.

[FR Doc. 00–20779 Filed 8–15–00; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1435]

Agency Information Collection Activities; Proposed Collection; Comment Request; Substantial Evidence of Effectiveness of New Animal Drugs

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 notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension for an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting requirements necessary to meet the substantial evidence standard to demonstrate the safety and effectiveness of a new animal drug.

DATES: Submit written or electronic comments on the collection of information by October 16, 2000.

ADDRESSES: Submit electronic comments on the collection of information via the Internet at: http://www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm. 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: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

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.

Substantial Evidence of Effectiveness of New Animal Drugs—21 CFR Part 514 (OMB Control Number 0910–0356)—Extension

Congress enacted the Animal Drug Availability Act of 1996 (ADAA) (Public Law 104–250) on October 9, 1996. As directed by the ADAA, FDA published a final rule on July 28, 1999 (64 FR 40746), amending part 514 (21 CFR part 514) to further define substantial evidence in a manner that encourages the submission of new animal drug applications (NADA's), supplemental NADA's and encourages dose range labeling. Substantial evidence is the standard that a sponsor must meet to demonstrate the effectiveness of a new animal drug for its intended uses under the conditions of use suggested in its proposed labeling. It is defined as evidence consisting of one or more adequate and well-controlled studies, such as a study in a target species, study in laboratory animals, field study, bioequivalence study, or an in vitro study, on the basis of which it could fairly and reasonably be concluded by qualified experts that the new animal drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof. The provisions of § 514.4(a) provide the agency with greater flexibility to make case-specific scientific determinations regarding the number and types of adequate and well-controlled studies that will provide, in an efficient manner, substantial evidence that a new animal drug is effective. The agency believes this regulation over time, it will reduce the number of adequate and well-controlled studies necessary to demonstrate the effectiveness of certain combination new animal drugs, it will eliminate the need for an adequate and well-controlled dose titration study, and it may, in limited instances, reduce or eliminate the number of adequate and well-controlled field investigations necessary to demonstrate by substantial evidence the effectiveness of a new animal drug.

Respondents to this collection of information are persons and businesses, including small businesses.

FDA estimates the 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
514.4(a)	190	4.5	860	632.6	544,036

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

The estimated annual reporting burden is based on consultation by the Center for Veterinary Medicine with several of the major research and development firms that conduct the majority of studies submitted to establish substantial evidence of effectiveness of new animal drugs and agency records.

Dated: August 9, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–20720 Filed 8–15–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Nonvoting Members of Industry Interests on Public Advisory Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for nonvoting representatives of industry interests to serve on public advisory committees under the purview of the Center for Biologics Evaluation and Research (CBER) and the Center for Drug Evaluation and Research (CDER). Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice announcing its intention of adding nonvoting industry representatives to certain public advisory committees.

FDA has a special interest in ensuring that women, minority groups, individuals with disabilities, and small businesses are adequately represented on advisory committees, and therefore, encourages nominations for appropriately qualified candidates from these groups. Specifically, in this document, nominations for nonvoting representatives of industry interests are encouraged from the biologics and/or drug manufacturing industry.

DATES: Nominations should be received by September 15, 2000.

ADDRESSES: All nominations for membership should be submitted to William Freas or John M. Treacy (addresses below).

FOR FURTHER INFORMATION CONTACT:

Regarding representatives of industry interests for CBER advisory committees: William Freas, Scientific Advisors and Consultants Staff (HFM–71), Food and Drug Administration, 5515 Rockville Pike, Rockville, MD 20852–1448, 301–827–0314.

Regarding representatives of industry interests for CDER advisory committees: John M. Treacy, Advisors and Consultants Staff (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001.

SUPPLEMENTARY INFORMATION: Section 120 of the FDA Modernization Act (FDAMA) of 1997 (21 U.S.C. 355) requires that newly formed FDA advisory committees include representatives from the biologics and/or drug manufacturing industries. Although not required for existing committees, to keep within the spirit of FDAMA, the agency intends to add nonvoting industry representatives to all its CBER and CDER advisory committees identified below.

I. Functions

A. Advisory Committees Under the Purview of CBER

1. Allergenic Products Advisory Committee

Reviews and evaluates available data concerning the safety, effectiveness, and adequacy of labeling of allergenic biological products or materials that are administered to humans for the diagnosis, prevention, or treatment of allergies and allergic disease.

2. Biological Response Modifiers Advisory Committee

Reviews and evaluates available data relating to the safety, effectiveness, and appropriate use of biological response modifiers which are intended for use in the prevention and treatment of a broad spectrum of human diseases.

3. Blood Products Advisory Committee [1]

Reviews and evaluates available data concerning the safety, effectiveness, and appropriate use of blood and products derived from blood and serum which are intended for use in the diagnosis, prevention, or treatment of human diseases.

4. Transmissible Spongiform Encephalopathies Advisory Committee

Reviews and evaluates available data concerning the safety of products which may be at risk for transmission of spongiform encephalopathies having an impact on the public health.

5. Vaccines and Related Biological Products Advisory Committee

Reviews and evaluates available data concerning the safety, effectiveness, and appropriate use of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

B. Advisory Committees Under the Purview of CDER

1. Advisory Committee for Pharmaceutical Science

Advises on scientific and technical issues concerning the safety and effectiveness of human generic drug products for use in the treatment of a broad spectrum of human diseases.

2. Advisory Committee for Reproductive Health Drugs

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in obstetrics, gynecology, and contraception.

3. Anesthetic and Life Support Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in anesthesiology and surgery.

4. Anti-Infective Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness

[1] Currently, there is a standing representative of industry interests on this advisory committee.

of marketed and investigational human drug products for use in the treatment of infectious diseases and disorders.

5. Antiviral Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of acquired immune deficiency syndrome (AIDS), HIV-related illnesses, and other viral, fungal, and mycobacterial infections.

6. Arthritis Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of arthritis, rheumatism, and related diseases.

7. Cardiovascular and Renal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cardiovascular and renal disorders.

8. Dermatologic and Ophthalmic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of dermatologic and ophthalmic disorders.

9. Drug Abuse Advisory Committee

Advises the Commissioner of Food and Drugs regarding the scientific and medical evaluation of all information gathered by the Department of Health and Human Services and the Department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances and recommends actions to be taken by the Food and Drug Administration with regard to marketing, investigation, and control of such drugs or other substances.

10. Endocrinologic and Metabolic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders.

11. Gastrointestinal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of gastrointestinal disorders.

12. Medical Imaging Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

13. Nonprescription Drugs Advisory Committee [1]

Reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases.

14. Oncologic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer.

15. Peripheral and Central Nervous System Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of neurologic disease.

16. Pharmacy Compounding Advisory Committee [1]

Provides advice on scientific, technical, and medical issues concerning drug compounding by licensed practitioners.

17. Psychopharmacologic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the practice of psychiatry and related fields.

18. Pulmonary-Allergy Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

II. Nomination Procedure

Any organization in the biologics and/or drug manufacturing industry wishing to participate in the selection of an appropriate industry representative of a particular advisory committee identified above, may nominate one or more qualified persons. Persons who nominate themselves as representatives of industry interests for a certain advisory committee may not participate in the overall selection process.

Nominees should be full-time employees of firms that manufacture products regulated by the agency or of consulting firms that represent biologics and/or drug manufacturers. Nomination packages should include a cover letter indicating the committee of interest and complete curriculum vitae of each nominee. The term of office is up to 4 years.

III. Selection Procedure

A letter will be sent to each party that has sent a nomination package to FDA for a particular advisory committee. The letter will provide the complete list of all nominees. It is the responsibility of each nominating organization to consult with one another to select a single member to represent the industry interests for the respective advisory committee. This must be completed within 60 calendar days upon receipt of the letter. If no individual is selected within the 60 calendar days, the Commissioner of Food and Drugs will select a nonvoting member to represent the industry interests for the respective advisory committee.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: August 7, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–20721 Filed 8–15–00; 8:45 am]

BILLING CODE 4160–01–F

[1] Currently, there is a standing representative of industry interests on this advisory committee.

[1] Currently, there is a standing representative of industry interests on this advisory committee.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Industry Representation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intention of adding one nonvoting representative of industry interests to the membership of its existing advisory committees that do not already have such nonvoting industry representation under the purview of the Center for Biologics Evaluation and Research

(CBER) and the Center for Drug Evaluation and Research (CDER). Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice to request nominations for nonvoting members of industry interests on public advisory committees.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5496.

SUPPLEMENTARY INFORMATION: Section 120 of the FDA Modernization Act (FDAMA) of 1997 (21 U.S.C. 355) requires that certain newly formed FDA advisory committees include representatives from the biologics and/or drug manufacturing industries. Although not required for existing committees, the agency intends to add nonvoting industry representatives to all its CBER and CDER advisory committees.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14 relating to advisory committees.

Dated: August 7, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–20722 Filed 8–15–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Registration and Listing and MDR Baseline Reporting Grassroots Meetings for Medical Device Manufacturers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following two open public meetings: Registration and Listing and MDR Baseline Reporting Grassroots Meetings for Medical Device Establishments. The topics to be discussed are FDA's intention to propose changes to the current medical device registration and listing process, and Medical Device Reporting (MDR) baseline reporting process. These meetings are being conducted to provide a forum in which FDA can obtain industry views on changes to the device registration and listing system that FDA is currently considering. The changes being considered are aimed at streamlining the collection of registration and listing data, improving the accuracy and quality of the data in the system, and decreasing the time it takes establishments to register and list their devices, while ultimately reducing FDA's cost of maintaining the registration and listing system. Additional changes being considered are aimed at streamlining the collection of MDR baseline information by making this data a part of the device listing process, rather than the MDR data collection process.

DATES: See Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: See Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

For general meeting program information: Bryan H. Benesch, Office of Compliance (HFZ–300), Center for Devices and Radiological Health, Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4699 ext. 122, FAX 301–594–4610, e-mail: BHB@CDRH.FDA.GOV.

For registration information about the Dallas meeting: Ms. Melissa Crabtree, Food and Drug Administration, 7920 Elmbrook Rd., suite 102, Dallas, TX 75247–4982, FAX 214–655–8114.

For registration information about the Irvine meeting: Ms. Marcia Madrigal, Pacific Region, Food and Drug Administration, 1301 Clay St., suite 1180N, Oakland, CA 94612–5217, FAX 510–637–3977.

Persons interested in attending a meeting should fax their registration to either Ms. Crabtree (Dallas) or Ms. Madrigal (Irvine), including your name and position/title, firm name, address, telephone and fax number. There is no charge to attend either meeting, but advance registration is requested due to a maximum number of 65 attendees per meeting; walk-in registrations may not be accommodated. If you need special accommodations due to a disability, please contact the appropriate person at least 7 days in advance.

SUPPLEMENTARY INFORMATION:

Over the past 3 years, FDA has reviewed the entire registration and listing process to determine how the process can be made more efficient and accurate. This was one of many reengineering efforts conducted by the Center for Devices and Radiological Health (CDRH). This reengineering effort has resulted in a number of suggestions aimed at improving the registration and listing process for both FDA and industry. These meetings will help FDA obtain the medical device industry perspective on the changes under consideration and suggestions for additional changes. FDA has held four meetings on the same subject. These meetings took place on April 20 and 21, 1999, in California, May 25, 1999, in Rockville, MD, and on July 15, 1999, in Minneapolis, MN.

Some of the changes that FDA is currently considering include the following:

(1) Require industry submission of registration and listing information through the CDRH Internet site. What are the advantages and disadvantages to industry, and how would industry be affected if Internet based submissions are mandated?

(2) Require that parent companies register as establishments.

(3) Require that additional data elements be submitted to FDA, e.g., premarket submission numbers for those devices that have gone through the premarket notification (510(k)), humanitarian device exemption, premarket approval, or product development protocol processes.

(4) Because of the ease of submission through the CDRH Internet site, require that firms register and list within 5 days (current requirement is 30 days) of entering into an operation that requires registration and listing.

A summary report of each meeting will be available on CDRH's Internet site approximately 60 working days after each meeting. The CDRH Registration and Listing Process Reengineering Team home page may be accessed at http://www.fda.gov/cdrh/grassroots/reglist.htm.

The Office of Management and Budget (OMB) has requested FDA look at other options for the collection of the baseline data elements required by 21 CFR 803.55 of the Medical Device Reporting (MDR) regulation. This was, in part, initiated by letters from AdvaMed (formerly the Health Industry Manufacturers Association) pointing out some redundancies in information collection. Manufacturer baseline data are currently submitted to the FDA on Form 3417 and requests product information for the specific device. Some of these data elements are also collected under the Medical Device Registration and Listing regulation, 21 CFR part 807.

FDA is considering requesting some data elements found on the baseline form through an Internet site interface that will allow the device industry to register and list electronically. In an effort to eliminate duplicative reporting and provide for a more efficient data

collection process, CDRH is exploring the idea that, for MDR purposes, model level device information could also be collected as part of the proposed registration and listing process. The authority to regulate the requirements imposed upon manufacturers who submit baseline reports would remain in § 803.55.

TABLE 1.—MEETING SCHEDULES

Meeting Address	Dates	Times
Dallas Meeting, Radisson Hotel Dallas,1893 West Mockingbird Lane, Dallas, TX 75235, 214–634–8850.	Tuesday, September 19, 2000	Registration: 8 a.m. Meeting: 8:30 a.m. to 12:30 p.m.
Irvine Meeting, Food and Drug Administration, Los Angeles District Office, 19900 MacArthur Blvd., suite 300, Irvine, CA 92612, 949–798–7714.	Wednesday, September 20, 2000	Registration: 8 a.m. Meeting: 8:30 a.m. to 12:30 p.m.

Dated: August 10, 2000.

Linda S. Kahan,

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

[FR Doc. 00–20718 Filed 8–15–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–20]

Notice of Proposed Information Collection: Comment Request; Certificate of Need (CoN) for Health Facility and Assurance of Enforcement of State Standards

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 16, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Building, Room 8202, Washington, D.C. 20410, telephone (202) 708–5221 this is not a toll-free number) for copies of the proposed forms and other available information.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Office of Housing Assistance and Grants Administration, Participation Division, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone number (202) 708–3000 (this is not a foll-free number) for copies of the proposed forms and other available.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Certificate of Need (CoN) for Health Facility and Assurance of Enforcement of State Standards.

OMB Control Number, if applicable: 2502–0201.

Description of the need for the information and proposed use: This Notice requests an extension of the use of Form HUD–2576–HF, Certificate of Need for Health Facility and Assurance of Enforcement of State Standards, as authorized by Sections 232, 242 of the National Housing Act. These certifications are prepared by the State Agencies designated in accordance with Section 604(a)(1) or Section 1521 of the Public Health Service Act. Sections 232 and 242 require State certification that there is a need for the facility, that there are minimum standards of licensing and for operating the project, and that the standards will be enforced for the insured project.

Agency form numbers, if applicable: HUD–2576–HF.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: The number of respondents is 50; the frequency of responses is 1 per year; estimated time to prepare form is approximately 12 minutes (.20 hour), and the estimated total annual burden hours are 10.

Status of the proposed information collection: Reinstatement with change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: August 10, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–20805 Filed 8–15–00; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–19]

Notice of Proposed Information Collection: Comment Request; Previous Participation Certification

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date*: October 16, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB

Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, D.C. 20410, telephone (202) 708–5221 this is not a toll-free number) for copies of the proposed forms and other available information.

FOR FURTHER INFORMATION CONTACT: Beverly J. Miller, Director, Policy and Participation Division, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone number (202) 708–1320 (this is not a toll–free number) for copies of the proposed forms and other available.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Previous Participation Certification.

OMB Control Number, if applicable: 2502–0118.

Description of the need for the information and proposed use: The previous participation review process supports the Department's policy that participants in its housing programs be responsible individuals and organizations who will honor their legal, financial and contractual obligations. Collection and review of this information also protects the Department from fraud, waste, and abuse of federal financial assistance.

Agency form numbers, if applicable: HUD–2530.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of respondents is 4,300; the frequency of responses is 1 per year; estimated time to prepare form is ½ hour, and the estimated total annual burden hours are 2,150.

Status of the proposed information collection: Reinstatement without change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: August 10, 2000.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 00–20806 Filed 8–15–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4253–N–01]

Eligibility Restrictions on Noncitizens: Inapplicability of Welfare Reform Act Restrictions on Federal Means-Tested Public Benefits

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (referred to as the ''Welfare Reform Act'') places restrictions on providing ''Federal means-tested public benefits'' to certain legal aliens. The purpose of this notice is to advise the public that no HUD programs fall under the category of ''Federal means-tested public benefits'' and therefore no HUD programs are subject to these restrictions.

DATES: *Effective Date:* This notice is effective upon publication.

FOR FURTHER INFORMATION CONTACT: The following persons should be contacted:

For questions about programs administered by HUD's Office of Public and Indian Housing: Pat Arnaudo, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4226, Washington, DC 20410; telephone (202) 708–0744;

For questions about programs administered by HUD's Office of Community Planning and Development: Salvatore Sclafani, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7154, Washington, DC 20410; telephone (202) 708–1283; and

For questions about programs administered by HUD's Office of Housing: Willie Spearmon, Office of Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410; telephone (202) 708–3000.

Hearing and speech-impaired persons may access the above telephone numbers via TTY by calling the Federal Information Relay Service at 1–800–877–8339. (With the exception of the ''800'' number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193, 110 Stat. 2105) (referred to as the ''Welfare Reform Act'') was enacted into law. Section 403 of the Welfare Reform Act imposes restrictions on providing ''Federal means-tested public benefits'' to certain legal aliens. Specifically, unless statutorily excepted, an alien who is a ''qualified alien,'' as that term is defined in section 431 of the Welfare Reform Act, and who enters the United States on or after August 22, 1996 is ineligible for ''Federal means-tested public benefits'' for the first five years after the qualified alien's entry. Following a thorough review of the legislative history, HUD has concluded that ''Federal means-tested public benefits'' refers not to discretionary spending programs but only to mandatory spending programs in which eligibility for benefits, or the amount of such benefits, or both, are determined on the basis of income, resources, or financial need of the individual, household, or family unit.

This conclusion is consistent with that reached by other agencies that administer Federal public benefit programs. (Please see the notices published by the Department of Health and Human Services and the Social Security Administration in the **Federal Register** on August 26, 1997, at 62 FR 45256 and 62 FR 45284, respectively, and the notice published by the Department of Agriculture on July 7, 1998 at 63 FR 36653.) HUD has no mandatory spending programs. Accordingly, *no* HUD programs fall within the category of ''Federal means-tested public benefits.''

Another section of the Welfare Reform Act that might appear to apply to HUD programs is section 421, which provides that income and resources of an alien sponsored under section 213A of the Immigration and Nationality Act applying for ''Federal means-tested public benefits'' are deemed to include the income and resources of the individual's sponsor. That section is only applicable to programs covered by section 403 of the Act. Hence, its provisions are inapplicable to HUD programs.

Dated: June 23, 2000.

Andrew Cuomo,

Secretary.

[FR Doc. 00–20803 Filed 8–15–00; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4456–N–10]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a Computer Matching Program between HUD and the Department of Education.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' the Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to conduct a computer matching program with the Department of Education to utilize a computer information system of HUD, the Credit Alert Interactive Voice Response System (CAIVRS), with the Department of Education's debtor files. This match will allow prescreening of applicants for debts owed or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Federal Government for HUD or the Department of Education for direct or guaranteed loans.

Before granting a loan, the lending agency and/or the authorized lending institution will be able to interrogate the CAIVRS' debtor file which contains delinquent debt information from the Departments of Agriculture, Education, Veteran Affairs, the Small Business Administration and judgment lien data from the Department of Justice, and verify that the loan is not in default on a Federal judgment or delinquent on direct or guaranteed loans of participating Federal programs. This match will allow prescreening of applicants for debts owed or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Federal Government.

Authorized users do a prescreening of CAIVRS to determine a loan applicant's credit status with the Federal Government. As a result of the information produced by this match, the authorized users may not deny, terminate, or make a final decision of any loan assistance to an applicant or take other adverse action against such applicant, until an officer or employee of such agency has independently verified such information.

DATES: *Effective Date:* Computer matching is expected to begin 30 days after publication of this notice unless comments are received which will result in a contrary determination, or 40 days from the date a computer matching agreement is signed, whichever is later.

Comments due date: September 15, 2000.

ADDRESSEES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION FROM RECIPIENT AGENCY CONTACT: Jeanette Smith, Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 7th St., SW, Room P8001, Washington, DC 20410, telephone number (202) 708–2374. (This is not a toll-free number.) A telecommunications device for hearing and speech-impaired persons (TTY) is available at 1–800–877–8339 (Federal Information Relay Services). (This is a toll-free number).

FOR FURTHER INFORMATION FROM SOURCE AGENCY CONTACT: Adara Walton, Branch Chief, Student Receivables Division, Department of Education, Regional Office Building, 7th & D Streets, SW, Washington, DC 20202, telephone number (202) 708–4766. (This is not a toll-free number.)

Reporting

In accordance with Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, and Office of Management and Budget Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public;'' copies of this Notice and report are being provided to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

Authority

The matching program will be conducted pursuant to Public Law 100–503, ''The Computer Matching and Privacy Protection Act of 1988,'' as amended, and Office of Management and Budget (OMB) Circulars A–129 (Managing Federal Credit Programs) and A–70 (Policies and Guidelines for Federal Credit Programs). One of the purposes of all Executive departments and agencies—including HUD—is to implement efficient management practices for Federal credit programs. OMB Circulars A–129 and A–70 were issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended; and, the Deficit Reduction Act of 1984, as amended.

Objectives To Be Met By The Matching Program

The matching program will allow the Department of Education access to a system which permits prescreening of applicants for debts owed or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Government. In addition, HUD will be provided access to the Department of Education's debtor data for prescreening purposes.

Records To Be Matched

HUD will utilize it system of records entitled HUD/DEPT–2, *Accounting Records.* The debtor files for HUD programs involved are included in this system of records. HUD's debtor files contain information on borrowers and co-borrowers who are currently in default (at least 90 days delinquent on their loans); or who have any outstanding claims paid during the last three years on Title II insured or guaranteed home mortgage loans; or individuals who have had a claim paid in the last three years on a Title I loan. For the CAIVRS match, HUD/DEPT–2, System of Records, receives its program inputs from HUD/DEPT–28, Property Improvement and Manufactured (Mobile) Home Loans—Default; HUD/DEPT–32, Delinquent/Default/Assigned Temporary Mortgage Assistance Payments (TMAP) Program; and HUD/CPD–1, Rehabilitation Loans—Delinquent/Default.

The Department of Education will provide HUD with debtor files contained in its system of records (Title IV Program File, 18–40–0024). HUD is

maintaining the Department of Education's records only as a ministerial action on behalf of the Department of Education, not as a part of HUD's HUD/DEPT–2 system of records. The Department of Education's data contain information on individuals who have defaulted on their guaranteed loans. The Department of Education will retain ownership and responsibility for their system of records that they place with HUD. HUD serves only as a record location and routine use recipient for the Department of Education's data.

Notice Procedures

HUD and the Department of Education have separate notification procedures. When the Federal credit being sought is a HUD/FHA mortgage, HUD will notify individuals at the time of application (ensuring that routine use appears on the application form). The Department of Education will notify individuals at the time of application for Federal student loan programs that their records will be matched to determine whether they are delinquent or in default on a Federal debt. HUD and the Department of Education will also publish notices concerning routine use disclosures in the **Federal Register** to inform individuals that a computer match may be performed to determine a loan applicant's credit status with the Federal Government.

Categories of Records/Individuals Involved

The debtor records include these data elements: SSN, claim number, the Department of Education's Regional Office Code, Collection Agency Code, program code, and indication of indebtedness. Categories of records include: Records of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures. Categories of individuals include former mortgagors and purchasers of HUD-owned properties, manufactured (mobile) home and home improvement loan debtors who are delinquent or in default on their loans, and rehabilitation loan debtors who are delinquent or in default on their loans.

Period of the Match

Matching will begin at least 40 days from the date copies of the signed (by both Data Integrity Boards) computer matching agreement are sent to both Houses of Congress or at least 30 days from the date this Notice is published in the **Federal Register**, whichever is later, providing no comments are received which would result in a contrary determination.

Dated: August 9, 2000.

Gloria R. Parker,

Chief Information Officer.

[FR Doc. 00–20804 Filed 8–15–00; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service has submitted the collection of information listed below to OMB for approval under the provisions of the Paperwork Reduction Act. A copy of the information collection requirement is included in this notice. If you wish to obtain copies of the proposed information collection requirement, related forms, and explanatory material, contact the Service Information Collection Clearance Officer at the address listed below.

DATES: OMB has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, you must submit comments on or before September 15, 2000.

ADDRESSES: Send your comments on the requirement to the Office of Management and Budget, Attention: Department of the Interior Desk Officer, 725 17th Street, N.W., Washington, D.C. 20503, and to Rebecca Mullin, Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 222–ARLSQ, 1849 C Street NW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at (703)358–2287, or electronically to rmullin@fws.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and record-keeping activities (see 5 CFR 1320.8(d)). The U.S. Fish and Wildlife Service (We) has submitted a request to OMB to renew its approval of the collection of information for the nontoxic shot approval process. We are requesting a 3-year term of approval for this information collection activity. A previous 60-day notice on this information collection requirement was published in the May 30, 2000 (65 FR 34490) **Federal Register** inviting public comment. No comments on the previous notice were received. This notice provides an additional 30 days in which to comment on the following information.

Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1018–0067.

The Migratory Bird Treaty Act (16 U.S.C. 703–711) and Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for the wise management of migratory bird populations frequenting the United States and for the setting of hunting regulations that allow appropriate harvests that are within the guidelines that will allow for those populations' well being. These responsibilities include approval of nontoxic shot materials that are allowed for use in hunting waterfowl and coots in the U.S.

As of January 1, 1991, lead shot was banned for hunting waterfowl and coots in the U.S. At that time, steel shot was the only nontoxic alternative available. Since then, we have encouraged manufacturers to develop other alternatives that the hunting public may use. In approving a candidate material as nontoxic for hunting waterfowl and coots we must first ensure that secondary exposure (ingestion of spent shot or its components) are not a hazard to migratory birds and the environment. In order to make this decision, we require the applicant to collect information about the toxicity of their candidate material to migratory birds and the environment. A further requirement pertains to law enforcement. A noninvasive field detection device must be available to distinguish the candidate shot from lead shot. The above information provides the bulk of an application. Once a candidate material is approved as nontoxic there is no seasonal or annual information collection requirement.

Title: Protocol for Nontoxic Approval Procedures for Shot and Shot Coatings.

Approval Number: 1018–0067.

Service Form Number: Not applicable.

Frequency of Collection: Upon application.

Description of Respondents: Shot manufacturers.

Total Annual Burden Hours: The reporting burden is estimated to average 3,200 hours per application.

Total Annual Responses: We expect no more than 3 applications per year.

We invite comments concerning this renewal on: (1) Whether the collection of information is necessary for the proper performance of our migratory bird management functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program are part of a system of record covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: July 10, 2000.

Paul R. Schmidt,

Acting Assistant Director Migratory Birds and State Programs.

[FR Doc. 00–20747 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–200–1020–PA–24 1A]

Science Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Land Management (BLM) announces a public meeting of the Science Advisory Board to examine the use of science for improving the management of the Nation's public lands and resources. Topics of discussion will include the BLM Science Strategy, Science Opportunities at Grand Staircase Escalante National Monument (GSENM) and Conservation Areas, Ecology and Biology at GSENM, Geology and Palenotology at GSENM, and Bees at GSENM.

DATES: BLM will hold the public meeting on Thursday, September 21, 2000, from 8:30 a.m. to 4:30 p.m. local time.

ADDRESSES: BLM will hold the public meeting at the Kanab City Library, 374 North Main, Kanab, Utah 84741.

FOR FURTHER INFORMATION CONTACT: Lee Barkow, Bureau of Land Management, Denver Federal Center, Building 50, P.O. Box 25047, Denver, CO 80225–0047, 303–236–6454.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Public Law 92–463).

I. The Agenda for the Public Meeting is as Follows

8:30–9:00 a.m.—Opening Remarks
9:00–9:30 a.m.—Report from BLM Assistant Director
9:30–10:30 a.m.—Final Review of BLM Science Strategy
10:30–10:45 a.m.—Break
10:45–12:00 noon—National Monuments and Conservations Areas: Science Opportunities
12:00–1:00 p.m.—Lunch
1:00–2:00 p.m.—Ecology and Biology at GSENM
2:00–3:00 p.m.—Geology and Palenotology at GSENM
3:00–3:15 p.m.—Break
3:15–4:15 p.m.—Bees at GSENM
4:15–4:30 p.m.—Public Comment

II. Public Comment Procedures

Participation in the public meeting is not a prerequisite for submittal of written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on BLM's use of science are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments, where practicable. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom on Information Act (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by the law. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or business will be in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address: Commenters may transmit comments electronically via the Internet to: lee__barkow@blm.gov. Please include the identifier ''Science4'' in the subject of your message and your name and address in the body of your message.

III. Accessibility

The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled hearing date. Although BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Dated: August 8, 2000.

Lee Barkow,

Director, National Applied Resource Sciences Center.

[FR Doc. 00–20737 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Statements; Availability Etc: Voyageurs National Park, MN

AGENCY: National Park Service, Interior.

ACTION: Notice of extension of public comment period for the draft general management plan/visitor use and facilities plan and the draft environmental impact statement for Voyageurs National Park, Minnesota.

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act of 1969, the National Park Service has prepared a draft general management plan/Visitor Use and facilities plan and a draft environmental impact statement (DGMP/DEIS) for Voyageurs National Park. Pursuant to public request, the comment period for this document has been extended an additional 30-days.

DATES: The comment period will now end on September 22, 2000. All written comments should be postmarked by this date.

FOR FURTHER INFORMATION CONTACT: Kathleen Przybylski, Voyageurs National Park, 3131 Highway 53, International Falls, MN 56649,

telephone: 218–283–9821. E-mail: Kathleen__Przybylski@nps.gov.

SUPPLEMENTARY INFORMATION: You may mail comments on the DMGP/DEIS to: General Management Plan, Voyageurs National Park, 3131 Highway 53, International Falls, MN 56649. You also may comment via e-mail to Kathleen__Przybylski@nps.gov.

The purpose of the general management plan/visitor use and facilities plan is to set forth the basic management philosophy for the park and to provide the strategies for addressing issues and achieving identified management objectives. The DGMP/DEIS describes and analyzes the environmental impacts of a proposed action and two action alternatives for the future management direction of the park. A no action alternative is also evaluated.

Dated: August 8, 2000.

David N. Given,

Acting Director, Midwest Region.

[FR Doc. 00–20796 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Boston Harbor Islands Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (PL 92–463) that the Boston Harbor Islands Advisory Council will meet on Wednesday, September 6, 2000. The meeting will convene at 6:00 PM at the Massachusetts Water Resources Authority Headquarters, 100 First Avenue, Building 36, Floor 3, Boston, Massachusetts.

The Advisory Council was appointed by the Director of National Park Service pursuant to Public Law 104–333. The 28 members represent business, educational, cultural, and environmental entities; municipalities surrounding Boston Harbor; Boston Harbor advocates; and Native American interests. The purpose of the Council is to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the development and implementation of a management plan and the operation of the Boston Harbor Islands National Recreation Area.

The Agenda for this meeting is as follows:

1. Approval of minutes from June 7 to July 12, 2000
2. Discussion on the Advisory Council's recommendation to the Partnership regarding the draft General Management Plan
3. Discussion regarding the park operations ''report card''
4. Update on the public access plans of the MWRA for Deer Island

The meeting is open to the public. Further information concerning Council meetings may be obtained from the Superintendent, Boston Harbor Island. Interested persons may make oral/written presentations to the Council or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Boston Harbor Islands NRA, 408 Atlantic Ave., Boston, MA 02110, telephone (617) 223–8667.

Dated: June 9, 2000.

George E. Price, Jr.,

Superintendent, Boston Harbor Islands NRA.

[FR Doc. 00–20795 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Draft National Park Service (NPS) Management Policies Applicable to Commercial Visitor Services

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) is updating its policies that guide the management of the national park system. The update is necessary to keep pace with changes in laws, regulations, socio-economic factors and technology, as well as new understandings of the natural and cultural resources that the NPS is responsible for protecting within the national parks. A proposed revision of chapter 10, on the subject of commercial visitor services, is now available for review and comment.

DATES: The NPS must receive comments on or before September 18, 2000.

ADDRESSES: The draft chapter 10 is available on the Internet at http://www.nps.gov/refdesk/ policies.html. Requests for paper copies, and written comments, should be sent to: NPS Office of Policy, Room 2414, Main Interior Building, Washington, D.C. 20240. Draft copies may also be obtained by calling (202) 208–7456, and comments may be telefaxed to (202) 219–8835.

FOR FURTHER INFORMATION CONTACT: Mr. Chick Fagan at (202) 208–7456.

SUPPLEMENTARY INFORMATION: NPS policies are published in a 10-chapter volume titled ''Management Policies.'' A Notice of Availability inviting public comment on draft revisions to the 1988 edition of ''Management Policies'' was published January 19, 2000 [65 FR 2984]. The comment period closed March 20, 2000. Chapter 10, which addresses commercial visitor services, was not ready for distribution during that review period because regulations implementing the 1998 Concessions Management Improvement Act had not yet been finalized. The NPS is now proposing to adopt a draft of chapter 10 that comports fully with the underlying legislative and regulatory basis for commercial visitor services in the national park system.

Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment.

Dated: August 10, 2000.

Loran Fraser,

Chief, Office of Policy.

[FR Doc. 00–20794 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University, Rohnert Park, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Anthropological Studies Center (ASC), Archaeological Collections Facility (ACF), Sonoma State University, Rohnert Park, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible

for the determinations within this notice.

A detailed assessment of the human remains was made by ASC professional staff in consultation with representatives of the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; the Middletown Rancheria of Pomo Indians of California; and the Scotts Valley Band of Pomo Indians of California.

In 1973, human remains representing a minimum of two individuals were removed from the Garner Island site (CA–LAK–28) during unauthorized excavations and donated to the ACF by Don Branscomb, an amateur archeologist. No known individuals were identified. No associated funerary objects are present.

In 1974, human remains representing a minimum of 23 individuals were removed from the Garner Island site (CA–LAK–28) during unauthorized excavations and donated to the ACF by Don Branscomb, an amateur archeologist. No known individuals were identified. No associated funerary objects are present.

Based on archeological records, these human remains have been identified as Native American from the pre-contact period. Based on surface evidence, the Garner Island site (CA–LAK–28) has been identified as a habitation site occupied during pre-contact times.

In 1974, human remains representing a minimum of three individuals were removed from the Slater Island site (CA–LAK–30) during unauthorized excavations and donated to the ACF by Don Branscomb, an amateur archeologist. No known individuals were identified. No associated funerary objects are present.

Based on archeological records, these human remains have been identified as Native American from the pre-contact period. Based on surface evidence, the Slater Island site (CA–LAK–30) has been identified as a habitation site occupied during pre-contact times.

In 1974, human remains representing a minimum of three individuals were removed from site CA–LAK–159 during unauthorized excavations and donated to the ACF by Don Branscomb, an amateur archeologist. No known individuals were identified. No associated funerary objects are present.

Based on archeological records, these human remains have been identified as Native American from the pre-contact period.

In 1973 and 1974, human remains representing a minimum of 34 individuals were excavated from the Mostin site (CA–LAK–380/1) by professional staff of Sonoma State University and Cabrillo College in response to an eroding creek bank. No known individuals were identified. The 58 associated funerary objects include perforated stone tablets, bone tools, obsidian and chert projectile points, groundstone, and various bone and lithic debitage.

In 1974, human remains representing a minimum of 20 individuals were removed from the Mostin site (CA–LAK–380/1) during unauthorized excavations and donated to the ACF by Don Branscomb, an amateur archeologist. No known individuals were identified. No associated funerary objects are present.

Based on obsidian hydration data and diagnostic material culture, the Mostin site has been identified as a habitation site occupied between 4000-1000 B.C.

In 1974, human remains representing a minimum of one individual were recovered from site CA–LAK–384 during a surface collection conducted by John Parker. No known individual was identified. No associated funerary objects are present.

Based on archeological records, this individual has been identified as Native American from the pre-contact period.

In 1975, human remains representing a minimum of nine individuals were recovered from the Cole Creek site (CA–LAK–425) during salvage excavations conducted by Ron King and Dr. David A. Fredrickson when road construction exposed human remains within Clear Lake State Park. No known individuals were identified. The one associated funerary object is a pestle.

Based on artifact analysis, the Cole Creek site has been identified as a Native American habitation site occupied between 3000 B.C.–A.D. 500.

In 1981, human remains representing a minimum of two individuals were recovered from the Creager site (CA–LAK–510) during an auguring test by Lowell Damon of the ASC for the Pacific Telephone Company. No known individuals were identified. No associated funerary objects are present.

In 1982, human remains representing a minimum of six individuals were recovered from the Creager site (CA–LAK–510) during a field school conducted by James A. Bennyhoff of Sonoma State University. No known individuals were identified. No associated funerary objects are present.

In 1982, human remains representing a minimum of one individual were recovered from the Creager site (CA–LAK–510) during a field school excavation sponsored by the Santa Rosa Junior College. No known individual was identified. No associated funerary objects are present.

In 1986, human remains representing a minimum of five individuals were recovered from the Creager site (CA–LAK–510) by the ASC during mitigation for a sewer line that borders the site. No known individuals were identified. The 814 associated funerary objects include projectile points, shell beads, historic-era nails, buttons, and other clothing fasteners.

Based on artifact analysis, the Creager site has been identified as a habitation site occupied between 10000 B.C.–A.D.1900. No carbon dates have been taken from this site, and therefore the estimated age of these human remains is unknown. Based on the associated funerary objects from the 1986 excavations, an historic date for these burials is most likely.

In 1974, human remains representing a minimum of one individual were recovered from the Mud Flat site (CA–LAK–528) during unauthorized excavations and donated to the ACF by Don Branscomb, an amateur archeologist. No known individual was identified. No associated funerary objects are present.

Based on archeological records, these human remains have been dated to pre-contact times. Based on surface evidence, the Mud Flat site has been identified as a habitation site occupied during pre-contact times.

In 1974, human remains representing a minimum of one individual were recovered from site CA–LAK–679 during unauthorized excavations and donated to ACF by Don Branscomb, an amateur archeologist. No known individual was identified. No associated funerary objects are present.

Based on archeological records, these human remains have been dated to pre-contact times.

In 1974, human remains representing a minimum of two individuals were recovered from an unknown site in the Upper Lake area of Lake County, CA during unauthorized excavations and donated to ACF by Don Branscomb, an amateur archeologist. No known individuals were identified. No associated funerary objects are present.

Based on excavation notes, these individuals have been identified as Native American from the pre-contact period.

Based on the above-mentioned information, officials of the Anthropological Studies Center, Sonoma State University have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 113 individuals of Native American ancestry. Officials of the Anthropological Studies Center,

Sonoma State University also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 873 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Anthropological Studies Center, Sonoma State University have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; the Middletown Rancheria of Pomo Indians of California; and the Scotts Valley Band of Pomo Indians of California. This notice has been sent to officials of the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; the Middletown Rancheria of Pomo Indians of California; and the Scotts Valley Band of Pomo Indians of California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Sarah E. Blanchfield, NAGPRA Project Manager, Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University, Rohnert Park, CA 95472, telephone (707) 664–2381, before September 15, 2000. Repatriation of the human remains and associated funerary objects to the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; the Middletown Rancheria of Pomo Indians of California; and the Scotts Valley Band of Pomo Indians of California may begin after that date if no additional claimants come forward.

Dated: August 9, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–20824 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University, Rohnert Park, CA; and in the Control of the California Department of Transportation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Anthropological Studies Center (ASC), Archaeological Collections Facility, Sonoma State University, Rohnert Park, CA; and in the control of the California Department of Transportation (CALTRANS), Sacramento, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by ASC professional staff in consultation with representatives of the Santa Rosa Indian Community of the Santa Rosa Rancheria, California.

In 1962, human remains representing a minimum of five individuals were recovered from site CA–KIN–10, King County, CA during salvage excavations related to overpass and canal construction along Highway 198. These excavations were conducted by David Fredrickson of the Central California Archaeological Foundation. No known individuals were identified. No associated funerary objects are present.

Based on artifact analysis, site CA–KIN–10 has been identified as an occupation dating from A.D. 1600–1800. Based on archeological evidence and material culture of the site, these individuals have been identified as Native American. Geographical, ethnographic, linguistic, and historical evidence indicates site CA–KIN–10 is located within the traditional Southern Valley Yokut territory. Based on archeological evidence, continuity of occupation, and ethnographic accounts, these individuals have been affiliated with the Santa Rosa Indian Community of the Santa Rosa Rancheria, California, present-day Southern Valley Yokuts.

Based on the above-mentioned information, officials of the California Department of Transportation have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of five individuals of Native American ancestry. Officials of the California Department of Transportation also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Santa Rosa Indian Community of the Santa Rosa Rancheria, California. This notice has been sent to officials of the Santa Rosa Indian Community of the Santa Rosa Rancheria, California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Tina Biorn, Environmental Program, Department of Transportation, P.O. Box 942094 (M.S. 19), Sacramento, CA 94274–0001, telephone (916) 653–0013, before September 15, 2000. Repatriation of the human remains to the Santa Rosa Indian Community of the Santa Rosa Rancheria, California may begin after that date if no additional claimants come forward.

Dated: August 9, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–20825 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains in the Possession of the Tongass National Forest, U.S. Forest Service, Petersburg, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the possession of the

Tongass National Forest, U.S. Forest Service, Petersburg, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by U.S. Forest Service professional staff in consultation with representatives of the Petersburg Indian Association and the Central Council of Tlingit and Haida Indian Tribes.

At an unknown date, human remains representing one individual were recovered from the coast of Mitkof Island that faces Wrangell Narrows by an unidentified individual from Petersburg, AK. The remains were donated to Tongass National Forest, U.S. Forest Service in 1986. The condition of the remains suggests that they were less than 500 years old. No known individual was identified. No associated funerary objects are present. The archeological record of southeastern Alaska documents cultural continuity over the last 4,000 years, demonstrating that the Stikine Tlingit territory has included Mitkof Island throughout that period.

Based on the results of morphometric analysis, the human remains are determined to be Native American. Ethnographic evidence indicates that Mitkof Island, where the remains were found, was within the traditional territory of the Stikine Tlingit at the time of deposition of the remains.

The Petersburg Indian Association represents the Stikine Tlingit for the purposes of repatriation of human remains from this part of Alaska. The Petersburg Indian Association has identified Mitkof Island as part of the traditional occupation territory for the Stikine Tlingit. There is no evidence to indicate otherwise.

Based on the above-mentioned information, officials of the U.S. Forest Service have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the U.S. Forest Service have also determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Petersburg Indian Association, representing the Stikine Tlingit. This notice has been sent to officials of the Petersburg Indian Association and the Central Council of the Tlingit and Haida Indian Tribes. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Carol Jorgensen, Assistant Forest Supervisor, Tongass National Forest, P.O. Box 309, Petersburg, AK, 99833, telephone (907) 772–3841, before September 15, 2000. Repatriation of the human remains to the Petersburg Indian Association, representing the Stikine Tlingit, may begin after that date if no additional claimants come forward.

Dated: August 10, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–20286 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item from Warren, RI in the Possession of the Peabody Museum of Archaeology, Phillips Academy, Andover, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA that meets the definition of ''unassociated funerary object'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The one cultural item is a small, double-layered textile fragment with copper staining.

In 1914, this cultural item was recovered from the Burr's Hill site, Warren, RI during excavations conducted by S.D. Seaman. At an unknown date, this cultural item was donated to or bought by the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA.

Burr's Hill is believed to be located on the southern border of Sowams, a Wampanoag village. Sowams is identified in historic documents of the 17th and 18th centuries as a Wampanoag village, and was ceded to the English in 1653 by Massasoit and his eldest son Wamsutta (Alexander). Based on the presence of European trade goods and types of cultural items, these cultural items have been dated to A.D. 1600–1710. A tag with this cultural item identifies it as having come from a grave at Burr's Hill. Based on this evidence, the documented survival of textiles in early contact period Wampanoag graves, and copper staining on the textile, this cultural item is most likely to have come from a burial.

Based on the above-mentioned information, officials of the Robert S. Peabody Museum of Archaeology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this one cultural item is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Robert S. Peabody Museum of Archaeology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between this item and the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group). This notice has been sent to officials of the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group); and the Narragansett Indian Tribe of Rhode Island. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact James W. Bradley, Director, Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA 01810, telephone (978) 749–4490, before September 15, 2000. Repatriation of this object to the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag (a non-Federally recognized Indian group), and the

Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group) may begin after that date if no additional claimants come forward.

Dated: August 9, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–20822 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains from Oklahoma in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains from Oklahoma in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Caddo Indian Tribe of Oklahoma.

In 1963, human remains representing one individual were donated to the Peabody Museum of Archaeology and Ethnology by the Robert S. Peabody Foundation, Robert S. Peabody Museum, Phillips Academy, Andover, MA. No known individual was identified. The one associated funerary object is a Hudson Engraved pottery vessel. This associated funerary object is in the collections of the Robert S. Peabody Museum, Phillips Academy, Andover, MA and will be reported in a separate notice.

Museum records indicate that these human remains were excavated by J.H. Rogers of the Texas, Oklahoma and Eastern Railroad Company and collected by E.S. Byington in 1913. While no exact record of the excavation has been located, Byington wrote in 1912 that he witnessed burial mounds being destroyed during the construction of the railroad crossing at Glover River, one-half mile from the Little River in McCurtain County, OK.

Based on the Hudson Engraved ceramic vessel, this individual has been identified as Native American, dating to the McCurtain phase (or focus), A.D. 1450-1600. Hudson Engraved ceramics are related to the McCurtain phase, and historic evidence indicates that Hudson Engraved ceramics were produced by Caddoan peoples circa A.D. 1500-1730. Although the exact site from which these human remains were recovered is not known, other sites in the area have produced Hudson Engraved or closely related vessels, some of which have been found in association with European trade items. Based on the combined archeological and historical evidence, it is likely these human remains represent a Caddo individual.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Caddo Indian Tribe of Oklahoma. This notice has been sent to officials of the Caddo Indian Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Barbara Isaac, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 495–2254, before September 15, 2000. Repatriation of the human remains to the Caddo Indian Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: July 27, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships Programs.

[FR Doc. 00–20823 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Tongass National Forest, U.S. Forest Service, Petersburg, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in possession of the Tongass National Forest, U.S. Forest Service, Petersburg, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2(c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by U.S. Forest Service professional staff in consultation with representatives of the Wrangell Cooperative Association.

In 1976, local school students removed human remains representing one individual and 60 shell beads from the Coffman Cove Site, Prince of Wales Island, AK and donated them to the Tongass National Forest, U.S. Forest Service. Examination of the site determined that the burial was intrusive into the older occupations of the site. Examination of the remains suggested that they were less than 100 years old. No known individual was identified. The shell beads are the only associated funerary objects.

Later in 1976, U.S. Forest Service archeologists conducted excavations at the Coffman Cove Site that yielded human remains representing one individual. The stratigraphic context of the remains suggests that the remains date to A.D. 500–650. No known individual was identified. No associated funerary objects were recovered with the remains.

Based on the results of cranial morphometric analysis, these human remains are determined to be Native American. Ethnographic evidence and oral history indicates that Prince of

Wales Island, AK, where the remains and funerary objects were found, was within the traditional territory of the Stikine Tlingit when both sets of remains were deposited. The archeological record of southeastern Alaska documents cultural continuity over the last 4,000 years, demonstrating that Stikine Tlingit territory has included Coffman Cove throughout that period.

In 1977, human remains representing two individuals were discovered in the Wrangell Burial Cave Site (Alaska Heritage Resource Survey Site PET092) on the eastern side of Wrangell Island, AK by Alaska Department of Fish and Game employees. The condition of the remains suggests that they are less than 500 years old. No known individuals were identified. No objects were recovered with the remains.

Based on the results of cranial morphometric analysis, the human remains are determined to be Native American. Ethnographic evidence indicates that Wrangell Island was within the traditional territory of the Stikine Tlingit when the remains were deposited.

In 1985, U.S. Forest Service archeologists and Wrangell Cooperative Association representatives jointly removed human remains contained in a bentwood box from the Stikine Strait Pictograph and Bentwood Box Site (Alaska Heritage Resource Survey Site PET246), Zarembo Island, AK. These remains represent one individual. No known individual was identified. The one associated funerary object is a cedar container.

Based on the associated funerary object and manner of interment, the human remains are determined to be Native American. The presence of the wooden box indicates that the burial was relatively recent in date. Ethnographic evidence and oral history indicates that Zarembo Island, AK, where the remains were found, is within the traditional territory of the Stikine Tlingit.

The Wrangell Cooperative Association represents the Stikine Tlingit for the purposes of repatriation of remains from this area of Alaska. The Wrangell Cooperative Association has identified the islands of Prince of Wales, Wrangell, and Zarembo, AK, as part of the traditional occupational territory for the Stikine Tlingit. There is no evidence to indicate otherwise.

Based on the above-mentioned information, officials of the U.S. Forest Service have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of five individuals of Native American ancestry. Officials of the U.S. Forest Service, also have determined that, pursuant to 43 CFR 10.2(d)(2), the 61 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the United States Forest Service have determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Wrangell Cooperative Association, representing the Stikine Tlingit.

This notice has been sent to officials of the Wrangell Cooperative Association. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Carol Jorgensen, Assistant Forest Supervisor, Tongass National Forest, P.O. Box 309, Petersburg, AK, 99833, telephone (907) 772–3841, before September 15, 2000. Repatriation of the human remains and associated funerary objects to the Stikine Tlingit, represented by the Wrangell Cooperative Association, may begin after that date if no additional claimants come forward.

Dated: August 10, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–20827 Filed 8–15–00; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731–TA–703 and 705 (Reviews)

Furfuryl Alcohol From China and Thailand

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the antidumping duty orders on furfuryl alcohol from China and Thailand.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) to determine whether revocation of the antidumping duty orders on furfuryl alcohol from China and Thailand would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: August 3, 2000.

FOR FURTHER INFORMATION CONTACT: George Deyman (202–205–3197), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On August 3, 2000, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that both domestic and respondent interested party group responses to its notice of institution (65 F.R. 25363) were adequate.[1]

A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: August 9, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–20849 Filed 8–15–00; 8:45 am]

BILLING CODE 7020–02–P

[1] Commissioner Lynn M. Bragg dissented with respect to furfuryl alcohol from China, but found that other circumstances warranted conducting a full review.

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–355 (Review) 731–TA–659–660 (Review)]

Grain-Oriented Silicon Electrical Steel From Italy and Japan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the countervailing duty and antidumping duty orders on grain-oriented silicon electrical steel from Italy and Japan.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty and antidumping duty orders on grain-oriented silicon electrical steel from Italy and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On March 3, 2000, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (65 FR 13989, March 15, 2000). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of these reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these reviews will be placed in the nonpublic record on December 12, 2000, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with these reviews beginning at 9:30 a.m. on January 4, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 27, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 2, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is December 21, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is January 12, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before January 12, 2001. On January 31, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 2, 2001, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: August 10, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–20850 Filed 8–15–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–860 (Final)]

Tin- and Chromium-Coated Steel Sheet from Japan

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Japan of tin- and chromium-coated steel sheet, provided for in subheadings 7210.11.00, 7210.12.00, 7210.50.00, 7212.10.00, and 7212.50.00 if of non-alloy steel and under subheadings 7225.99.00 and 7226.99.00 if of alloy steel (other than stainless steel) of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective October 28, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by Weirton Steel Corp., Weirton, WV, the Independent Steelworkers Union, and the United Steelworkers of America, AFL–CIO. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of tin- and chromium-coated steel sheet from Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 24, 2000 (65 FR 21791). The hearing was held in Washington, DC, on June 29, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 9, 2000. The views of the Commission are contained in USITC Publication 3337 (August 2000), entitled Tin- and Chromium-Coated Steel Sheet from Japan: Investigation No. 731–TA–860 (Final).

Issued: August 9, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary .

[FR Doc. 00–20848 Filed 8–15–00; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Stephen Koplan and Commissioner Thelma J. Askey dissenting.

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 C.F.R. § 50.7, notice is hereby given that a consent decree in *United States* v. *RAM Industries, Inc.,* Civil Action No. 00–3826 (E.D. Pa.) was lodged on July 28, 2000, with the United States District Court for the Eastern District of Pennsylvania. The consent decree resolves the claims of the United States against RAM Industries, Inc. under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. § 9607(a), for reimbursement of response costs incurred by the U.S. Environmental Protection Agency (''EPA'') in connection with the Eighth Street Drum Site located in Chester, Delaware County, Pennsylvania. Under the terms of the consent decree, EPA would receive $13,500, which represents approximately 33% of the amount expended by the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C., 20530, and should refer to *United States* v. *RAM Industries, Inc.,* DOJ #90–11–3–06920.

The proposed consent decree may be examined at the offices of the United States Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106–4476. A copy of the consent decree may also be obtained by mail from the U.S. Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.25 (25 cents per page reproduction cost), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 00–20740 Filed 8–15–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Core Principles for Federal Non-Binding Workplace ADR Programs; Developing Guidance for Binding Arbitration—A Handbook for Federal Agencies

AGENCY: Department of Justice/Federal Alternative Dispute Resolution Council.

ACTION: Notice.

SUMMARY: This notice contains two documents to assist Federal agencies in developing alternative dispute resolution (ADR) programs: ''Core Principles for Non-Binding Workplace ADR Programs'' and ''Developing Guidance for Binding Arbitration—A Handbook for Federal Agencies.'' These documents were created by the Federal ADR Council, a group of high level government agency officials chaired by the Attorney General. The documents are based on the combined expertise of ADR specialists in federal agencies with active ADR programs. The first document describes ten key elements that are essential in any fair and effective ADR program. The second document provides information and assistance for agencies on the use of binding arbitration.

FOR FURTHER INFORMATION CONTACT: Peter R. Steenland and Jeffrey M. Senger, Office of Dispute Resolution, United States Department of Justice, Room 5240, Washington, DC 20530; (202) 616–9471.

Dated: August 8, 2000.

Jeffrey M. Senger,

Deputy Senior Counsel for Dispute Resolution, United States Department of Justice.

Federal Register Introduction

The Administrative Dispute Resolution Act of 1996 (ADRA), 5 U.S.C. 571–584, requires that each Federal agency take steps to promote the use of ADR and calls for the establishment of an interagency committee to facilitate and encourage agency use of ADR. As

the Presidentially appointed chair of this interagency committee, the Attorney General created the Federal ADR Council, an organization composed of high level officials from various agencies with ADR expertise. The Council's mission is to develop policy guidance on crosscutting issues that involve the creation and operation of Federal ADR programs. The first two documents from the Council are published below.

The first document is entitled ''Core Principles for Non-Binding Workplace ADR Programs.'' We believe that any fair and effective program must address the following issues: Confidentiality, neutrality, preservation of rights, self-determination, voluntariness, representation, timing, coordination, quality, and ethics. This document briefly describes the nature of each of these principles.

The second document is called ''Developing Guidance for Binding Arbitration—A Handbook for Federal Agencies'' which provides information and assistance for agencies that are considering the use of binding arbitration. Federal government experience with binding arbitration is limited because it was not explicitly authorized until recently, with the passage of the ADRA. Because participants in binding arbitration must give up various rights and remedies, including the right to appeal, many agencies prefer more consensual forms of ADR, such as mediation. Nonetheless, circumstances may exist where an agency may wish to employ binding arbitration, such as when the need for prompt resolution of a matter is paramount. The ADRA requires that an agency considering binding arbitration develop a policy on its use, in consultation with the Department of Justice. The attached Handbook assists agencies in developing this policy as well as in using arbitration.

Nothing in these guidance documents shall be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, its agencies, its officers or any other person.

The Federal ADR Council

Chair: Janet Reno, Attorney General, Department of Justice

Vice Chair: Erica Cooper, Deputy General Counsel, Federal Deposit Insurance Corporation

Members: Leigh A. Bradley, General Counsel, Department of Veterans Affairs; Meyer Eisenberg, Deputy General Counsel, Securities and Exchange Commission; Mary Anne Gibbons, General Counsel, U.S. Postal Service; Gary S. Guzy, General Counsel, Environmental Protection Agency; Jeh C. Johnson, General Counsel, Department of the Air Force; Harold Kwalwasser, Deputy General Counsel, Department of Defense; Nancy McFadden, General Counsel, Department of Transportation; Janet S. Potts, Counsel to the Secretary, Department of Agriculture; Harriett S. Rabb, General Counsel, Department of Health and Human Services; Henry L. Solano, Solicitor, Department of Labor; John Sparks, Principal Deputy General Counsel, Department of the Navy; Peter R. Steenland, Jr., Senior Counsel for Dispute Resolution, U.S. Department of Justice; Mary Ann Sullivan, General Counsel, Department of Energy; Robert Ward, Dispute Resolution Specialist, Environmental Protection Agency.

Core Principles for Non-Binding Workplace ADR Programs

Confidentiality: All ADR processes should assure confidentiality consistent with the provisions in the Administrative Dispute Resolution Act. Neutrals should not discuss confidential communications, comment on the merits of the case outside the ADR process, or make recommendations about the case. Agency staff or management who are not parties to the process should not ask neutrals to reveal confidential communications. Agency policies should provide for the protection of privacy of complainants, respondents, witnesses, and complaint handlers.

Neutrality: Neutrals should fully disclose any conflicts of interest, should not have any stake in the outcome of the dispute, and should not be involved in the administrative processing or litigation of the dispute. For example, they should not also serve as counselors or investigators in that particular matter. Participants in an ADR process should have the right to reject a specific neutral and have another selected who is acceptable to all parties.

Preservation of rights: Participants in an ADR process should retain their right to have their claim adjudicated if a mutually acceptable resolution is not achieved.

Self-determination: ADR processes should provide participants an opportunity to make informed, uncoerced, and voluntary decisions.

Voluntariness: Employees' participation in the process should be voluntary. In order for participants to make an informed choice, they should be given appropriate information and guidance to decide whether to use ADR processes and how to use them.

Representation: All parties to a dispute in an ADR process should have a right to be accompanied by a representative of their choice, in accordance with relevant collective bargaining agreements, statutes, and regulations.

Timing: Use of ADR processes should be encouraged at the earliest possible time and at the lowest possible level in the organization.

Coordination: Coordination of ADR processes is essential among all agency offices with responsibility for resolution of disputes, such as human resources departments, equal employment opportunity offices, agency dispute resolution specialists, unions, ombuds, labor and employee relations groups, inspectors general, administrative grievance organizations, legal counsel, and employee assistance programs.

Quality: Agencies should establish standards for training neutrals and maintaining professional capabilities. Agencies should conduct regular evaluations of the efficiency and effectiveness of their ADR programs.

Ethics: Neutrals should follow the professional guidelines applicable to the type of ADR they are practicing.

Developing Guidance for Binding Arbitration

A Handbook for Federal Agencies

Prepared by:
Phyllis Hanfling, Department of Energy
Martha McClellan, Federal Deposit Insurance Corporation

This document creates no legal rights or remedies and is intended solely for guidance.

Introduction

ADRA of 1996

The Administrative Dispute Resolution Act of 1996 (''ADRA''), 5 U.S.C. 571–583, made substantial changes in the arbitration provisions found in the ADRA of 1990. Specifically, the ADRA of 1996 authorizes the voluntary use of binding arbitration, without the 1990 Act's qualifying proviso that allowed heads of agencies to vacate an arbitrator's award. Before an agency can exercise this new power, it must issue guidance, in consultation with the Attorney General, on the appropriate use of binding arbitration. See 5 U.S.C. 575(c).

Handbook Purpose

This Handbook is designed to do several things: (1) Serve as a practical introduction to binding arbitration; (2) set out the ADRA requirements for federal agencies' use of binding arbitration; (3) introduce the issues which an agency should consider before drafting its arbitration guidance or participating in binding arbitration; and (4) outline Department of Justice requirements for an agency's arbitration guidance.

Form of Guidance

Because of the vast differences among federal entities and their use of ADR, this Handbook does not include model language or recommended guidance. However, agencies may wish to issue their guidance in the form of a rulemaking, to provide constructive notice of policies that may affect members of the public.

Section I—Arbitration Provisions of the ADR Act

Specific provisions for the use of binding arbitration are contained in 5 U.S.C. 575–581 and must be reviewed carefully before an agency begins developing binding arbitration guidance. Although the ADRA authorizes

agencies to use binding arbitration at their discretion in appropriate cases, the Act contains a number of requirements limiting that use. These limitations reflect Congressional intent to ensure that the government's interests in maintaining control over policymaking and protecting the federal budget are not compromised by federal agencies' use of arbitration. Thus, the Act is permissive—it authorizes agencies to use binding arbitration, but does not require them to do so; it allows arbitration to be invoked only with the prior, knowing agreement of responsible agency officials; it allows the parties to choose the issues to be submitted to arbitration and requires them to agree in advance on a maximum award. The Act also contains directions regarding the role and authority of the arbitrator, conduct of the arbitration, arbitration awards and judicial review.

This section provides an outline of the ADRA binding arbitration provisions and identifies the requirements that must be met before binding arbitration can be used. It also contains requirements on the use, conduct, or enforcement of the arbitration process. In the section-by-section analysis that follows, requirements appear in bold type.

Section-by-Section Analysis

Section 575 Authorization of Arbitration

1. The decision to arbitrate must be voluntary on the part of all parties to the arbitration. (See: 5 U.S.C. 575(a)(1)).

2. A party may limit the issues it agrees to submit to arbitration. A party may agree to arbitrate on the condition that the award is limited to a range of possible outcomes. (See: 5 U.S.C. 575(a)(1)(A) and (B)). Note that this provision does not contradict the requirement (set out in 3., below) that the parties agree on a maximum amount that the arbitrator can award.

3. An agreement to arbitrate must be in writing. It must set forth the subject matter submitted to the arbitrator, and must specify the maximum award or ''cap'' that may be granted by the arbitrator. (See: 5 U.S.C. 575(a)(2)).

4. An agency may not require anyone to consent to arbitration as a condition of entering into a contract or obtaining a benefit. (See: 5 U.S.C. 575(a)(3)).

5. An officer or employee of the agency who offers to use arbitration must otherwise have the authority to enter into a settlement concerning the matter or must be specifically authorized by the agency to consent to the use of arbitration. (See: 5 U.S.C. 575 (b)(1) and (2)).

6. Prior to using binding arbitration under this subchapter, the head of an agency, in consultation with the Attorney General, must issue guidance on the use of binding arbitration and when an agency officer or employee has the authority to settle a dispute using binding arbitration. (See: 5 U.S.C. Sec. 575(c)).

Section 576 Enforcement of Arbitration Agreements

Agreements to arbitrate that are governed by the ADRA are enforceable pursuant to section 4 of title 9 of the United States Code. (See: 5 U.S.C. 576).

Section 577 Arbitrators

1. The parties to an arbitration are entitled to participate in selecting an arbitrator. (See: 5 U.S.C. 577(a)).

2. The arbitrator must meet the definition of a neutral contained in section 573. (A neutral may be a Federal employee or anyone else acceptable to all parties. He or she may have no official, financial or personal conflict of interest with the respect to the issue in controversy, unless that interest is fully disclosed in writing and all parties agree that he may serve.) (See: 5 U.S.C. 577(b)).

Section 578 Authority of the Arbitrator

1. An arbitrator may regulate the course and conduct of the arbitration hearing. (See: 5 U.S.C. 578(1)).

2. An arbitrator may administer oaths and affirmations. (See: 5 U.S.C. 578(2)).

3. An arbitrator may compel the attendance of witnesses and the production of documents. (See: 5 U.S.C. 578(3)).

4. An arbitrator may make awards. (See: 5 U.S.C. 578(4)).

Section 579 Authority of the Arbitrator

1. The arbitrator shall set the time and place for the arbitration hearing and notify the parties at least five days before the hearing.

2. Parties are entitled to a record of the arbitration hearing. Any party wishing a record shall make the arrangements for it, notify the arbitrator and other parties that a record is being prepared, supply copies to the arbitrator and other parties, and pay all costs unless the parties have agreed to share the costs. (See: 5 U.S.C. 579(b)(1) thru (4)).

3. Parties are entitled to be heard and present evidence. (See: 5 U.S.C. 579(c)(1) and (2)).

4. The arbitrator may hear any oral and documentary evidence that is not irrelevant, immaterial, unduly repetitious, or privileged. (See: 5 U.S.C. 579(4)).

5. The arbitrator shall interpret and apply any relevant statutes, regulations, legal precedents and policy directives. (See: 5 U.S.C. 579(5)).

6. No interested party shall have any unauthorized ex parte communication with the arbitrator. If an interested party violates this provision, the arbitrator may require that party to show cause why its claim should not be resolved against it for the improper conduct. (See: 5 U.S.C. 579(d)).

7. The arbitration award shall be made within 30 days after the close of the hearing unless the parties agree to another time limit or the agency rules provide for another time limit. (See: 5 U.S.C. 579(e)(1) and (2)).

Section 580 Arbitration Awards

1. Unless an agency provides otherwise by rule, an arbitration award shall include a brief informal discussion of the factual and legal basis for the award. Formal findings of fact and law are not required. (See: 5 U.S.C. 580 (a)(1)).

2. A final award is binding on the parties and may be enforced pursuant to sections 9 through 13 of title 9. (See: 5 U.S.C. 580(c)).

3. An arbitration award entered pursuant to this subchapter may not serve as an estoppel in any other proceeding and may not be used as precedent in any factually unrelated proceeding. (See: 5 U.S.C. 580(d)).

Section 581 Judicial Review

1. Any action for review of an arbitration award must be made pursuant to sections 9 through 13 of title 9. (See: 5 U.S.C. 581(a)).

2. An agency's decision to use or not use ADR shall not be subject to judicial review, except that arbitration shall be subject to judicial review under section 10(b) of title 9 for evident partiality or corruption of the arbitrator(s). (See: 5 U.S.C. 581(b)).

Section II—Binding Arbitration Guidance: Suggested Components

In developing its arbitration guidance an agency must address, at a minimum, the requirements of 5 U.S.C. 575(a) and (b) which are discussed in Section I, supra. We believe there are many other issues an agency also should consider to ensure its guidance is accurate, comprehensive and useful in those situations where the agency chooses to participate in arbitration. We suggest that complete binding arbitration guidance should include the following three components:

Component 1: A description of the various types of ADR, a statement of the preference by the agency for consensual forms of ADR, especially mediation, and a statement that binding arbitration is appropriate in some cases,

Component 2: A definition of binding arbitration and a description of the various forms of arbitration which the agency will consider using and the circumstances under which they might be used, and

Component 3: Substantive arbitration issues.

Each component will be addressed in detail below.

Component 1—A Description of the Various Types of ADR Statements About Consensual Forms of ADR and Binding Arbitration

ADR Spectrum

ADR includes all forms of dispute resolution other than court adjudication. ADR processes, as defined in 5 U.S.C. 571(3) include, but are not limited to, conciliation, facilitation, mediation, fact-finding, ombuds, mini-trials, and arbitration. ADR processes are generally designed to reduce costs, avoid the delays of judicial proceedings, protect the privacy of the parties and increase the level of compliance by involving decision makers in the process.

Agencies should be committed to the use of ADR to resolve appropriate disputes in more timely, less costly manner than litigation or administrative adjudication. The use of ADR should not be viewed as an end in itself, but as an additional tool to accomplish the agency's mission efficiently, economically and productively. If an agency has published its ADR Policy, it should be referenced in the statement of support. If an agency has not published an ADR Policy, it can use the Declaration of Policy on Use of Alternative Means of Dispute Resolution in Appendix A. The agency's statement of support should emphasize its preference for consensual forms of ADR, especially mediation.

Component 2—A Definition of Arbitration and Description of the Various Forms That the Agency Will Use

Arbitration, especially binding arbitration, is the dispute resolution process most like adjudication. In arbitration, the parties agree to use a mutually selected decision-maker to hear their dispute and resolve it by rendering a final and binding decision or award. The decision to arbitrate may be made after a dispute has arisen between the parties or because an arbitration provision has been included in a contract or agreement that already exists between the parties. Like litigation, arbitration is an adversarial, adjudicative process designed to resolve the specific issues submitted by the parties. Arbitration differs significantly from litigation in that it does not require conformity with the legal rules of evidence and the proceeding is conducted in a private rather than a public forum. Binding arbitration awards typically are enforceable by courts, absent defects in the arbitration procedure. Appeal from arbitration decisions rendered in disputes covered by the ADRA is generally limited to fraud or misconduct in the proceedings, pursuant to the Federal Arbitration Act, 9 U.S.C. 10.

Forms of Arbitration

Parties may decide in advance whether an arbitration will be binding (the parties must accept the award), or non-binding (the arbitrator's award is advisory only). If the award is non-binding, the parties may decide to accept the non-binding opinion, use it as the basis for further settlement negotiations, or reject it and proceed to litigation. (Note that non-binding arbitration is not subject to the arbitration restrictions of the ADRA.) Agencies may wish to consider whether they might find non-binding arbitration useful; they lose the value of finality but gain more of the flexibility inherent in traditional ADR techniques. (An agency should consider neutral evaluation if it wants the opinion of an expert, but would prefer a less formal process than arbitration.)

Arbitration Terms—A Description of the Various Arbitration Forms

Mediation/Arbitration.—Arbitration may be part of a mediation/ arbitration (med/arb), where the parties attempt to mediate the dispute first. Failing resolution, the same neutral (or another) arbitrates and issues a binding or non-binding award. Using the same person as both mediator and arbitrator may have a chilling effect on full participation in mediation, as a party may not believe that the arbitrator will be able to discount unfavorable information learned during the mediation.

In co-mediation/arbitration, two neutrals preside over the initial joint session. After that, the neutral designated as the mediator works with the parties. Failing settlement, the case, or any resolved issues, may be submitted to the neutral designated the ''arbitrator'', for a binding decision.

Arbitration/mediation is another way to avoid the problem of one neutral serving as both mediator and arbitrator. The arbitrator hears the case and makes a determination that is not disclosed to the parties. He or she then attempts to mediate, with the understanding that if the parties reach no settlement, his determination will become the award.

Incentive Arbitration.—Parties agree, in advance, to a penalty if one of them rejects an arbitrator's non-binding award, resorts to litigation, and fails to improve its position by some specified percentage or formula. Penalties may include payment of expenses and attorney fees. Use of this form of arbitration by Federal agencies may present significant questions of sovereign immunity.

Party Arbitration.—Each side selects an arbitrator. Each of these ''party'' arbitrators then selects a third person and the panel, usually of three, hears the case and issues the award. Although favored in cases where there are highly technical issues, party arbitration generally increases the cost and time of the arbitration significantly.

Scheduling with multiple arbitrators and multiple parties is extremely difficult. A single arbitrator is more likely to manage the case expeditiously. In addition, it is important to remember that party-appointed arbitrators are likely to lack, or to appear to lack, neutrality and impartiality. This can be overcome if the parties use a mechanism to jointly appoint both arbitrators who then choose a ''neutral'' tiebreaker.

Administered Arbitration.—In administered arbitration, a private ADR provider organization manages the arbitration process. (National and local ADR providers can be found through telephone directories, local bar associations, and court programs. Before choosing any organization, references should be checked as quality can vary widely. Agency Dispute Resolution Specialists and/or the Senior Counsel for ADR at the Department of Justice can assist.) Among other things, the provider may set procedural rules, select or assist the parties in selecting arbitrators, schedule the arbitration, provide a conference room, transfer documents, mail the award and collect any fees. Providers charge varying administrative fees to perform these services.

Government parties must take great care when using administered arbitration to tailor existing rules to meet their specific needs. For example, the ADRA requires that parties are entitled to select the arbitrator(s); thus, an agency may not be able to enter into an agreement for administered arbitration where the arbitrator is selected by the administering organization. There are other limitations on agencies' use of arbitration that must be considered in administered arbitration. For example, federal agencies cannot agree to escrow fees or potential award amounts or to compel attendance by a specific agency official. Nor can an agency agree to keep an arbitration award confidential.

Just as the decision to use arbitration must be voluntary and agreed to by the parties, the operative rules should be negotiated and agreed to by the parties. Any reputable ADR provider that administers arbitration will work with the parties in making necessary changes to the providers' arbitration rules. It is expected that the major ADR providers will adjust their generic rules to accommodate Federal agencies.

Ad Hoc Arbitration.—In contrast to administered arbitration, the parties in an ad hoc arbitration manage the process themselves. The parties jointly select the arbitrator(s) and either craft their own rules or use those from a private ADR organization. The same care as discussed above must be taken to tailor the rules to ensure compliance with both the ADRA and an agency's arbitration guidance. The agency Dispute Resolution Specialist or an agency attorney should be designated to review all agreements to arbitrate.

Arbitration Techniques

The following are arbitration techniques designed to limit the amount an arbitrator may award. Any of these will meet the ADRA requirement of setting a cap on the award.

Baseball Final Offer or Last Best Offer.—Each party, prior to the arbitration, submits a proposed award amount to the arbitrator, who must choose one as the final award. This approach gives the parties a strong incentive to offer a reasonable proposal and is especially useful following mediation where the parties reached impasse. The two numbers selected would be the parties' last offers. Note that because the ADRA requires the parties to agree on a cap, BOTH parties would have to agree to the higher number.

Night Baseball.—Related to baseball arbitration, this requires the arbitrator to make a determination without knowledge of the parties' proposals. The actual award would then be the party's figure that was closest to the arbitrator's determination. This type of binding arbitration must be preceded by an agreement between the parties to establish maximum exposure, as required by the ADRA.

High-Low.—

The parties agree privately without informing the arbitrator that the final award will be within certain parameters. At the conclusion of the hearing, if the arbitrator's award is within the agreed upon range, the parties are bound by that figure. If, however, the award is outside the parameters, it is adjusted accordingly. For example, if the high-low figures were $50,000 and $100,000 and the award was $25,000, it would be adjusted to $50,000. Similarly, if the award were $250,000, it would be adjusted to $100,000.

Component 3—Checklist of Substantive Issues To Consider

The following checklist of questions includes not only the ADRA requirements, but also related issues that agencies are encourged to consider in order to avoid the problems and pitfalls of choosing and participating in binding arbitration. Section III, which follows, contains a discussion of each issue on the checklist.

Issue 1—For what type of cases will the agency be willing to use binding arbitration?

Issue 2—Will the agency agree to arbitrate issues other than money, e.g., specific performance, punitive damages, injunctive relief, apportionment of fees?

Issue 3—How and by whom will the agency's decision to arbitrate be made?

a. Who will have authority to recommend arbitration?

b. Who has the authority to enter into settlement? Can this authority be delegated?

c. Who will negotiate the cap on the award?

d. Who will negotiate the rules and selection of the arbitrator?

e. Who will draft the Agreement to Arbitrate?

Issue 4—What will the process be for entering into arbitration?

Issue 5—What should the Request to Arbitrate memo include?

Issue 6—How can an agency encourage the efficiency of the arbitration process?

Issue 7—How and by whom will requests for binding arbitration from people outside the agency be accepted?

Issue 8—Will the agency allow arbitration clauses to be written into contracts?

Issue 9—If the agency allows arbitration clauses in contracts, what should be included in the clause?

Issue 10—What is the arbitrator's role under the ADRA?

Issue 11—Will the agency agree to a panel of arbitrators in some circumstances?

Issue 12—What selection criteria will be considered in choosing an arbitrator?

Issue 13—Will the agency agree to allow non-attorneys to represent a party, or for a party to appear pro se, at the arbitration?

Issue 14—What should an Agreement to Arbitrate include?

Issue 15—How will the agency pay the arbitrator(s)?

Issue 16—Is the agency willing to use administered arbitration?

Issue 17—What must the arbitration award include?

Issue 18—Will the agency allow arbitration on the documents only, without a hearing, and if so, in what circumstances?

Issue 19—What selection criteria will be considered in choosing or amending arbitration rules and what must those rules include?

Section III—Discussion of Substantive Issues

The following discussion is intended to raise many of the most important and difficult issues concerning the use of binding arbitration in federal agencies. It is not intended or expected that any agency guidance will address all of them; they are listed for information and consideration.

Issue 1—For What Type of Cases Will the Agency Be Willing To Use Binding Arbitration?

The Alternative Dispute Resolution Act explicitly includes binding arbitration among the ADR processes available to federal agencies. However, most federal agencies encourage the use of consensual forms of ADR such as mediation in contrast to binding arbitration. Even those agencies that actively discourage the use of arbitration may find that there are situations where binding arbitration may be the most appropriate alternative to litigation. In other cases, agencies may find that binding arbitration is required under a contract the agency has ''inherited'' by one means or another. Each agency must consider when, and under what conditions, it will agree to use binding arbitration. To do this, it is important to consider both the benefits and the risks of choosing to arbitrate.

Benefits

The *Benefits* of binding arbitration may include: Savings of time and money; finality, and a knowledgeable decision-maker.

Risks

The *Risks* of binding arbitration may include: an award that may be arbitrary and without basis in fact or law; severely limited grounds for appeal [Under the Federal Arbitration Act, 9 U.S.C. 10, an award may be vacated only if procured by corruption, fraud, or undue means; or if an arbitrator exhibits ''evident partiality'', when misconduct by the arbitrator prejudices the rights of a party or if the arbitrator exceeded his power.]; parties' loss of control over the process and outcome; a long, expensive proceeding, if not structured properly by the parties, and continued hostility between parties who may have an ongoing relationship.

In addition, a party cannot unilaterally withdraw from binding arbitration once an arbitration agreement has been signed. For these reasons, careful consideration by senior agency officials and legal consultation should precede any decision to arbitrate.

Determining Appropriateness of ADR

When considering whether arbitration is appropriate, agencies should first look to the ADRA which contains guidance for considering whether arbitration or any ADR process is appropriate for a particular dispute. Section 572 (b) of the Act suggests that agencies should consider NOT USING ANY ADR process if: There is a need for precedent on the issue; the matter involves significant matters of policy and ADR cannot help develop policy on the issue; an established, consistent policy on an issue is necessary and the possibility of inconsistent results in individual cases would not be helpful; the case involves issues which affect persons or organizations not a party to the ADR; a public record is needed; or the agency must retain control over disposition of the matter in the event that circumstances change.

Determining Appropriateness of Arbitration

In deciding which type of ADR to use, arbitration can be most useful in disputes which are highly fact specific, and in which the decision is likely to be single issue and quantitative. For example, arbitration may be appropriate where the parties are only concerned with monetary remedies such as ''the machine was to perform at ABC level and the contractor was to be paid XYZ amount''. Arbitration may also be attractive when the dispute is highly technical and the parties can pick an arbitrator with mutually accepted expertise, thus obviating the need to educate him and to reduce technical arguments. Arbitration is also highly useful when finality is a desired result and there is little concern over the risks or costs of remedies (for example, resolving a small dollar figure dispute that has been ongoing for a long period), or where the parties need a decision made for them by a third party, but wish to avoid the cost and delay of a trial.

Other factors to consider are:

1. Will the parties both agree to arbitrate? (Pursuant to the ADRA, arbitration must be voluntary).

2. Have consensual forms of ADR, such as mediation, been tried first?

3. Will the parties be able to find an arbitrator with appropriate subject matter expertise?

4. Are the issues narrowly defined?

5. Will the parties be able to negotiate a maximum award ''cap'' in advance of the hearing? (This is mandatory under the ADRA).

6. Are the parties concerned about maintaining an ongoing relationship?

7. Can the parties agree on governing rules for the arbitration, including negotiating time limits so that costs do not escalate?

8. Are the parties concerned about limited appeal rights?

9. Are the parties interested in more confidentiality than a trial affords? (Note, however, that the final award is not confidential under ADRA.)

10. Do the parties (need) want a decision made for them by a third party but want to avoid the delay of trial?

Agencies may decide to limit arbitration to certain categories of cases, issues, or dollar amounts.

Issue 2—Will the Agency Agree To Arbitrate Issues Other Than Money, e.g. Specific Performance, Punitive Damages, Injunctive Relief, and Apportionment of Fees?

An arbitrator may not award punitive damages against the government as the Department of Justice views them as a violation of sovereign immunity. In general, given the express legislative command to cap agency monetary exposure, great care and precision is necessary in drafting the outer limits of an arbitrator's ability to award non-monetary relief.

Issue 3—How and By Whom Will the Decision To Arbitrate Be Made?

There are generally three ways in which parties may enter the arbitration process: at the request of one of the parties, through a pre-existing arbitration clause in a contract, or by court direction.

Agencies are given absolute discretion in the ADRA to decide whether or not to participate in any ADR process, including binding arbitration. One of the decisions an agency must make in deciding to participate in arbitration is whether or not to entertain requests for binding arbitration from parties outside the agency. (See Issue No. 7). This decision may depend in large part on the approach an agency takes to using binding arbitration generally. If an agency wants to limit the use of binding arbitration, one way it could do that is by refusing to accept requests from outside parties. Likewise, agencies must determine if they will allow arbitration language governing future disputes to be written into contracts. (See Issue No. 8.)

Authority To Recommend

A. *Who will have authority to recommend arbitration?* The agency should require, or at least encourage, that the recommending official, whether it be a contracting officer, staff attorney, or program official, consult with the Dispute Resolution Specialist. This should ensure that, at an early stage, the parties consider or attempt the preferred

consensual forms of ADR when appropriate. Such consultation should also ensure that disputes which are inappropriate for arbitration, whether based on the ADRA specifications, practical considerations or agency requirements and policy, do not go forward to formal submission.

Authority To Settle

B. *Who has the authority to enter into settlement?* The ADRA requires that a person entering into binding arbitration on behalf of the agency must have the authority to otherwise enter into a settlement concerning the matter, or be specifically authorized by the agency to consent to arbitration.

Most agencies already have procedures in place for settling disputes, especially for resolution of disputes arising out of contracts with outside parties. One approach is to delegate the authority to consent to arbitration to the person (or position) that currently has authority to resolve the dispute, such as a contracting officer, subject to his warrant and internal agency review procedures. This approach takes advantage of the existing procedures while providing an additional means of resolving the dispute. It also has the benefit of simplicity; any new procedures are added to the existing structure rather than creating an entirely separate system.

However, the decision to use binding arbitration involves so many important and complex issues that agencies should consider delegating the authority to use binding arbitration to a high-level decision-maker like the General Counsel. Agency procedure should alert the designee to the fact that the agency is considering entering into a process that is, in many ways, more binding than litigation. The person authorizing arbitration should be made aware of what the capped amount of the award will be.

Negotiate Award Cap

C. *Who will negotiate the cap on the award?* This may be the contracting officer, an attorney, or other person making the recommendation to arbitrate.

Rules and Arbitrator Selection

D. *Who will negotiate rules and selection of the arbitrator?* After approval to arbitrate has been granted by the authorized official, negotiating rules and selection of the arbitrator can be done by the recommending official, in conjunction with the Dispute Resolution Specialist.

Agreement to Arbitrate

E. *Who will draft the Agreement to Arbitrate?* The Agreement must be in writing, setting forth the subject matter of the arbitration and the maximum award or ''cap.'' It must be agreed to by the parties and should be drafted by an attorney, in consultation with the Dispute Resolution Specialist. (See Issue No. 14).

Issue 4—What Will Be the Process for Entering Arbitration?

A request to use binding arbitration may come from an outside party or may originate from agency personnel. In either case, the procedures for requesting and obtaining authority to arbitrate need to be clear and readily available. The initial consideration of a request to arbitrate may be informal and should involve consultation with agency or subdivision ADR specialists. If an agency designates a specific office or position to initiate the arbitration approval process, it will be necessary to identify the office and the steps required for requesting that approval.

Therefore, the agency should identify the official who will have authority to determine, on a case-by-case basis, whether to agree to submit a dispute to binding arbitration. This will ensure that an agency official will only agree to submit a dispute to binding arbitration if: (1) There are sufficient funds committed to cover the maximum possible award against the agency; and (2) prior written approval has been obtained from the authorized agency official to enter into the arbitration proceeding.

Since it is likely that the final decision-maker will have little knowledge of the specific issues or risks involved in the dispute, a written justification (the Request to Arbitrate Memorandum) should be prepared.

Issue 5—What Should the Request To Arbitrate Memorandum Include?

Request to Arbitrate Memo

This is an internal document intended for the agency decision making and approval process. The following information should be included.

Facts

A presentation of the factual bases, legal reasons, and policy considerations supporting the use of binding arbitration to resolve the particular dispute, including:

A detailed description of the analysis that resulted in the recommendation of whether to arbitrate. If the recommendation is to arbitrate, this should compare the benefits of arbitrating the matter with the benefits of litigating the matter, including potential appellate litigation as well as the ability to withdraw from litigation, to pursue settlement, to establish precedent, etc.

A detailed cost/benefit analysis of arbitrating the matter, including the estimated costs of the arbitrator, agency personnel costs, outside counsel costs (if applicable).

An estimate of the timeline for the arbitration process, including time to negotiate the arbitration agreement, compared to a timeline for litigation.

A litigation risk analysis.

Maximum Award

The proposed maximum award, as a dollar figure, should be specifically addressed in the memorandum.

ADR Use Justified

An explanation supporting a determination that none of the following factors exists, or if one or more does exist, binding arbitration is nevertheless the most appropriate method to resolve the dispute:

—A definitive or authoritative resolution of the matter is required for precedential value, and a binding arbitration proceeding is not likely to be accepted generally as an authoritative precedent;

—The matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and a binding arbitration proceeding would not likely serve to develop a recommended policy for the agency;

—Maintaining established policies is of special importance, so that variations among individual decisions are not increased, and a binding arbitration proceeding would not likely reach consistent results among individual decisions;

—The matter significantly affects persons or organizations who are not parties to the proceeding;

—A full public record of the proceeding is important, and a binding arbitration proceeding cannot provide such a record; or

—The agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a binding arbitration proceeding would interfere with the agency's fulfilling that requirement.

Source of Request

Whether the initial request is from an outside party, a joint request of the agency and an outside party or from specified agency personnel.

Recommendation

Whether the initiating agency official recommends accepting or denying the request to arbitrate.

Disputed Issues

A brief description of the disputed issues, or if in litigation, the status of the litigation.

Failure of Consensual Forms of ADR

A description of the consensual forms of ADR that have been offered or attempted and the outcome. This should include a statement of why further attempts with consensual approaches are inappropriate or impractical.

Parties

A list of the parties' representatives for the arbitration. (Under the ADRA, federal agencies must have policies regarding outside parties use of non-attorneys to represent them in alternative dispute proceedings. (See Issue No. 13.))

Draft Agreement to Arbitrate

A draft arbitration agreement agreed to by both parties as an attachment to the memorandum.

Issue 6—How Can an Agency Encourage the Efficiency of the Arbitration Process?

A. Limit the scope of discovery.

B. Establish reasonable deadlines for discovery, the hearing, and rendering the award. Concerning the hearing, the ADRA states only that it shall be conducted expeditiously. See section 579(c)(3). Therefore, it may be useful to include specifics about timing in the agreement to arbitrate.

The issuance of the award, an area in which delay frequently occurs, has been dealt with more specifically in the ADRA. Section 579(d)(1) requires that an award be issued within 30 days after the close of the hearing or filing of post-hearing briefs

authorized by the arbitrator, unless otherwise agreed to by the parties or so stated in an agency rulemaking. Finally, the ADRA states that awards can only be enforced 30 days after service on both parties, when they are considered as ''final''. See section 580(b).

C. Limit the number of witnesses.

D. Use one arbitrator and give that person the authority to tightly control the proceeding.

E. Agree to arbitrate by document review or by phone in appropriate cases.

Issue 7—How and By Whom Will Outside Requests for Binding Arbitration Be Accepted?

Forms of Request

If an agency decides to entertain requests for binding arbitration from outside parties, it should consider having both an informal and a formal process for receiving them. The informal process might be nothing more than a party asking the designated agency representative if the agency would consider using binding arbitration, or might include a short request form to be filled out by the outside party and delivered to the agency representative. The request form will ensure that the agency can track arbitration requests efficiently and will be an easy way to obtain the opposing party information that may be needed to complete the agency's arbitration recommendation process.

The agency should determine who will respond and whether to suggest that a formal request should be made.

Formal Request Process

A formal request process should require the outside party or its representative to submit a written request to a specific agency office for initial processing and tracking purposes and might include a checklist provided by the agency to ensure that all the information necessary to process the request is obtained. A formal request for arbitration would require the agency to conduct a formal review and prepare a written response approving or rejecting the request.

It is recommended that all arbitration requests be screened by the agency's Dispute Resolution Specialist.

Issue 8—Will the Agency Allow Arbitration Clauses To Be Written Into Contracts?

Normally, parties enter arbitration at the request of either party to a dispute, although both must agree to arbitrate. As detailed below, parties may also use a pre-existing arbitration clause they have negotiated in a contract. Regardless of how arbitration is begun, it is critical that the ground rules are carefully negotiated to meet the requirements of the ADRA and the goals of the agency. For agencies which allow binding arbitration clauses to resolve future disputes, i.e., in contracts, it is important to draft the provision carefully, since the agency must comply whenever the other party requests arbitration pursuant to the contract. It is imperative for agencies to balance their statutory duty to limit agency exposure with a desire to include provisions calling for the use of arbitration in pre-existing contracts. Despite the most careful drafting, it is unlikely that the original drafters can foresee the exact nature of a future dispute. Therefore, it is useful to include a statement to this effect:

If there is a dispute under this contract that is subject to arbitration, the parties will meet and negotiate in good faith any necessary procedural changes from the original requirements, in an effort to reasonably expedite the process and otherwise to fit the process to the dispute and the value at risk.

Issue 9—If the Agency Allows Arbitration Clauses in Contracts, What Should Be Included in the Clause?

An agency might want to include the necessity for negotiation by senior fficials and/or mediation before arbitration may be invoked. See Appendix B for Sample Dispute Resolution Contract language. Agencies must also devise a means to satisfy the statutorily required cap on government exposure when including arbitration clauses in contracts.

Issue 10—What is the Arbitrator's Role Under the ADRA?

Under the ADRA, arbitrators may: Regulate the course and conduct of hearings; Administer oaths; Compel attendance of witnesses and production of evidence, to the extent that the agency is authorized to do so by law; and Issue awards.

In a complex arbitration, it is useful to have a case management approach, negotiated by the parties, for the arbitrator to follow. This will save time and money without diminishing the results. It is also recommended that the parties choose an arbitrator who will respect the time limits established in the agreement and move the process along.

Issue 11—Will the Agency Agree to a Panel of Arbitrators in Some Circumstances?

Generally, a single arbitrator is sufficient and saves time and money. Exceptions might be technical cases where a person with relevant expertise is deemed necessary. Traditionally, when more than one arbitrator is desired, each party picks one and they agree on the third. However, since the costs in time and money increase exponentially as the number of arbitrators increases, it may be wise to try to find one person with the necessary expertise.

Issue 12—What Selection Criteria Will Be Considered in Choosing an Arbitrator?

The ADRA allows an agency to use, with or without reimbursement, the services and facilities of other Federal agencies, State, local, and tribal governments, public and private organizations and agencies, and individuals, with the consent of such agencies, organizations, and individuals, and without regard to the provisions of 31 U.S.C. 1342. A judge from a Federal Board of Contract Appeals may also be used if the parties agree.

As with any other neutral, an arbitrator who is agreed upon by the parties may be selected non-competitively. The contract must be in place before any work begins. See Appendix C for a checklist for selection of arbitrators.

Issue 13—Will the Agency Agree To Allow Non-Attorneys To Represent a Party, or for a Party To Appear Pro Se, at the Arbitration?

Federal agencies should have policies regarding the use of non-attorneys by outside parties in arbitration. Agencies may decide that it will not allow non-attorneys, or parties appearing pro se in all cases, or that it will require attorneys only in highly complex or specialized proceedings.

Both in choosing to arbitrate and in engaging in the actual arbitration, parties irrevocably impact their rights and potential legal remedies, far more so than in consensual decision-making ADR processes. Because the arbitration decision rests in the hands of a third party neutral, the ability of the parties to present and argue evidence adequately is far more essential than in other, non-binding forms of ADR. If an agency chooses to allow representation by non-attorneys (or by the parties acting pro se), it should consider requiring the parties to sign an acknowledgment of the risks and limitations of arbitration before agreeing to arbitrate the dispute.

Issue 14—What Should an Agreement To Arbitrate Include?

The agreement to arbitrate must be in writing and should include:

1. The names of the parties.

2. The issues being submitted to binding arbitration. The parties can submit all or only certain issues in controversy to binding arbitration.

3. The maximum award (cap) that the arbitrator may direct. (This must be negotiated by the parties prior to signing the Agreement.)

4. Any other conditions limiting the range of possible outcomes.

5. The scope of the arbitration. This will limit time and cost and give the arbitrator power to be a ''case manager''.

A sample case management provision might read, ''The Arbitrator is expected to assume control of the process and to schedule all events as expeditiously as possible, to insure that an award is issued no later than ____ days from the date of this agreement. Failure of the arbitrator to assume such responsibility shall be deemed a breach of this contract.'' This lets the arbitrator know he has the support of the parties to manage them and the arbitration.

6. A reference to which procedural rules will apply. This must be designed to comply with the ADRA, including the amount and nature of the discovery to be allowed, and the deadlines to be imposed for discovery, the hearing, and the arbitrator's award. Agencies should not enter into pre-dispute binding arbitration clauses or post-dispute agreements to arbitrate without careful consideration of any other local, state or federal substantive, procedural, and arbitration statutes. Without a well-drafted choice of law provision, an arbitrator may be free to disregard any applicable statute of limitations, may be free to disregard either the substantive or procedural law the agency intended to be applied in the arbitration, and may be free to disregard the arbitration law the agency expected to be applied.

Including an explicit limitation period in the agreement to arbitrate or arbitration

clause will avoid most statute of limitations disputes. Questions of which substantive or procedural law should apply can be limited by avoiding the common ''this contract shall be construed under the law of * * *'' language and using a more generic clause like ''all disputes referred to arbitration and the statute of limitations and the remedies for any wrongs that may be found, shall be governed by the law of * * *''. Similar care should be given to the designation of the ADRA or Federal Arbitration Act as the applicable arbitration statute.

7. The name of the arbitrator, the amount of compensation and how it will be paid. (Avoid any agreement or rule that provides for deposits in an escrow account to pay for expenses of the proceeding, that is, in advance of incurring such expenses.)

8. The date when the arbitration will commence.

9. The type of remedy available.

A sample Agreement to Submit to Binding Arbitration is at Appendix D.

Issue 15—How Will the Agency Pay the Arbitrator(s)?

Generally, the parties agree in advance to share administrative fees and arbitrator fees and costs, which will be paid after issuance of the award. The government may not escrow funds or pay in advance for arbitrator or administrative fees.

Issue 16—Is the Agency Willing To Use Administered Arbitration?

Agencies may use an ADR organization to administer an arbitration. The organization could assist in the following tasks: Narrowing the issues, negotiating the cap, selecting the arbitrator (with the parties' participation), providing rules, scheduling the hearings, mailing the awards and billing for services. Organizations charge a fee which should be paid equally by the parties.

Outside organizations are more likely to be needed where the dispute has been longstanding and there is a great deal of animosity between the parties. In addition, when agencies use arbitration clauses in contracts, it is important that they NOT merely incorporate the rules of an ADR organization and assume they will apply when and if a dispute later arises. There will likely be provisions in these rules which are inconsistent with the ADRA. Thus, any arbitration rules must be jointly reviewed before adoption or inclusion in a contract.

If an agency prefers ad hoc, or ''do it yourself'' arbitration, it should have clear guidance and well-trained personnel, who consult with the agency Dispute Resolution Specialist.

Issue 17—What Must the Arbitration Award Include?

Form of Award

An arbitrator's decision is called an ''award'' and the opinion, or findings and conclusions, are known as ''reasons''. Under the ADRA, an arbitration award must be in the form of a document that can be filed with the parties, including the relevant Federal agency.

Confidentiality

Although it is often the practice in the private sector to keep arbitration awards confidential, *Federal Agencies Cannot Keep Arbitration Awards Confidential.* In addition, such awards will be agency records for the purposes of FOIA and subject to disclosure. Protected proprietary or Privacy Act information can be redacted and is subject to reverse FOIA actions. Under the requirements of the ''Electronic FOIA'' amendments, agencies must provide electronic access to material that is subject to repeated request, which may include arbitration awards.

Cap on Award

An arbitration award under the ADRA cannot exceed the monetary cap negotiated by the parties and specified in the arbitration agreement. A well-drafted arbitration agreement should also have limited the type and form of remedy that an arbitrator can award. In most (though not all) jurisdictions, an arbitrator can utilize any form of remedy a court in that jurisdiction may provide; in some jurisdictions, an arbitrator may order any remedy that is not specifically forbidden by the arbitration agreement. The ADRA provides that an arbitration award cannot be used to estop a party on an issue in another proceeding, and that arbitration awards cannot be used as precedent, or ''otherwise be considered in any factually unrelated proceeding.'' We note, however, that arbitration decisions are given precedential weight in some fields and, as an agency's (and the federal sector's) experience with arbitration grows, its arbitration decisions may come to have informal, if not formal, persuasive power.

''Naked Award''

An agency might want to consider permitting a ''naked award'' which provides only a monetary amount. This has the advantage of reduced time and cost and may be all the parties require. The parties may be able to request to have this award issued immediately post-hearing. Many arbitrators prefer this type of award as well, as it limits grounds for appeal. Arbitration awards under the ADRA are subject to enforcement under the Federal Arbitration Act (FAA), Title 9, United States Code. The FAA and the relevant case law provide very limited grounds on which a court may vacate an arbitration award, beyond fraud in the arbitration process. Unlike judicial opinions, clear or even egregious error of fact or law may not sufficient to overturn an arbitration award. Courts tend to require a very strong showing on the available appeal grounds before declining to enforce arbitration awards. To vacate an arbitration award, it will probably be necessary to show manifest disregard of the law (which some jurisdictions limit to cases in which a party can show that an arbitrator knowingly misapplied the relevant law; even gross error may not be sufficient if it cannot be shown to be intentional) or that an arbitrator acted outside of the scope of arbitral authority defined in the underlying arbitration agreement. The simpler and more limited form of award the agency requires, the less likely it is that any party will be able to sustain an appeal to an arbitration award in court. Similarly, an arbitration award which requires more than basic information into the arbitrator's reasoning provides greater opportunity for successful appeal of a poorly reasoned arbitration decision. In considering requirements for arbitration awards, agencies must weigh the value of finality against the ability to seek correction of significant error by arbitrators. Other factors will affect this decision. For instance, if the agency will use arbitration only in certain areas or when there is only a low monetary exposure, the value of finality is likely to outweigh the concern for appeal. If, however, the parties believe they need more than a ''naked award,'' they may set a page limit for the arbitrator or request that the award state only those reasons necessary to support it, rather than address all issues presented in evidence. Or, they can request a more complex award form, including formal findings of fact and law and articulated reasoning.

Flexible Format

An agency that wishes to provide flexibility for parties to mutually agree to an award format other than a ''discussion of the factual and legal basis for the award'' is required by the ADRA to publish a rule in the **Federal Register** authorizing that procedure. See: 5 U.S.C. 580(a)(1). As it would be a procedural rule and would have no significant effect or impact on the substantive rights or obligations of non-agency persons, prior notice and opportunity for public comment is not required.

Issue 18—Will the Agency Allow Arbitration on the Documents Only, Without a Hearing, and if so, in What Circumstances?

In simpler cases, the parties may agree to have the arbitrator issue an award after only a document review. This has the advantage of saving time, money and avoiding scheduling conflicts. It may not, however, be the best choice where credibility of a party or witnesses is an issue, as there will be no opportunity to argue or cross-examine.

The arbitrator may also conduct all or part of a hearing by telephone, video conferencing or computer, as long as each party has an equal opportunity to participate.

Issue 19—What Selection Criteria Will Be Considered in Choosing or Amending Arbitration Rules and What Must Those Rules Include?

Many ADR providers, or large international organizations, have rules which will require some changes to conform to the ADRA. In time, they will most likely develop special rules for Federal agencies.

In addition, most providers have expedited rules which agencies should consider. Simple cases require less rigorous rules than do complicated, expensive ones.

Section IV—Procedures for Obtaining Department of Justice Approval for Agency Binding Arbitration Guidance

This portion of the Handbook addresses the procedures for obtaining Department of Justice approval of agency guidance on the subject of binding arbitration. Pursuant to section 575(c) of the Administrative Dispute Resolution Act of 1996, 5 U.S.C. 575, agencies that wish to use binding arbitration must issue guidance on the appropriate use of this dispute resolution process. Such

guidance must take into account the factors identified by Congress in section 572(b) of the Act, and should identify when an officer or employee of the agency has authority to settle an issue in controversy through binding arbitration. Congress also provided that agency guidance on this subject be issued in consultation with the Attorney General.

As a general rule, the Department of Justice will defer to the judgment and expertise of other agencies in the use of binding arbitration to resolve issues in controversy pending before those agencies. The Department interprets its statutory obligation under section 575(c) as a duty to insure that those agencies seeking to use binding arbitration will be able to make appropriately informed judgments, mindful of the concerns of Congress that led it to authorize this process in a limited and carefully circumscribed manner.

These are the standards that the Department of Justice will apply in reviewing agency guidance for use of binding arbitration.

Does the agency's guidance facilitate a thorough application of the statutory criteria in section 572(b) for when dispute resolution proceedings are inappropriate to the issues in controversy for which binding arbitration might be considered.

Does the agency's guidance contain sufficient information to permit users of that document to make informed decisions about the use of binding arbitration, including an assessment of the benefits of binding arbitration as measured against the costs or risks associated with that process for resolving specific issues in controversy.

Does the agency's guidance demonstrate that it was prepared with specific reference to the types of issues in controversy that arise in the course of fulfilling that agency's statutory missions.

Agencies seeking Department of Justice review of binding arbitration guidance should send such documents to the Office of Dispute Resolution, U.S. Department of Justice, Washington, D.C. 20530. Where appropriate, the Office of Dispute Resolution may consult with other components of the Department of Justice as part of the review process. Questions concerning this process can be presented by calling the Office at 202–616–9471.

Appendix A—Declaration of Policy on Use of Alternative Means of Dispute Resolution

Pursuant to the provisions of the Administrative Dispute Resolution Act of 1996 and the Presidential Memorandum of May 1, 1998, implementing that act, the _____ Department/Agency recognizes that in appropriate circumstances, there may be more effective methods to resolve issues in controversy that arise involving the Department/agency than through reliance upon more adversarial administrative processes. The voluntary use of alternative means of dispute resolution, such as mediation, fact-finding, ombuds, neutral evaluation, and arbitration, often can provide faster, less expensive, and more effective resolution of disputes that arise with employees, contractors, the regulated community and others with whom the Department/agency does business. In recognition of this, the _____ Department/agency declares that: (1) Its managers and attorneys will be knowledgeable about alternative means of dispute resolution; (2) its managers and attorneys will examine the suitability of using alternative means of dispute resolution when issues in controversy arise involving the Department/agency; and (3) in appropriate disputes, its managers and attorneys will use alternative means of dispute resolution in a good faith effort to achieve consensual resolutions of issues in controversy involving the Department/Agency.

Appendix B—Dispute Resolution Contract Clause

1. Negotiation

The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement by negotiating between executives and/or officials who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this contract. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within 15 days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and the response shall include: (a) A statement of each party's position and a summary of arguments supporting that position, and (b) the name and title of the executive or official who will represent that party and of any other person(s) who will accompany the executive or official. Within 30 days after delivery of the disputing party's notice, the representatives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored.

If the matter has not been resolved within 60 days of the disputing party's notice, or if the parties fail to meet within 30 days, either party shall/may initiate mediation of the controversy or claim as provided hereafter.

2. Mediation

In the event the dispute has not been resolved by negotiation as provided herein, the parties agree to participate in mediation, using a mutually agreed upon mediator. The mediator will not render a decision, but will assist the parties in reaching a mutually satisfactory agreement. The parties agree to share equally the costs of the mediation. The first mediation session shall commence within 30 days from agreement. If the matter has not been resolved within 60 days of the first mediation session, either party may/shall initiate arbitration as provided hereafter.

3. Arbitration

Any dispute not otherwise satisfactorily resolved (shall, may) be submitted to arbitration. (Details for specific arbitration procedures to be added; for example, the name of an ADR provider, the rules under which the arbitration will be conducted, the method the parties will use to select an arbitrator, etc.

Appendix C—Checklist for the Selection of Arbitraror

1. Determine the number of arbitrators to conduct the proceeding. (See Issue No. 11).

2. Design the selection procedure so the agency may place names on the proposed list of arbitrators along with the other parties.

3. Provide an opportunity for the agency to strike any of the proposed arbitrators.

4. Establish time limits so the selection process moves expeditiously to completion.

5. Consult with your agency's Dispute Resolution Specialist, Senior Counsel for Dispute Resolution at DOJ, local bar organizations, and ADR entities for lists/rosters of arbitrators suitable for governmental use.

6. Determine if the parties will agree on selection of the arbitrator themselves or if they will use an organization to assist them.

7. Research carefully the experience and ability of all proposed arbitrators. In addition, consider the following factors:

Does the arbitrator have a reputation for integrity? (Check references)

Does the arbitrator have extensive arbitration experience?

What kind of specific subject matter expertise, if any, is needed?

Does the arbitrator's background show any leaning or predilections?

If the arbitrator is a practicing attorney, does he specialize in plaintiffs' and/or defendants' work?

Has the arbitrator worked with big companies, small companies and/or governmental agencies?

Where is the arbitrator located geographically?

Does the arbitrator's background indicate a preference for more formal proceedings as opposed to less formal ones?

Is the arbitrator available when necessary, and is the arbitrator's calendar free enough to expeditiously handle your case?

Does the arbitrator have a record of being reasonably prompt in scheduling hearings and issuing decisions?

Is the arbitrator's rate for services consistent with the rates that the agency ordinarily would pay for similar services? (Check to see if a government rate is available.)

8. Establish disclosure requirements that comply with agency conflict of interest regulations to ensure that an arbitrator has no official, financial, or personal conflict of interest with any of the involved entities, unless such interest is fully disclosed in writing to all parties, and all parties agree that the arbitrator may serve.

9. Provide procedures to replace the arbitrator if the position becomes vacant by disqualification or disability.

Note: You may hire an ADR provider to administer the arbitration and perform all these functions for you. (See Issue No. 16.)

Appendix D—Agreement to Submit to Binding Arbitration

We, the undersigned parties, hereby voluntarily agree to submit the following controversy to binding arbitration: (briefly describe the controversy). We agree upon _____ as the arbitrator, to be paid at the rate of $_____, which will be jointly shared by the parties. We further agree that the arbitration shall be conducted under the (identify the applicable procedural rules). We further agree that we shall faithfully observe this agreement and the (applicable procedural rules), that we will abide by and perform any award rendered by the arbitrator, and that a judgment of a court with appropriate jurisdiction may be entered on the award. Finally, we agree that the maximum award that the arbitrator can issue in this binding arbitration shall not exceed (insert here the maximum award that may be issued by the arbitrator and specify other conditions limiting the range of possible outcomes).

[FR Doc. 00–20828 Filed 8–15–00; 8:45 am]

BILLING CODE 4410–AR–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Division Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Revision of previously approved collection: Analysis of Law Enforcement Officers Killed and Assaulted.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until October 16, 2000.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.*, permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Greg Scarbro (phone number and address listed below). Additional information as well as copies of the proposed information collection instrument with instructions are available by contacting Greg Scarbro, Unit Chief, telephone 304–625–4830, FBI, CJIS Division, Statistical Unit, E–3, 1000 Custer Hollow Road, Clarksburg, WV 26306.

Overview of this information collection:

(1) Type of information collectin: Previously approved collection by OMB; request for revision of current form used for collecting information.

(2) The title of the form/collection: Analysis of Law Enforcement Officers Killed and Assaulted.

(3) The agency form number, if any, and applicable component of the department sponsoring the collection. Form: 1–728. Federal Bureau of Investigation, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: Local and State Law Enforcement Agencies. Collection will be printed in English and Spanish. This collection is needed to provide data regarding Law Enforcement Officers Killed and Assaulted throughout the United States. Data is analyzed, tabulated, and published in the comprehensive annual *Law Enforcement Officers Killed and Assaulted.*

(5) The FBI UCR Program is currently reviewing its race and ethnicity date collection in compliance with the Office of Management and Budget's *Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity.*

(6) An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply: 17,667 agencies with 570 estimated annual responses (zero reports are not required); and with an average of 1 hour per report per responding agency.

(7) An estimate of the total public burden (in hours) associated with this collection: 570 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 11, 2000.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 00–20813 Filed 8–15–00; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Division Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Revision of previously approved collection: Law Enforcement Officers Killed and Assaulted LEOKA.

The proposed information collection is published to obtain comments from

the public and affected agencies. Comments are encouraged and will be accepted until October 16, 2000.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Greg Scarbro (phone number and address listed below). Additional information as well as copies of the proposed information collection instrument with instructions are available by contacting Greg Scarbro, Unit Chief, telephone 304–625–4830, FBI, CJIS Division, Statistical Unit, E–3, 1000 Custer Hollow Road, Clarksburg, WV 26306.

Overview of this information collection:

(1) Type of information collection: Previously approved collection by OMB; request for revision of current form used for collecting information.

(2) The title of the form/collection: Law Enforcement Officers Killed and Assaulted (LEOKA).

(3) The agency form number, if any, and applicable component of the department sponsoring the collection. Form: 1–705. Federal Bureau of Investigation, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: Local and State Law Enforcement Agencies. This collection is needed to provide data regarding Law Enforcement Officers Killed and Assaulted throughout the United States. Data is tabulated and published in the comprehensive annual *Law Enforcement Officers Killed and Assaulted.*

(5) The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's *Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity.*

(6) An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply: 17,667 agencies with 212,004 estimated annual responses (includes zero reports): and with an average completion time of 7 minutes a month per responding agency.

(7) An estimate of the total public burden (in hours) associated with this collection: 24,734 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 11, 2000.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 00–20814 Filed 8–15–00; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 10, 2000.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, and VETS contact Darrin King ((202) 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Applications to Employ Homeworkers Piece Rate Measurements, Homeworkers Handbook.

OMB Number: 1215–0013.

Affected Public: Business or other for-profit; Individuals or households; and Not-for-profit institutions.

Frequency: On occasion.

Reporting Burden:

Title	Agency No.	Number of respondents	Number of responses	Estimated time per response (in minutes)	Burden hours
Application to Employ Homeworkers	WH–46	71	36	30	18
Homeworker Handbooks	WH–75	4,684	18,736	30	9,368

Recordkeeping Burden:

Title	Number of respondents	Number of responses	Estimated time per response (in minutes)	Burden hours
Piece Rate Measurement	71	213	60½	215
Homeworker Handbooks	1,171	18,736	½	156

Total Respondents (Reporting and Recordkeeping): 4,755.

Total Annual Responses (Reporting and Recordkeeping): 18,985.

Total Burden Hours (Reporting and Recordkeeping): 9,757.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $12.96.

Description: These reporting and recordkeeping requirements for employers and employees in industries employing homeworkers are necessary to insure employees are paid in compliance with the Fair Labor Standards Act.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Rehabilitation Maintenance Certification.

OMB Number: 1215–0161.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; and State, Local, or Tribal Government.

Frequency: Monthly.

Number of Respondents: 1,300.

Number of Annual Responses: 15,600.

Estimated Time Per Response: 10 minutes.

Total Burden Hours: 2,605.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The OWCP–17 serves as a bill submitted by the injured worker or OWCP, requesting reimbursement of expenses incurred due to participation in an approved rehabilitation effort for the preceding four week period or fraction thereof.

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 00–20765 Filed 8–15–00; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 10, 2000.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159, or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, VETS contact Darrin King ((202) 219–5096, ext. 151, or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSNA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Fire Protection for Underground Coal Mines.

OMB Number: 1219–0054.

Affected Public: Business or other for-profit.

Frequency: On Occasion; Annually; Semi-annually; Quarterly; and Weekly.

Number of Respondents: 1,275.

Number of Annual Responses: 398,339.

Estimated Time Per Response: Varies from 2 minutes to examine a fire extinguisher to approximately 30 minutes to prepare a fire protection program.

Total Burden Hours: 89,263.

Total Annualized Capital/Startup Costs: $1,695.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Requires underground coal mine operators to adopt an MSHA approved program for the instruction of miners in fire fighting and evacuation procedures. In addition fire extinguishers are to be examined every 6 months; fire drills conducted every 90 days; automatic fire sensor and warning device systems are to be examined weekly and tested annually; and fire hydrants and hose are to be tested at least once a year. These provisions also require that the mine operator maintain a record or certification that the fire drills and examinations and tests were conducted.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Petitions for Modification, Pertains to All Mines.

OMB Number: 1219–0065.

Affected Public: Business or other for-profit.

Frequency: On Occasion.

Number of Respondents: 174.

Number of Annual Responses: 174.

Estimated Time Per Response: 40 hours.

Total Burden Hours: 5,400.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $78,522.

Description: Provides procedures for petitions for modification by which a mine operator, representative of miners, or independent contractor may request relief from mandatory safety standards.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 00–20766 Filed 8–15–00; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 3–2000]

Delegation of Authority and Assignment of Responsibility to the Assistant Secretary for Occupational Safety and Health

1. *Purpose.* To delegate authority and assign responsibility to the Assistant Secretary for Occupational Safety and Health.

2. *Directives Affected.* This Order repeals Secretary's Order 6–96 (Occupational Safety and Health).

3. *Background.* This Order, which repeals and supersedes Secretary's Order 6–96, constitutes the basic Secretary's Order for the Occupational Safety and Health Administration (OSHA). Specifically, this delegates and assigns responsibility to OSHA for enforcement of Section 519 (Protection of employees providing air safety information) of Public Law 106–81 (106th Cong.), the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, 49 U.S.C. 40101 note. Additionally, this Order includes an express delegation to the Assistant Secretary of the authority, implicitly delegated in prior Orders, to invoke appropriate claims of governmental privilege.

All other authorities and responsibilities set forth in this Order were delegated or assigned previously to the Assistant Secretary for OSHA in Secretary's Order 6–96, and this Order continues those delegations and assignments in full force and effect, except as expressly modified herein.

4. *Delegation of Authority and Assignment of Responsibility.*

a. *The Assistant Secretary for Occupational Safety and Health*

(1) The Assistant Secretary for Occupational Safety and Health is delegated authority and assigned responsibility for administering the safety and health programs and activities of the Department of Labor, except as provided in subparagraph 4.a.(2) below, under the designated provisions of the following statutes:

(a) The Occupational Safety and Health Act of 1970, 29 U.S.C. 651, *et seq.*

(b) The Walsh-Healey Public Contracts Act of 1936, as amended, 41 U.S.C. 35, 37–41, 43–45.

(c) The McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 351–354, 356–357.

(d) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 329, 333.

(e) The Maritime Safety Act of 1958, 33 U.S.C. 941.

(f) The National Foundation on the Arts and the Humanities Act of 1965, 20 U.S.C. 954(i)(2).

(g) 5 U.S.C. 7902 and any Executive Order thereunder.

(h) Executive Order 12196 (''Occupational Safety and Health Programs for Federal Employees'') of February 26, 1980.

(i) 49 U.S.C. 31105, the whistleblower provision of the Surface Transportation Assistance Act of 1982.

(j) Section 211 of the Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. 2651.

(k) Section 7 of the International Safe Container Act, 46 U.S.C. App. 1505.

(l) Section 1450(i) of the Safe Drinking Water Act, 42 U.S.C. 300j–9(i).

(m) Section 211 of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851.

(n) Section 110 (a)–(d) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9610 (a)–(d).

(o) Section 507 of the Federal Water Pollution Control Act, 33 U.S.C. 1367.

(p) Section 23 of the Toxic Substances Control Act, 15 U.S.C. 2622.

(q) Section 7001 of the Solid Waste Disposal Act, 42 U.S.C. 6971.

(r) Section 322 of the Clean Air Act, 42 U.S.C. 7622.

(s) Section 519 of the Wendell H. Ford Aviation Investment and Reform Act For the 21st Century, 49 U.S.C. 40101 note.

(t) Responsibilities of the Secretary of Labor with respect to safety and health provisions of any other Federal statutes except those related to mine safety and health, the issuance of child labor hazardous occupation orders, and Department of Labor employee safety and health, which are administered pursuant to Secretary's Orders 3–78, 5–96, and 5–95, respectively.

(2) The authority of the Assistant Secretary for Occupational Safety and Health under the Occupational Safety and Health Act of 1970 does not include authority to conduct inspections and investigations, issue citations, assess and collect penalties, or enforce any other remedies available under the statute, or to develop and issue compliance interpretations under the statute, with regard to the standards on:

(a) field sanitation, 29 C.F.R. 1928.110; and

(b) temporary labor camps, 29 C.F.R. 1910.142, with respect to any agricultural establishment where employees are engaged in ''agricultural employment'' within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that the Assistant Secretary for Occupational Safety and Health retains enforcement responsibility over temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

Nothing in this Order shall be construed as derogating from the right of States operating OSHA-approved State plans under 29 U.S.C. 667 to continue to enforce field sanitation and temporary labor camp standards if they so choose. The Assistant Secretary for OSHA retains the authority to monitor the activity of such States with respect to field sanitation and temporary labor camps. Moreover, the Assistant Secretary for OSHA retains all other agency authority and responsibility under the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps, such as rulemaking authority.

(3) The Assistant Secretary for OSHA is hereby delegated authority and assigned responsibility to invoke all appropriate claims of governmental privilege, arising from the functions of OSHA, following personal consideration of the matter, and in accordance with the following guidelines:

(a) Informant's Privilege (to protect from disclosure the identity of any person who has provided information to OSHA in matters arising under an authority delegated or assigned in this paragraph): A claim of privilege may be asserted where the Assistant Secretary has determined that disclosure of the privileged matter may: (1) Interfere with an investigative or enforcement action taken by OSHA under an authority delegated or assigned to OSHA in this paragraph; (2) adversely affect persons who have provided information to OSHA; or (3) deter other persons from

reporting a violation of law or other authority delegated or assigned to OSHA in this paragraph.

(b) Deliberative Process Privilege (to withhold information which may disclose pre-decisional intra-agency or inter-agency deliberations, including the analysis and evaluation of fact, written summaries of factual evidence, and recommendations, opinions or advice on legal or policy matters in matters arising under this paragraph): A claim of privilege may be asserted where the Assistant Secretary has determined that disclosure of the privileged matter would have an inhibiting effect on the agency's decision-making processes.

(c) Privilege for Investigational Files Compiled for Law Enforcement Purposes (to withhold information which may reveal OSHA's confidential investigative techniques and procedures): The investigative file privilege may be asserted where the Assistant Secretary has determined the disclosure of the privileged matter may have an adverse impact upon OSHA's implementation of an authority delegated or assigned in this paragraph, by: (1) Disclosing investigative techniques and methodologies; (2) deterring persons from providing information to OSHA; (3) prematurely revealing the facts of OSHA's case; or (4) disclosing the identities of persons who have provided information under an express or implied promise of confidentiality.

(d) Prior to filing a formal claim of privilege, the Assistant Secretary shall personally review all documents sought to be withheld (or, in case where the volume is so large that all of them cannot be personally reviewed in a reasonable time, an adequate and representative sample of such documents), together with a description or summary of the litigation in which the disclosure is sought.

(e) In asserting a claim of governmental privilege, the Assistant Secretary may ask the Solicitor of Labor, or the Solicitor's representative, to file any necessary legal papers or documents.

(4) The Assistant Secretary for Occupational Safety and Health is also delegated authority and assigned responsibility for:

(a) Serving as Chairperson of the Federal Advisory Council on Occupational Safety and Health, as provided for by Executive Order 12196.

(b) Coordinating Agency efforts with those of other officials or agencies having responsibilities in the occupational safety and health area.

b. The *Assistant Secretary for Occupational Safety and Health and the Assistant Secretary for Employment Standards* are directed to confer regularly on enforcement of the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps (see subparagraph 4.a.(2) of this Order), and to enter into any memoranda of understanding which may be appropriate to clarify questions of coverage which arise in the course of such enforcement.

c. The *Solicitor of Labor* shall have the responsibility for providing legal advice and assistance to all officers of the Department relating to the administration of the statutory provisions and Executive Orders listed above. The bringing of legal proceedings under those authorities, the representation of the Secretary and/or other officials of the Department of Labor, and the determination of whether such proceedings or representations are appropriate in a given case, are delegated exclusively to the Solicitor.

d. *The Commissioner of Labor Statistics* is delegated authority and assigned responsibility for:

(1) Furthering the purpose of the Occupational Safety and Health Act by developing and maintaining an effective program of collection, compilation, analysis, and publication of occupational safety and health statistics consistent with the provisions of Secretary's Orders 4–81 and 5–95.

(2) Making grants to states or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics under Sections 18, 23, and 24 of the Occupational Safety and Health Act.

(3) Coordinating the above functions with the Assistant Secretaries for Occupational Safety and Health and Employment Standards.

5. *Reservation of Authority and Responsibility.*

a.The submission of reports and recommendations to the President and the Congress concerning the administration of the statutory provisions and Executive Orders listed in subparagraph 4.a. above is reserved to the Secretary.

b. The commencement of legal proceedings under the statutory provisions listed in subparagraph 4.a. above, except proceedings before Department of Labor administrative law judges and the Administrative Review Board under the statutes identified in subparagraph 4.a.(1)(i) or subparagraphs 4.a.(1)(l–s) above, is reserved to the Secretary. The Solicitor will determine in each case whether such legal proceedings are appropriate and may represent the Secretary in litigation as authorized by law.

c. Nothing in this Order shall limit or modify the delegation of authority and assignment of responsibility to the Administrative Review Board by Secretary's Order 2–96 (April 17, 1996).

6. *Redelegation of Authority.* The Assistant Secretary for Occupational Safety and Health, the Solicitor of Labor, and the Commissioner of Labor Statistics may redelegate authority delegated in this Order.

7. *Effective Date.* This delegation of authority and assignment of responsibility shall be effective immediately.

Dated: July 18, 2000.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 00–20762 Filed 8–15–00; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 2–2000]

U.S. Department of Labor Internet Services

1. *Purpose.* To establish policy and assign responsibilities for the development, implementation, institutionalization, and continuing support of Department of Labor public Internet services.

2. *Authority and Relationship to Other Orders* a. *Authority.* This Order is issued pursuant to 29 U.S.C. 551 *et seq.*; 5 U.S.C. 301; and sections 5122–5127 of the Clinger-Cohen Act [40 U.S.C. 1422–27].

b. *Relationship to Other Orders.*

(1) This Order does not affect Secretary's Order 2–82, which delegates responsibilities to the Assistant Secretary for Policy.

(2) This Order does not affect Secretary's Order 1–2000, which delegates responsibilities to the Chief Information Officer.

(3) This Order does not affect Secretary's Order 7–89, which delegates responsibilities to the Assistant Secretary for Congressional and Intergovernmental Affairs and the Assistant Secretary for Public Affairs.

(4) This Order does not affect Secretary's Order 6–83 which establishes procedures regulating departmental audiovisual activities.

3. *Background.* The Department of Labor (DOL) established a central public Internet web site in September 1995. By March 2000, thousands of documents had been published on the DOL site and

the number of visitors had reached more than 12.5 million each month. The importance of the DOL web site to the public continues to expand.

4. *Statement of Policy.* The public Internet web site has emerged as, and will continue to be, a key vehicle for the Department's communications with the public. DOL's ability to communicate and conduct business with the public will continue to require the effective use and management of Internet technology. To effectively utilize Internet services, the Department must appropriately integrate them into its daily program and administrative operations. To formally implement this process, the Department must:

a. Assure the availability of regularly updated information about DOL and its laws, regulations, programs, activities, and data to the public through the web site.

b. Provide a mechanism for DOL to improve its ability to communicate and do business with the public through the Internet.

c. Assure adequate planning and resources, including training of DOL employees, to support current and future operations of DOL web site services.

d. Ensure that Departmental use of the web site is in compliance with statutory and administrative information technology (IT) mandates.

e. Ensure that all information placed on the main DOL or individual agency web sites receives appropriate review and clearance within the Department prior to issuance, including consideration of all appropriate factors such as: the need for coordination between relevant agencies; appropriate levels of clearance; timeliness and accuracy of information; and the implications of applicable statutory and administrative requirements or guidelines.

f. Ensure that web site clearance requirements and processes are properly integrated with general Department and agency clearance requirements and processes.

g. Promote easy access to DOL public web site information through user-friendly, effective and efficient web sites and maximize the use of accessibility features to make it easier for members of the public, including those with special needs, to find the information they seek.

h. Promote secure, transactional e-government activities on the DOL web site.

5. *Definitions.* a. ''Agency Public Web Site Content Clearance Processes'' refers to the procedures to be developed by individual DOL agencies for purposes of reviewing and approving documents and other substantive materials to be placed on their web sites (see paragraph 6f(4));

b. ''Application and Presentation Activities'' refers to activities that occur at different layers of the Open Systems Interconnect (OSI) model. The OSI model is a network model that professionals can use to develop and administer networking systems. This model was developed by the International Standards Organization (ISO).

(1) The Presentation Layer translates the sender's data to the format of the receiver.

(2) The Application Layer includes all the processes that the users directly interact with, as well as other processes that users are not necessarily aware of, and provides the services user applications need to communicate through the network.

c. ''Departmental Public Web Site Content Clearance Requirements'' refers to the minimum standards applicable to the Departmental Public Web Site Clearance Process and Agency Public Web Site Clearance Processes. See paragraph 6a(1)(b).

d. ''Departmental Public Web Site Content Clearance Process'' refers to the procedures to be developed by the Assistant Secretary for Policy (ASP) for purposes of the Department's review and approval of documents and other substantive materials to be placed on the DOL public web site and which require Department-level clearance (see paragraph 6a(1)(a).

e. ''Production Internet Environment'' refers to the real or fully developed operational system that is used by the intended customer in the live, or operation environment.

f. The term ''new web site'' refers to a new presence on the public DOL Internet web site or a web site where DOL has shared responsibility. Examples include, but are not limited to, sites that represent a new program, statute, Departmental initiative, new type of information offered to the public, or new web sites co-sponsored by the Department and another entity, public or private.

6. *Delegation of Authority and Assignment of Responsibilities.* a. *The Assistant Secretary for Policy* is delegated authority and assigned responsibility for:

(1) Coordinating and managing the overall DOL public web site presence to ensure that web site-based information and services are cohesive, accessible, timely, accurate and authoritative. This coordination and management shall include establishing, in consultation with the Office of the Solicitor (SOL), the Office of the Secretary (OSEC), the Office of Public Affairs (OPA), the Office of the Assistant Secretary for Administration and Management (OASAM), and other relevant agencies:

(a) A ''Departmental Public Web Site Content Clearance Process,'' which shall be coordinated by ASP and which shall apply to Public Web Site content which requires Department-level clearance; and

(b) A ''Departmental Public Web Site Content Clearance Requirements,'' which shall set forth minimum standards for both individual Agency Public Web Site Content Clearance Processes (see paragraph 6f(4)) and the Departmental Public Web Site Content Clearance Process established by ASP under subparagraph (a). The Departmental Public Web Site Content Clearance Requirements shall apply to all content posted on Departmental and Agency Public Web Sites [including hypertext links to non-DOL sites], and to all content provided to other web sites by the Department, and shall, at a minimum:

1. Provide for appropriate coordination with all relevant agencies and be properly integrated with general Departmental and agency clearance processes;

2. Provide criteria for determining the appropriate level of clearance for documents posted on Public Web Sites, including (at a minimum):

a. Clearance by the Office of the Secretary (and all relevant agency heads) of all material that bears the Secretary's signature, purports to be over the Secretary's signature, or purports to represent the Secretary's views;

b. Clearance by the Office of the Deputy Secretary (and all relevant agency heads) of all material that bears the Deputy Secretary's signature, purports to be over the Deputy Secretary's signature, or purports to represent the Deputy Secretary's views; and

c. Clearance by the relevant agency head (and by other agency heads if appropriate) of all material that bears that agency head's signature, purports to be over that agency head's signature, or purports to represent that agency head's views.

3. Ensure that information is accurate, timely, and regularly updated;

4. Provide for consideration of, and appropriate coordination with SOL regarding, applicable statutory and administrative requirements or guidelines, including, for example, the programmatic laws administered by the Department; the Privacy Act; the

Paperwork Reduction Act; the Unfunded Mandates Reform Act of 1995; the Freedom of Information Act; the Administrative Procedure Act; copyright, trademark and patent laws; civil rights laws; Federalism principles; ethics requirements; and Administration guidance regarding agency use of the Internet;

5. Provide for consideration of, and appropriate coordination with SOL regarding, the need for and content of disclaimers; and

6. Provide for ASP coordination of clearance by all relevant agencies (including, at a minimum, OPA, OASAM, OSEC, and SOL), of all new DOL web sites and related web pages (including new individual agency web sites and related web pages).

(2) In consultation with appropriate agencies and the Internet Management Group, developing:

(a) Cross-cutting, web-based applications; and

(b) Implementation guidelines, policies, and procedures for such web-based applications, in compliance with DOL IT architecture, in accordance with the IT capital planning and investment management process, and in conjunction with agencies.

(3) In consultation with appropriate agencies and the Internet Management Group, establishing policies and processes for the development, implementation, operation, expansion, and institutionalization of Departmental and individual agency web site content and services for application and presentation activities.

(4) Monitoring the implementation of DOL Public Web Site application and presentation services, including individual agency services, to assure the quality and timeliness of the content and adherence to DOL policies and standards; and preparing periodic status reports, including action items, for individual agency web sites.

(5) Coordinating Departmental Public Web Site application and presentation activities and functions with designated Agency Internet Coordinators and the Internet Management Group (see paragraph 6a(9)).

(6) As appropriate, providing input to the ASAM, the CIO, SOL, or other relevant agencies on Public Web Site content and services activities for the DOL Strategic Plan, the IT Strategic Plan, the DOL Performance Plan, Government Performance and Results Act reports, Congressional testimony, inquiries and other reports as necessary to ensure accuracy and consistency with Departmental goals and vision.

(7) In coordination with SOL and OSEC, reviewing Agency Public Web Site Clearance Processes (see paragraph 6f(4)) for compliance with the Departmental Public Web Site Content Clearance Requirements established under paragraph 6a(1)(b) and, if the processes are compliant, approving them.

(8) In conjunction with OPA, and subject to the Departmental Public Web Site Content Clearance Process established under paragraph 6a(1)(a), maintaining and approving all information on the main DOL web pages;

(9) Establishing and chairing an Internet Management Group comprising designated Agency Internet Coordinators and designated policy-level representatives from SOL, OPA, and the CIO, chartered to promote Internet content coordination throughout the Department, communicate Departmental Internet policies to agencies, and explore and implement opportunities for improving the utility of the DOL Public Web Site.

(10) Developing, in consultation with the Internet Management Group (see paragraph 6a(9)), relevant policies and guidance for content of public Departmental and Agency Internet Services not involving the Public Web Site.

(11) In coordination with the CIO, defining a Departmental Internet Vision Statement.

(12) Preparing Annual Internet Status Reports for the CIO and the Secretary highlighting progress toward, and plans for, realizing the Department's Internet vision.

b. *The Chief Information Officer* (CIO) is assigned responsibility for:

(1) Consistent with Secretary's Order 1–2000 (''Authority and Responsibilities for Implementation of the Paperwork Reduction Act of 1995 (P.L. 104–13) and the Clinger-Cohen Act of 1996 (Information Technology Management Reform Act of 1996) (Division E of P.L. 104–106),'' overseeing the technical aspects of Departmental Internet activities pursuant to the Clinger-Cohen Act, the Paperwork Reduction Act, and other applicable statutory or administrative mandates; and

(2) Designating a policy-level representative to serve on the Internet Management Group (see paragraph 6a(9)).

c. *The Assistant Secretary for Administration and Management* (ASAM) is responsible for assuring, through the Department's budget review process, that agencies have appropriate plans and budgetary commitment to support the continuing development, implementation, operation, and expansion of DOL Internet services. In addition, the ASAM is assigned responsibility for:

(1) Providing for the production Internet environment for the DOL web site in accordance with the DOL IT Architecture.

(2) Developing and maintaining interoperability and interface procedures.

(3) Designating a policy-level representative to serve on the Internet Management Group (see paragraph 6a(9)).

d. *The Assistant Secretary for Public Affairs* is assigned responsibility for:

(1) In consultation with ASP, SOL and OSEC, establishing policy and standards to appropriately integrate DOL Public Web Site services into the public affairs operations of the Department;

(2) Ensuring that agency public affairs officers address issues related to the use of the DOL Public Web Site services in public affairs operations;

(3) Monitoring the quality and timeliness of public affairs information on individual agency web pages;

(4) In conjunction with ASP, and subject to the Departmental Public Web Site Content Clearance Process established under paragraph 6a(1)(a), maintaining and approving all information on the main DOL web pages; and

(5) Designating a policy-level representative to serve on the Internet Management Group (see paragraph 6a(9)).

e. *The Solicitor of Labor* is delegated authority and assigned responsibility for:

(1) Providing legal advice and counsel to the Department and agencies on all matters arising in the administration of this Order;

(2) Consulting with ASP and individual agencies in the design and implementation of the Departmental Public Web Site Content Clearance Requirements (see paragraph 6a(1)(b)); Departmental and Agency Public Web Site Content Clearance Processes (see paragraphs 6a(1)(a) and 6f(4)); web-based applications and related implementation guidelines, policies and procedures (see paragraph 6a(2)); and policy and process for Public Web Site content and services for application and presentation activities (see paragraph 6a(3));

(3) Consulting with OPA on the integration of DOL Public Web Site services into the public affairs operations of the Department; and

(4) Designating a policy-level representative to serve on the Internet Management Group (see paragraph 6a(9)).

f. *DOL Agency Heads* are delegated authority and assigned responsibility for developing, implementing, operating, and expanding their individual agency Internet services in accordance with DOL policy and standards, including the Departmental Public Web Site Content Clearance Requirements established under paragraph 6a(1). These responsibilities include, but are not limited to, the following:

(1) Developing individual agency visions and plans for Internet services to support current and future mission needs;

(2) Providing the resources and training necessary to develop, implement, operate, and expand individual agency Internet services;

(3) Designating Agency Internet Coordinators at the policy level to serve as points of contact on any Internet-related issue, and to serve as members of the Internet Management Group (see paragraph 6a(9));

(4) Developing, implementing and maintaining Agency Public Web Site Content Clearance Processes, which shall

(a) Accord with the Departmental Public Web Site Content Clearance Requirements established under paragraph 6a(1)(b) above;

(b) Be properly integrated with general Department and agency clearance processes; and

(c) Be reviewed and approved by ASP, OSEC and SOL.

(5) Ensuring quality control and full compliance with all Departmental Internet policies and processes; and

(6) Providing input to ASP concerning the Annual Internet Status Report and other Internet reports as necessary.

(7) Obtaining approval of all new web sites before making the sites available to the public in accordance with paragraph 6a(1)(b)(6).

(8) Ensuring that all grandfathered Public Web Site content is cleared consistently with the requirements of Paragraph 10b.

(9) The requirements of this section apply to all DOL Agency Heads, including (but not limited to) ASP, OASAM, the CIO, OPA and SOL.

7. *Reservation of Authority.* a. The submission of reports and recommendations to the President and Congress concerning the administration of statutory or administrative provisions is reserved to the Secretary.

b. This Secretary's Order does not affect the authorities or responsibilities of the Office of Inspector General under the Inspector General Act of 1978, as amended, or under Secretary's Order 2–90 (January 31, 1990).

8. *Transfer of Authority.* The Assistant Secretary for Policy may transfer the authority and responsibility set forth in paragraph 6a(10) to other agency heads, as appropriate.

9. *Effective Date.* This Order is effective immediately.

10. *Grandfather Clause.* a. Existing Departmental and Agency Public Web Site clearance requirements and processes shall continue in effect until the new requirements and processes created under paragraphs 6a(1) and 6f(4) (whichever applies) are established.

b. ASP shall provide a detailed plan, to be implemented within a timetable established by ASP, for assuring that all grandfathered Public Web Site content has been cleared consistent with the Departmental Public Web Site Content Clearance Process established under paragraph 6a(1)(a).

Dated: June 22, 2000.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 00–20763 Filed 8–15–00; 8:45 am]

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DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 1–2000]

Authority and Responsibilities for Implementation of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and the Clinger-Cohen Act of 1996 (Information Technology Management Reform Act of 1996) (Division E of Pub. L. 104–106)

1. *Purpose.* To delegate authority and assign responsibilities for implementation of the Paperwork Reduction Act of 1995 (PRA) and the Clinger-Cohen Act of 1996 (also known as the Information Technology (IT) Management Reform Act of 1996 (ITMRA)), and to formally establish within the Department of Labor (DOL) the position of Chief Information Officer (CIO), the Management Review Council (MRC), and a supporting Technical Review Board (TRB) of DOL Administrative Officers and Information Resource Managers.

2. *Background.* The PRA of 1995, as well as its predecessor Act of 1980, was enacted to reduce paperwork and enhance the economy and efficiency of the government and the private sector by improving Federal information policy making and management. The Acts required agency heads to designate ''senior officials'' responsible for carrying out agency responsibilities. Section 5125 of the Clinger-Cohen Act amended the PRA to (a) create the position of agency CIO and (b) assign all PRA duties previously assigned to agency ''senior officials'' to Federal agency CIOs. The Clinger-Cohen Act also requires the head of each executive agency, in fulfilling responsibilities under section 3506(h) of the PRA [44 U.S.C. 3506(h)], to ''design and implement * * * a process for maximizing the value and assessing and managing the risks of the information technology acquisitions of the executive agency.'' Under the Clinger-Cohen Act, an agency's CIO must have information resources management (IRM) duties as his or her primary duty. Consistent with the foregoing statutory requirements, this Order establishes the position of CIO and outlines the CIO's responsibilities under the Clinger-Cohen Act and the PRA.

In October, 1996, the Department established a Capital Planning and Investment Board (CPIB) as part of the Department's process under Clinger-Cohen. In April 1998, the Secretary established a Management Review Council (MRC) (also known as the Management Council) within the Department. In November, 1998, the MRC voted to establish a Technical Review Board (TRB). The initial TRB Charter was developed and approved in March 1999 with final adoption on April 12, 1999. The current charter is attached to this Order. (See Attachment 1.) The MRC, TRB, and the process established by this Order replace the CPIB.

3. *Authority and Directives Affected.* a. Authority. This Order is issued pursuant to sections 5122–5127 of the Clinger-Cohen Act [40 U.S.C. 1422–27]; section 3506 of the PRA [44 U.S.C. 3506]; section 11 of the Electronic Freedom of Information Act Amendments (E–FOIA) [5 U.S.C. 552(g)]; 5 U.S.C. 301; Reorganization Plan Number 6 (1950); and Executive Order 13011.

b. Directives Affected.

(1) Secretary's Order 4–81, which assigned responsibilities and delegated duties under the PRA of 1980, is hereby canceled.

(2) This Order does not affect Secretary's Order 4–76, which assigns procurement and contracting authority to the Assistant Secretary for Administration and Management.

(3) This Order does not affect Secretary's Order 9–89, which creates the Data Integrity Board.

(4) This Order does not affect Secretary's Order 1–92, and 1–97 which established responsibilities for implementation of the Chief Financial Officer's Act of 1990.

(5) Directives inconsistent with this Order are rescinded to the extent of the inconsistency.

4. *Creation of Chief Information Officer.* In accordance with section 5125 of the Clinger-Cohen Act (40 U.S.C. 1425), the position of Chief Information Officer is established. The CIO shall report directly to the Secretary and Deputy Secretary, have IRM duties as his or her primary duty and shall perform the responsibilities set forth in paragraphs 5 and 6 of this Order.

5. *Responsibilities Assigned to the CIO By Applicable Law.* a. The CIO shall have the following duty, which is assigned to the CIO by sections 3506(a) of the PRA [44 U.S.C. 3506(a)]: Ensure compliance by all DOL agencies with the prompt, efficient, and effective implementation of the IRM responsibilities and the reduction of information collection burdens on the public.

b. The CIO shall have the following duties, which are assigned to the CIO by sections 5125(b)-(c) of the Clinger-Cohen Act [40 U.S.C. 1425(b)-(c)]:

(1) Provide advice and other assistance to the Secretary of Labor and other senior management personnel of the DOL to ensure that IT is acquired and information resources are managed for the Department in a manner that implements the policies and procedures of the Clinger-Cohen Act, consistent with Chapter 35 of Title 44, United States Code, and the priorities established by the Secretary of Labor. The CIO shall seek the counsel of the Office of the Solicitor before providing advice regarding legal interpretations.

(2) Develop, maintain, and facilitate the implementation of a sound and integrated IT architecture for the DOL including Internet technologies and services.

(3) Promote the effective and efficient design and operation of all major IRM processes for the DOL, including improvements to work processes of the Department.

(4) Monitor the performance of IT programs of the DOL, evaluate the performance of those programs on the basis of the applicable performance measurements, and advise the Secretary of Labor regarding whether to continue, modify, or terminate a program or project.

(5) Ensure that the skills, knowledge, and training provisions of the Clinger-Cohen Act are met. In fulfilling this responsibility, the CIO shall annually, as part of the strategic planning and performance evaluation process required under 5 U.S.C. 306 and 31 U.S.C. 1105(a)(28),[1] 1115, 1116, 1117, and 9703:

(a) Assess the requirements established for DOL personnel regarding knowledge and skill in IRM and the adequacy of such requirements for facilitating the achievement of the performance goals established for IRM;

(b) Assess the extent to which the positions and personnel at the executive level of the DOL, and the positions and personnel at management levels of the DOL below the executive level, meet those requirements;

(c) Develop strategies and specific plans for hiring, training, and developing professionals, in order to rectify any deficiency in meeting those requirements; and

(d) Report to the Secretary of Labor on the progress made in improving IRM capability.

c. The CIO shall perform any additional duties and responsibilities which are assigned to the CIO by applicable law, including (for example) OMB regulations and circulars.

6. *Assignment of Additional Responsibilities to CIO.* a. Subject to the Reservation of Authority in paragraph 11 of this Order, the CIO shall have the following duties which are assigned by the PRA and E–FOIA to the Secretary and are hereby delegated to the CIO:

(1) Establish a process, sufficiently independent of DOL program agencies, to evaluate whether proposed collections of information should be approved under the PRA. The independent evaluation shall:

(a) Review the need, function, plan, and burden of each information collection;

(b) Ensure that each information collection is inventoried, displays a control number, and discloses all necessary information, as described at 44 U.S.C. 3506(c)(1)(B); and

(c) Assess the information collection impact of proposed legislation affecting DOL.

(2) Coordinate with DOL agencies to ensure that proposed collections of information covered by section 3506(c)(2)(A) of the PRA [44 U.S.C. 3506(c)(2)(A)] are published in the **Federal Register** in order to solicit comments from members of the public and affected agencies with regard to each collection, to:

(a) Evaluate whether the proposed collection of information is necessary and has practical utility;

(b) Evaluate the accuracy of the DOL program agency's burden estimate;

(c) Enhance the quality, utility, and clarity of the information collected; and

(d) Minimize the burden of the collection of information.

(3) Coordinate with DOL agencies to ensure that they provide notice and an opportunity to comment specifically on any collections of information contained within notices of proposed rule making published in the **Federal Register**.

(4) Certify and provide supporting documentation, for each collection of information submitted to the Office of Management and Budget (OMB) for review under 44 U.S.C. 3507, that the DOL program agency has fully complied with all PRA provisions, as described at 44 U.S.C. 3506(c)(3).

(5) Coordinate with DOL agencies to prepare and maintain the following, as required by the PRA and E–FOIA: an index of the DOL's major information systems; a description of the DOL's major information and record locator systems; and a handbook for obtaining various types and categories of public information pursuant to the PRA and E–FOIA.

b. Subject to the Reservation of Authority in paragraph 11 of this Order, the CIO shall have the following duties, which are assigned by the Clinger-Cohen Act to the Secretary and are hereby delegated to the CIO:

(1) Design, implement, and maintain in the DOL a process for maximizing the value and assessing and managing the risks of the IT acquisitions, in accordance with section 5122 of the Clinger-Cohen Act. The process shall:

(a) Provide for the selection of IT investments to be made by the DOL, the management of such investments, and the evaluation of the results of such investments;

(b) Be integrated with the processes for making budget, financial, and program management decisions within the DOL;

(c) Include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively expressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;

(d) Provide for identifying information systems investments that would result in shared benefits or costs for other Federal agencies or State or local governments;

(e) Provide for identifying quantifiable measurements for determining the net benefits and risks for a proposed investment; and

[1] The Clinger-Cohen Act references 31 U.S.C. 1105(a)(29). Subsection (a)(29) was renumbered (a)(28) by Public Law 104–287 4(1) (Ocober 11, 1996).

(f) Provide the means for senior management personnel of the DOL to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

(2) Institutionalize performance-based and results-based management for information technology in coordination with the Chief Financial Officer (CFO) of the DOL and DOL agencies. In fulfilling this responsibility, the CIO shall:

(a) Establish goals for improving the efficiency and effectiveness of DOL operations and, as appropriate, the delivery of services to the public through the effective use of IT;

(b) Prepare an annual report, as required by statute, to be included in the DOL's budget submission to Congress, on the progress in achieving the IT goals;

(c) Issue DOL policies, directives, and instructions that require DOL agencies to:

1 Prescribe performance measurements for information technology used by, or to be acquired for, the agency that measure how well the IT supports programs of the agency and the DOL as a whole;

2 Benchmark, quantitatively, agency process performance against comparable processes and organizations in the public or private sectors (where such processes or organizations exist) in terms of cost, speed, productivity, and quality of outputs and outcomes; and

3 Analyze individual agency missions in relation to the Department's mission and, based on the analysis, revise the agency's mission-related processes and administrative processes as appropriate before making significant investments in IT that is to be used in support of the performance of those missions.

(d) Ensure that information security policies, procedures, and practices are adequate.

(3) Acquire information technology for the DOL as authorized by law and, in accordance with guidance issued by the Director of the Office of Management and Budget, authorize or enter into contracts that provide for multi-agency acquisitions of information technology.

(4) Identify in the strategic information resources management plan required under 44 U.S.C. 3506(b)(2) any major information technology acquisition program, or any phase or increment of such a program, that has significantly deviated from the cost, performance, or schedule goals established for the program.

c. In addition to the above duties specifically assigned by the Clinger-Cohen Act and PRA, the CIO is hereby delegated the following authority and assigned the following responsibilities, subject to the Reservation of Authority in paragraph 11:

(1) The CIO shall act as the Department's spokesperson on all matters relating to Departmental IT management. The CIO shall report to the Secretary, but may receive day-to-day guidance and direction from the Deputy Secretary.

(2) The CIO shall ensure that the DOL is responsive to the needs of employees who require adaptive technologies.

(3) The CIO shall oversee agency development of IT Strategic Plans that are in alignment with Agency Plans and Agency Budgets.

(4) The CIO shall ensure that Departmental communications and processes make maximum appropriate use of the web technologies and electronic mail.

(5) The CIO shall establish a system for appropriately sharing Departmental and agency directives and communications relating to IT.

(6) Present TRB recommendations, with an evaluation of their merits, to the MRC for disposition. Ensure that MRC decisions are implemented (unless overruled by the Secretary).

(7) The CIO shall perform any other related duties which are assigned by the Secretary.

7. *Assignment of Responsibilities to the Chief Financial Officer.* The CFO shall have the following duties which are assigned by the Clinger-Cohen Act to the Secretary and are hereby delegated to the CFO: Establish policies and procedures that:

a. Ensure that the accounting, financial, and asset management systems of the DOL are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the Department; and

b. Ensure that financial and related program performance data are provided on a reliable, consistent, and timely basis to DOL financial management systems.

c. Ensure that financial statements support:

(1) Assessments and revisions of mission-related processes and administrative processes of the Department; and

(2) Performance measurement of the performance in the case of investments made by the Department in information systems.

d. In appropriate consultation with the CIO, ensure that the accounting, financial, and asset management systems of the DOL are properly integrated into the DOL IT architecture.

8. *Creation of Management Review Council and Assignment of Responsibilities.* a. The MRC is established in the following manner:

(1) The Secretary shall determine the membership roster of the MRC. The current roster is attached to this Order as Attachment 2.

(2) The Deputy Secretary shall chair the MRC.

(3) Any absent voting member may authorize his or her deputy to attend MRC meetings or to cast his or her vote by proxy.

(4) The MRC shall maintain an appropriate record, for internal use only, available to MRC members, relating to proposed recommendations under consideration.

b. For purposes of this Order, the MRC shall have the following responsibilities:

(1) Evaluate and either approve, not approve, or approve with conditions TRB recommendations on IT portfolios and initiatives and advise the CIO of the results.

(2) Ensure that MRC decisions and recommendations pertaining to IT investment management deliver substantial business benefit to the Department and/or substantial return-on-investment to the taxpayer.

9. *Creation of Technical Review Board and Assignment of Responsibilities.* a. The TRB is established in the following manner:

(1) The MRC shall determine the membership roster and charter of the TRB. The most current charter, including the membership roster, shall be affixed to this Order as Attachment 1.

(2) The MRC shall designate the Deputy CIO to chair and manage the TRB.

(3) TRB Board membership may not be delegated. An agency's permanent member may authorize an alternate to attend and participate in the voting process at TRB meetings, contingent upon the written approval of the TRB chair.

(1) Each agency represented on the TRB is allocated one vote. The agencies represented by rotating members also have one collective vote. The TRB may adopt resolutions, including recommendations to the MRC on the disposition of IT investments, by majority vote by participating agencies.

(5) The TRB shall maintain a record, for internal use only, available to TRB members relating to proposed recommendations under consideration.

b. For purposes of this Order, the TRB shall have the following responsibilities:

(1) Review above threshold [2] IT initiatives to ensure risks and returns have been adequately and accurately assessed. Reviews of IT initiatives shall include assessments of IT investment:

—Screening information
—Scoring information
—Return-on-investment information
—Cost, schedule, and technical performance information
—IT initiative supporting documentation, including business case, risk assessments, financial information, technical documentation, and project planning documentation.

(2) Develop and provide recommendations to the MRC on the disposition of above threshold IT initiatives, including the selection of new initiatives or continuation of existing IT initiatives.

(3) Develop and provide recommendations to the MRC on Departmental IT architecture management and IT capital planning process improvements.

(4) Develop and provide recommendations to the MRC on agency and Departmental IT investment portfolios.

(5) Create TRB Committees.

(6) Address common IT issues and recommend the resolution of these issues to the CIO and/or MRC.

10. *Assignment of Responsibilities to Agency Heads.* a. All DOL Agency Heads are assigned responsibility to ensure compliance by their organizations with CIO and OMB PRA guidance and policies.

b. All DOL Agency Heads are assigned responsibility to ensure compliance by their organizations with the Clinger-Cohen Act and DOL IT guidance and policies.

c. All DOL Agency Heads are assigned responsibility to implement Department-wide IT initiatives approved by the MRC and sponsored by the CIO, re-engineer agencies' mission-related processes to maximize return on IT expenditures, and ensure that IT initiatives are managed for successful implementation.

d. The Solicitor of Labor is responsible for providing legal advice and assistance to all officials of the Department who are responsible for activities under the PRA and the Clinger-Cohen Act and under this Order, except as provided in Secretary's Order 2–90 (January 31, 1990) with respect to the Office of the Inspector General.

11. *Reservation of Authority.* a. The following functions are reserved to the Secretary:

1. The Secretary may override any MRC decisions or recommendations.

2. The Secretary may override any CIO decision made under the authority delegated in paragraph 6 of this Order.

3. The submission of reports and recommendations to the President and Congress concerning the administration of the statutory provisions and Executive Orders listed above is reserved to the Secretary.

b. This Secretary's Order does not affect the authorities or responsibilities of the Office of Inspector General under the Inspector General Act of 1978, as amended, or under Secretary's Order 2–90 (January 31, 1990).

12. *Effective Date:* This Order is effective immediately.

Dated: July 28, 2000.

Alexis M. Herman,

Secretary of Labor.

Attachment 1—Department of Labor: Technical Review Board Charter, June 2000

Preface

In November 1998, the Department's Management Review Council (MRC) approved the establishment of a two-tiered Information Technology (IT) investment review board structure to conduct Departmental IT investment management. The new structure replaces the Capital Planning and Investment Review Board (CPIB) with the MRC and a Technical Review Board (TRB). The two-tiered investment review board structure is designed to ensure compliance with the Clinger-Cohen Act and the Department's enhanced IT capital planning process. This Charter establishes the mission, objectives, membership, and responsibilities of the TRB. The TRB operating procedures are presented in the Department's IT Capital Investment Management Guide.

Table of Contents

Mission

The Technical Review Board serves as the Department's first tier investment review board for above threshold information technology (IT) investments and as a forum to identify and resolve Department-wide IT-related issues. The TRB makes recommendations on the appropriate disposition of above threshold IT investments to the MRC based on standardized investment review criteria, with a focus on the technical feasibility of the investments. The TRB also serves as a forum to conduct Departmental IT strategic planning, IT architecture management, and IT capital planning process improvements via permanent committees.

Objectives

The objectives of the TRB are to ensure compliance with the IT capital planning provisions of the Clinger-Cohen Act by:

- Conducting IT investment analysis on above-threshold IT investments and recommending the disposition of those IT investments to the MRC;
- Establishing above threshold IT initiative review schedules and monitoring these IT investments throughout the control phase;
- Evaluating fully operational above-threshold [3] IT initiatives by reviewing the results of post-implementation reviews conducted by IT initiative sponsors;
- Recommending to the MRC corrective actions for those above-threshold IT initiatives that are not performing in accordance with established cost, schedule, or technical performance parameters;
- Providing recommendations to the MRC on portfolio management;
- Providing input to the CIO and MRC on Departmental IT architecture management planning and IT capital planning process improvement activities;
- Identifying opportunities to minimize duplicate and overlapping information systems across the Department;
- Addressing common IT issues and recommending the resolution of these issues to the MRC.

Membership

The Technical Review Board is comprised of the following members:

[2] Above threshold refers to investment initiatives that are above a designated investment level or that have crosscutting implications or applicability. The amounts are set by the Secretary in consultation with the CIO and MRC.

[3] Above threshold refers to investment initiatives that are above a designated investment level or that have crosscutting implications or applicability. The amounts are set by the Secretary in consultation with the CIO and the MRC.

Chair: Deputy Chief Information Officer
Vice-Chair: Deputy Assistant Secretary for Information Management, OASAM
Advisors:
Deputy Assistant Secretary for Policy
Associate Commissioner for Technology and Survey Processing, BLS
Deputy Chief Financial Officer or representative
Representative of the Office of the Inspector General
Representative of the Office of the Solicitor
Members: IRM Managers and Administrative Officers from the following agencies:

- Bureau of Labor Statistics
- Employment and Standards Administration
- Employment and Training Administration
- Office of the Assistant Secretary for Administration and Management
- Occupational Safety and Health Administration
- Office of the Chief Financial Officer
- Mine Safety and Health Administration
- Pension and Welfare Benefits Administration

Rotating Members: In addition to the permanent TRB members, there shall be two non-permanent, rotating members of the Board shall be appointed from agencies not represented in the above membership list to represent those agencies. These rotating members shall include the IRM Manager from one agency and the Administrative Officer from another agency. Rotating representation shall be on an annual basis, at which time membership shall rotate to other agencies.

TRB Board membership may not be delegated. An agency's permanent member may authorize an alternate to attend and participate in the voting process at TRB meetings, contingent upon the written approval of the TRB chair.

IRM Managers and Administrative Officers from agencies that are not permanent or rotating members of the TRB may attend TRB meetings as observers.

Technical Review Board Committees

The Technical Review Board shall have two standing committees. Committee membership shall be determined by a majority vote of the TRB. Committee Chairs shall report on committee activities during regular TRB meetings.

A. IT Architecture Committee. Provides IT architecture baseline management, configuration control, standards adoption, and IT architecture migration recommendations to the full TRB. The IT Architecture committee will focus on interoperability issues as they pertain to cross-cutting IT infrastructure issues.

B. IT Capital Planning Committee. Assesses the effectiveness of the Departmental IT capital planning process and provides recommendations to the full TRB for refining and improving the process. Process improvement analysis includes assessments of screening criteria, IT investment criteria; selection, control, and evaluation procedures; IT capital planning process timing issues, Information Technology Investment Portfolio System (I–TIPS), and integration of IT capital planning activities with other major management processes.

Temporary Working Groups

Temporary working groups shall be established by a majority vote of the TRB. The temporary working group chair shall be one of the permanent members of the TRB, but other members on the working group may include Federal and contractor staff who are not on the Board. The establishment of a temporary working group requires the following:

- Assignment of working group chair and members
- Identification of working group scope and objectives
- Identification of working group deliverables and schedules

Adoption of Technical Review Board Resolutions

(1) The Technical Review Board is a consensus-driven body designed to maximize departmental IT investment decision-making through the objective, impartial application of each member's technical and business management expertise.

(2) Technical Review Board resolutions, including recommendations to the MRC on the disposition of IT investments, require a majority vote of participating agencies' representatives. Each agency represented on the TRB is allocated one vote. The agencies represented by rotating members also have one collective vote (resulting in total of nine (9) votes).

(3) Members who do not agree with a resolution adopted by the TRB may present a minority opinion of the TRB decision to the MRC for consideration in the final MRC disposition of TRB recommendations. A standardized minority report format is provided in the IT Capital Investment Management Guide.

(4) Voting shall be recorded in the TRB meeting minutes and provided to the MRC as part of the disposition recommendation.

Responsibilities

A. Management Review Council

(1) Evaluate and either ''approve'', ''not approve'', or ''approve with conditions'' TRB recommendations on IT portfolios and initiatives.

(2) Ensure that MRC decisions pertaining to IT investment management deliver substantial business benefit to the Department and/or substantial return-on-investment to the taxpayer.

B. Chief Information Officer

(1) Provide advice and other assistance to the Secretary of Labor and MRC to ensure that information technology is acquired and information resources are managed for the Department consistent with the Clinger-Cohen Act, Departmental missions and objectives, and the Department's IT capital planning process.

(2) Present TRB recommendations with an evaluation of their merit to the MRC for disposition.

(3) Conduct strategic analysis of the Department's IT investment portfolio. Issue Departmental IT strategic planning guidance.

(4) Develop, maintain, and facilitate implementation of a sound and integrated IT architecture for the Department.

(5) Promote the effective and efficient design and operation of all major information management processes for the Department.

C. Deputy Assistant Secretary for Administration and Management

(1) Serve as the TRB Vice Chair.

(2) Serve as the TRB Chair in the absence of the Deputy Chief Information Officer.

(3) Coordinate and confer with the TRB Chair on all matters before the Board.

D. Chief Financial Officer

The OCFO will provide assessments of proposed or enhanced financial systems which address the issues of compliance with government wide standards. Without such certification, the proposed system cannot be considered under TRB rules. The OCFO may ask for technical review by one or more of the TRB committees or working groups to assist in the compliance determination.

E. Deputy Chief Information Officer

(1) Serve as the Chair of the Technical Review Board.

(2) Ensure that the TRB provides comprehensive evaluations of all above threshold IT projects and that the results of these evaluations are presented to the MRC for final disposition.

(3) Ensure that the TRB conducts IT architecture management and IT capital planning process improvement activities.

(4) Ensure that common IT issues are fully addressed and recommended resolution of these issues is provided to the CIO and/or MRC

F. Director, Office of Internet Services and Information Management

(1) Serve as the Executive Secretary for the TRB. Executive Secretary duties include:

—Manage TRB administrative staff support;
—Prepare read-ahead materials and agendas, in consultation with the Chair and membership, for TRB meetings;
—Prepare meeting minutes;
—Post agendas and minutes in the Public Library section of the I–TIPS;
—Oversee and direct all votes taken by the TRB; and
—Support the Chair in preparing for and conducting meetings.

G. Technical Review Board Members

(1) Review above threshold IT initiatives to ensure risks and returns have been adequately and accurately assessed. Reviews of IT initiatives shall include assessments of IT investment:

—Screening information
—Scoring information
—Return-on-investment information
—Cost, schedule, and technical performance information
—IT initiative supporting documentation, including business case, risk assessments, financial information, technical documentation, project planning documentation.

(2) Develop and provide recommendations to the MRC on the disposition of above-threshold IT initiatives, including the selection of new initiatives or continuation of existing IT initiatives.

(3) Develop and provide recommendations to the MRC on Department IT architecture management and IT capital planning process improvements.

(4) Develop and provide recommendations to the MRC on agency and Departmental IT investment portfolios.

(5) Participate as members on TRB committees.

(6) Address common IT issues and recommend the resolution of these issues to the CIO and/or MRC.

H. Technical Review Board Advisors

Provide advice to the TRB Chair and Vice Chair on matters before the TRB.

Meeting Protocol

(1) The TRB meets on a monthly basis, with additional or special meetings called by the Chair, as necessary.

(2) At least one TRB member from a majority of TRB member agencies must be present to adopt a TRB resolution.

(3) The Executive Secretary acts as facilitator and parliamentary authority for all meetings.

Management Council Membership Roster

Commissioner, Bureau of Labor Statistics
Assistant Secretary, Employment Standards Administration
Assistant Secretary, Employment and Training Administration
Assistant Secretary, Mine Safety and Health Administration
Assistant Secretary, Office of Administration and Management
Assistant Secretary, Occupational Safety and Health Administration
Assistant Secretary, Pension Welfare Benefits Administration
Assistant Secretary, Veteran's Employment and Training Service
Assistant Secretary for Policy
Director, Pension Benefit Guaranty Corporation
Director, Departmental Office of Budget
Director, Office of Small Business Programs
Director, President's Task Force for Employment of People With Disabilities
Assistant Secretary, Office of Congressional and Intergovernmental Affairs
Assistant Secretary, Office of Public Affairs
Chief Financial Officer
Chief Information Officer
Director, Women's Bureau
Director, Office Public Liaison
Assistant Secretary, Bureau of International Labor Affairs
Inspector General
Deputy Secretary of Labor
Chief Economist
Executive Secretariat
Solicitor of Labor

[FR Doc. 00–20764 Filed 8–15–00; 8:45 am]
BILLING CODE 4510–23–U

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 28, 2000.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 28, 2000.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, DC, this 7th day of August, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 08/07/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
37,930	Stanley Works (Comp)	Richmond, VA	06/28/2000	Consumer Hardware.
37,931	Tri State Data Products (Wkrs)	Feasterville, PA	07/24/2000	Computer, Office Supplies.
37,932	Ribco (Wrks)	Providence, RI	07/24/2000	Buckles.
37,933	Scott Logging, Inc (Wrks)	Bend, OR	07/25/2000	Logs.
37,934	Pietrafesa Corp. (The) (Wrks)	Liverpool, NY	07/10/2000	Men's Coats, Pants, Suits, Vest.
37,935	2158, Inc. (UNITE)	Slatington, PA	07/20/2000	Ladies' Pants and Tops.
37,936	Allied Signal (PACE)	Smethport, PA	07/20/2000	Wax—Chemical Refining—Candles, Tires.
37,937	Wolverine Worldwide (Wrks)	Kirksville, MO	07/17/2000	Work Boots.
37,938	Angelica Image Apparel (Comp)	Louisville, MS	07/21/2000	Aprons, Tops and Pants.
37,939	Forecenergy, Inc. (Comp)	Miami, FL	07/20/2000	Oil and Gas Exploration.
37,940	Clove-land Manufacturing (Comp).	Escanaba, MI	07/21/2000	Gasoline Engines.
37,941	Royal Oak Enterprises (Wrks)	Licking, MO	07/17/2000	Lump Charcoal.
37,942	Unique Finishing, Inc. (Comp)	Wrightsville, GA	07/19/2000	Boy's Pants.
37,943	Ryan International Air (Wrks)	Denver, CO	07/20/2000	Flight Attendants and Customer Service.
37,944	Chief Tonasket Growers (Wrks)	Tonasket, WA	07/21/2000	Apple and Pears Packers.
37,945	VF Workwear/Red Kap Ind (Comp).	Dickson, TN	07/20/2000	Occupational Apparel.
37,946	Heritage Toys (Comp)	Dover-Foxcroft, ME	07/25/2000	Gifts, Novelties and Souvenirs.
37,947	Charles Craft, Inc. (Comp)	Wadesboro, NC	07/25/2000	Cotton Yarns.
37,948	Rock-Tenn Corp. (PACE)	Madison, WI	07/27/2000	Folding Cartons.
37,949	Smith and Nephew, Inc (Comp)	Charlotte, NC	07/24/2000	Synthetic Orthopedic Cast Tape.
37,950	Sauer-Danfoss, Inc. (Wrks)	Racine, WI	07/11/2000	Hydraulic Gear Pumps.
37,951	Williams Energy Services (Wrks).	Houston, TX	07/25/2000	Natural Gas Liquids.
37,952	Ochoco Lumber Co. (Comp)	Prineville, OR	07/28/2000	Lumber.

[FR Doc. 00–20769 Filed 8–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,643]

Walker McDonald Mfg. Co., a/k/a National Oilwell LP, Varel International, Greenville, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the U.S. Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 13, 1999, applicable to workers of Walker McDonald Mfg. Co., a/k/a National Oilwell LP, Greenville, Texas. The notice was published in the **Federal Register** on September 29, 1999 (FR 64 52540).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of tri-cone roller bits used by the oilfield and mining industries. New information provided by the State shows that Varel International, Carrollton, Texas is the parent firm of Walker McDonald Mfg. Co., a/k/a National Oilwell LP, located in Greenville, Texas. New information also shows that workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account at Varel International.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Walker McDonald Mfg. Co., a/k/a National Oilwell LP who were adversely affected by increased imports of tri-cone roller bits used by the oilfield and mining industries.

The amended notice applicable to TA–W–36,643 is hereby issued as follows:

All workers of Walker McDonald Mfg. Co., a/k/a/ National Oilwell LP, Varel International, Greenville, Texas who became totally or partially separated from employment on or after July 21, 1998 through August 13, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 7th day of August, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–20767 Filed 8–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 28, 2000.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 28, 2000.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, DC, this 31st day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 07/31/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
37,917	Dana Corp., Marion Forge (IBM)	Marion, OH	07/08/2000	Custom Steel Forgings.
37,918	Trans Regional Mfg. (Co.)	Blackville, SC	06/15/2000	Skirts for the Navy.
37,919	Guess, Inc (Wkrs)	Los Angeles, CA	07/05/2000	Jeans and Shirts.
37,920	Chic A Dee Packing (Wkrs)	Monmouth, ME	07/18/2000	Pack Apples.
37,921	ACS Shared Services (Wkrs)	Berea, KY	06/28/2000	Insurance Claims.
37,922	Fall River Mills (Wkrs)	Fall River, MA	07/18/2000	Bed Sheet Sets.
37,923	GE Industrial Systems (Wkrs)	Erie, PA	07/17/2000	DC Motors and Component Parts.
37,924	Banta Healthcare Group (Wkrs)	Eaton Park, FL	07/17/2000	Sponges—Dental and Medical.
37,925	Wiscasset Mills (Co.)	Albemarle, NC	07/18/2000	Yarn.
37,926	Philips Consumer Elect. (Wkrs)	Greenville, TN	07/13/2000	Television Units.
37,927	Deka Medical—Traid Div (Wkrs)	Waynesville, NC	07/20/2000	Disposable Medical Drapes.
37,928	Danecraft (Wkrs)	Providence, RI	07/21/2000	Jewelry.
37,929	B.F. Goodrich Aerospace (Co.)	Euless, TX	07/14/2000	Landing Gear and Components.

[FR Doc. 00–20768 Filed 8–15–00; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act; Migrant and Seasonal Farmworker Employment and Training Advisory Committee: Solicitation of Nominees To Fill Vacancies on the Migrant and Seasonal Farmworker Employment and Training Advisory Committee (the Committee)

Pursuant to the Committee Charter and the **Federal Register** Notice dated October 23, 1998, notice is hereby given to fill nine vacancies on the Committee.

BACKGROUND: On October 23, 1998, notice was given in the **Federal Register** listing the membership of the Committee. These appointments became effective on October 19, 1998. The Committee charter provides for two year staggered terms. The Secretary of Labor appointed the following persons to a two year term which will expire on October 18, 2000: (1) Mr. Robert Ozuna, Washington State Migrant Council-Resigned-Replaced by Mr. Gilberto Alaniz, Program Director, Opportunities Industrialization Center, Yakima, Washington; (2) Ms. Ella Ochoa, Executive Director, NAF Multicultural Human Development Corporation, North Platte, Nebraska; (3) Ms. Terry Meek, Executive Director, Proteus, Inc., Des Moines, Iowa; (4) Mr. Clevon Young, Executive Director, Arkansas Human Development Corporation, Little Rock, Arkansas; (5) Mr. Carlos R. Saavedra, Director, Adult Migrant Program and Services, Florida Department of Education, Tampa, Florida; (6) Ms. Barbara Coleman, State Director, Telamon Corporation; Columbia, South Carolina; (7) Mr. Baldemar Valasquez, Farm Labor Organizing Committee-Resigned-Replaced by-Mr. Lupe Martinez, Executive Director, United Migrant Opportunity Services. Milwaukee, Wisconsin; (8) Cipriano Garza, Director Migrant Education Program, Miami/Dade County Public Schools, Homestead, Florida; and (9) Ms. L. Diane Mull, Executive Director, Association of Farmworker Opportunity Programs, Arlington, Virginia. These nine appointments consist of six representatives from the National Farmworker Jobs Program (NFJP) grantee community and three representatives from organizations, associations and other Federal agencies with expertise relative to Migrant and seasonal farmworkers.

POLICY: The Secretary of Labor is authorized to appoint approximately fifteen initial members to establish the Committee. Twelve of the members must be representatives from the NFJP grantee community with field experience in the daily operation and administration of migrant and seasonal farmworker programs. The remaining three representatives from organizations, associations, or other Federal agencies, with expertise relative to migrant and seasonal farmworkers, will be appointed directly by the Secretary of Labor. For the purpose of this Solicitation, six individuals will be selected from nominations from the NFJP grantee community; and up to three individuals will be appointed directly by the Secretary. The Committee currently consists of eighteen members, of which thirteen are representatives from the NFJP grantee community and five representatives from organizations, associations, or other Federal Agencies, with expertise relative to migrant and seasonal farmworkers.

REQUESTED ACTION: NFJP grantees are requested to nominate individuals associated with a NFJP program who possess knowledge of the daily operation and administration of such programs and is representative of the regional area where the up-coming vacancies will occur. Additionally, nominations are requested for individuals outside of the NFJP grantee community from organizations, associations, or Federal agencies, with expertise relative to migrant and seasonal farmworkers. Those members listed above, whose terms expire in October, 2000, may be nominated in consideration for reappointment. In submitting nominations, nominators should consider the willingness of the nominee to attend and participate actively in Committee meetings, seek NFJP grantee input on critical issues,

serve on Committee workgroups, and provide feedback to the NFJP grantee community. Effectiveness at communications between the Committee members and the NFJP grantee community and its constituency is vital to the continued development of the NFJP partnership under the Federal Advisory Committee structure. Nominations must provide the following information: Nominee's Name, Affiliation and Address; Nominator's Name, Affiliation and Address.

Committee nominations must be submitted in writing to: James Deluca, Acting Director, Office of National Programs, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW. Room N–4641, Washington, DC 20210. All nominations submitted must be U.S. postmarked no later than August 31, 2000.

FOR FURTHER INFORMATION CONTACT: Alicia Fernandez-Mott, Chief, Division of Seasonal Farmworker Programs, Office of National Programs, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW. Room N–4641, Washington, DC 20210, Telephone: (202) 219–5500.

Signed at Washington, DC this 7th Day of August, 2000.

James Deluca,

Acting Director, Office of National Programs.

[FR Doc. 00–20817 Filed 8–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act; Migrant and Seasonal Farmworker Employment and Training Advisory Committee: Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463) as amended, notice is hereby given of the scheduled meeting of the Migrant and Seasonal Farmworker Employment and Training Advisory Committee.

TIME AND DATE: The meeting will begin at 9 a.m. on September 18, 2000, and continue until approximately 4:30 p.m., and will reconvene at 9 a.m. on September 19, 2000, and adjourn at close of business that day. Time is reserved from 1 to 2:30 p.m. on September 18, 2000 for participation and presentations by members of the public.

PLACE: U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, NW, Conference Room 4–5521, Washington, DC.

STATUS: The meeting with be open to the public. Persons will disabilities, who need special accommodations should contact the telephone number provided below no less than ten days before the meeting.

MATTERS TO BE CONSIDERED: The agenda will focus on the following topics:

Brief report of meeting of May 4 & 5, 2000
Public Comment Session
Child Labor Demonstration Pilot Presentations
Review of Final Workforce Investment Act Regulations
Adoption of Strategic Plan for Advisory Committee
Adoption of Annual Report to the Secretary of Labor

FOR FURTHER INFORMATION CONTACT: Alicia Fernandez-Mott, Chief, Division of Migrant and Seasonal Farmworker Programs, Office of National Programs, Employment and Training Administration, Room N–4641, 200 Constitution Ave., NW, Washington, DC 20210. Telephone: (202) 219–5500.

Signed at Washington, DC, this 7th day of August, 2000.

James Deluca,

Acting Director, Office of National Programs, Employment and Training Administration.

[FR Doc. 00–20816 Filed 8–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03328]

Walker McDonald Mfg. Co., a/k/a National Oilwell LP, Varel International, Greenville, TX; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on August 13, 1999, applicable to workers of Walker McDonald Mfg. Co., a/k/a National Oilwell LP, Greenville, Texas. The notice was published in the **Federal Register** on September 29, 1999 (64 FR 52542).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of tri-cone roller bits used by the oilfield and mining industries. New information provided by the State show that Varel International, Carrollton, Texas is the parent firm of Walker McDonald Mfg. Co., a/k/a National Oilwell LP, located in Greenville, Texas. New information also shows that workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account at Varel International.

The intent of the Department's certification is to include all workers of Walker McDonald Mfg. Co., a/k/a National Oilwell LP who were adversely affected by increased imports from Mexico.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to NAFTA–03328 is hereby issued as follows:

All workers of Walker McDonald Mfg. Co., a/k/a National Oilwell LP, Varel International, Greenville, Texas who became totally or partially separated from employment on or after July 21, 1998 through August 13, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 7th day of August, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–20770 Filed 8–15–00; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL SCIENCE FOUNDATION

Notice of Intent to Seek Approval to Reinstate an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: Under the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed information collection.

DATES: Written comments on this notice must be received by October 16, 2000, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard,

Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey of Public Attitudes Toward and Understanding of Science and Technology.

OMB Approval Number: 3145–0033.

Expiration Date of Approval: April 30, 2000.

Type of Request: Intent to seek approval to reinstate an information collection for three years.

Abstract: The proposed continuing information collection is a survey used to monitor public attitudes towards science and technology, including the public's level of scientific understanding and policy preferences on selected issues. This telephone survey has been conducted approximately every two years for more than 20 years, and the information collected with it appears in the congressionally mandated National Science Board biennial report, Science and Engineering Indicators, and other publications. Information on public attitudes and understanding of science and technology is used by government and nongovernment policy makers in developing and designing science and education programs and by researchers in government, industry, and academia. The proposed collection will occur in early 2001.

Expected Respondents

The survey will be conducted by telephone. Using state-of-the-art, computer-assisted telephone interviewing software and random digit dialing, approximately 2000 adults will be contacted and asked a series of questions designed to measure their attitudes towards science and technology and their understanding of scientific concepts.

Burden on the Public

The estimated respondent burden is 1000 hours. This estimate is based on the completion of 2000 telephone interviews with an average length of 30 minutes each.

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 shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, *e.g.,* permitting electronic submission of responses.

Dated: August 11, 2000.

Suzanne H. Plimpton,

NSF Reports Clearance Officer.

[FR Doc. 00–20834 Filed 8–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Geosciences (1756).

Date and Time: September 7 and 8, 2000, 8 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd, Rm 730, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Robert Robinson, Program Director for Upper Atmospheric Facilities, and Dr. John Meriwether, Program Director for Aeronomy. Room 775, Division of Atmospheric Sciences, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. (703) 292–8529.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate Coupling, Energetics, and Dynamics of Atmospheric Regions (CEDAR) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 USC 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 11, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–20839 Filed 8–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463; as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Polar Programs (1209).

Date/Time: September 18–20, 2000, 8:30 am–5 pm.

Place: National Science Foundation at 4201, 2000, 8:30am–5 pm.

Type of Meeting: Closed.

Contact Person: Polly A. Penhale, Program Manager, Antarctic Biology and Medicine, Office of Polar Programs Rm. 755S, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8033.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Antarctic Biology & Medicine proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the propsoals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 11, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–20835 Filed 8–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in the Office of Polar Programs (1209).

Date/Time: September 18–19, 2000; 8:00 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Blvd, Room 360, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Julie Palais, Program Director, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Room 755, Arlington, VA 22230. Telephone: (703) 292–8033.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Antarctic Glaciology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a

proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 11, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–20836 Filed 8–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in the Office of Polar Programs (1209).

Date/Time: September 19–20, 2000; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd, Room 360/330, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Scott Borg and Dr. Julie Palais, Program Directors, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Room 755, Arlington, VA 22230. Telephone: (703) 292–8033.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Antarctic Glaciology and Antarctic Geology and Geophysics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 11, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–20837 Filed 8–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in the Office of Polar Programs (1209).

Date/time: September 18–19, 2000; 8:00 AM–5:00 PM.

Place: National Science Foundation, 4201 Wilson Blvd., Room 330, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Scott Borg, Program Director, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Room 755, Arlington, VA 22230. Telephone: (703) 292–8033.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Antarctic Geology and Geophysics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 11, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–20838 Filed 8–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

President's Committee on the National Medal of Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science (1182).

Date/Time: Monday, November 13, 2000, 8:30 a.m.–3:00 p.m.

Place: Rm. 1295, National Science Foundation, 4201 Wilson Blvd, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Mrs. Susan E. Fannoney, Program Manager, Room 1220, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230. Telephone: 703/292–8096.

Purpose of Meeting: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Agenda: To review and evaluate nominations as part of the selection process for awards.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: August 11, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–20840 Filed 8–15–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–00017]

Notice of Consideration of Amendment Request for Dow Chemical Company's Radiation Safety Officer Change and Schedule Extension for Decommissioning of Bay City Site, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment (LA) to Material License No. STB–527 issued to The Dow Chemical Company (TDCC), to authorize change of the Radiation Safety Officer (RSO), and to extend the time schedule for decommissioning of its Bay City site, Bay City, Michigan.

TDCC submitted a letter dated June 1, 2000, which requested a license amendment to change the RSO. TDCC also submitted a letter dated May 23, 2000, requesting an extension of the deadline for completion of decommissioning until October 31, 2003.

These letters are treated as requests for license amendment. An NRC administrative review, documented in a letter to TDCC dated July 21, 2000, found the RSO change and the schedule extension requests acceptable to begin a technical review. If the NRC approves the RSO change and the schedule extension to October 31, 2003, the approval will be documented in a license amendment to NRC License No. STB–527. However, before approving the proposed amendment, the NRC will need to make findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

NRC hereby provides notice that this is a proceeding on two applications for license amendment of a license falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules of practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a

hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to: Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; between 7:45 a.m. and 4:15 p.m. Federal workdays; or
2. By mail or facsimile addressed to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR § 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, The Dow Chemical Company, 1261 Building, Midland, Michigan 48667, Attention: Mr. Ben Baker, Project Manager; and
2. The NRC staff, by delivery to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 am and 4:15 p.m. Federal workdays; or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h):
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstance establishing that the request for a hearing is timely in accordance with § 2.1205(d).

FOR FURTHER INFORMATION CONTACT: The application for the LA and supporting documentation are available for inspection at NRC's Public Electronic Reading Room at http://www.nrc.gov/NRC/ADAMS/index.html. Questions with respect to this action should be referred to Sam Nalluswami, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (301) 415–6694. Fax: (301) 415–5398.

Dated at Rockville, Maryland, this 10th day of August 2000.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–20841 Filed 8–15–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Internet Web Page for Discussion of the Nuclear Material Management and Safeguards System

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The staff of the U.S. Nuclear Regulatory Commission (NRC) is making available an Internet web site for the purpose of facilitating comments from NRC stakeholders pertaining to the on-going upgrade of the Nuclear Materials Management and Safeguards System. The Nuclear Materials Management and Safeguards System (NMMSS) serves as the U.S. Government's nuclear materials information system. It contains current and historic data on the possession and shipment of source [1] and special nuclear material.[2] The NMMSS upgrade potentially could have an impact on the reporting burden of NRC licensees.

FOR FURTHER INFORMATION CONTACT: Barry Mendelsohn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–415–7262, e-mail: btm1@nrc.gov

SUPPLEMENTARY INFORMATION:

Background

NMMSS satisfies the requirements of the Atomic Energy Act of 1954, as amended, for ''a program for Government control of the possession, use, and production of atomic energy and special nuclear material, whether owned by the Government or others, so directed as to make the maximum contribution to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials . . .'' It is used to satisfy obligations to the International Atomic Energy Agency for a State system of accountancy of source and special nuclear materials. Transaction, Inventory and Material Balance data are reported to NMMSS from 1130 facilities that are either operated for the Department of Energy (DOE) or regulated by the NRC.

NMMSS is managed jointly by the NRC and the DOE. It is operated by NAC International under contract to DOE.

The contractor currently runs NMMSS in a personal computer environment using the FoxPro data base management platform. The FoxPro platform is no longer supported by its owner. Because it is an obsolete platform, its use is a detriment to attracting and retaining competent contractor staff. Also, NMMSS is still based on the original 80-column design from 1965 main frame days. This limits the ability of programmers to make even minor format changes that users may request. Its current format does not adequately meet needs of the U.S. State Department for tracking foreign obligations attached to some foreign origin nuclear material.

NMMSS is being upgraded by NAC International to an Oracle platform and redesigned in order to respond to customers' needs. The changes to NMMSS from this upgrade may eventually require NRC licensees and certificate holders to make some conforming changes to the formats of their own materials management software.

The funding for the NMMSS contract is currently shared by the DOE and NRC with two-thirds provided by DOE and one-third by the NRC. The cost of the upgrade is also being shared, but with NRC being responsible for a somewhat lesser share of the funding. The NRC's NMMSS expenses contribute to fees charged to its licensees under the ''full-fee recovery'' provision of its appropriation legislation.

[1] As used by the International Atomic Energy Agency (IAEA), the term ''source material'' means uranium containing the mixture of isotopes occurring in nature; uranium depleted in the isotope 235; thorium; any of the foregoing in the form of metal, alloy, chemical compound, or concentrate; any other material containing one or more of the foregoing in such concentration as the IAEA Board of Governors shall from time to time determine; and such other material as the Board of Governors shall from time to time determine.

[2] Special nuclear material means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Atomic Energy Act, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing but does not include source material.

Internet Web Site

The full web address (URL) of the NRC's NMMSS web site is: http://techconf.llnl.gov/cgi-bin/library?source=html&library=nmmss__info&file=background

The web site can also be reached by the following method:

1. Go the main NRC web site at: http://www.nrc.gov

2. Scroll down towards the bottom of that page and click on the word ''*Rulemaking*.''

3. Scroll down on the Rulemaking page till you see the words ''Technical Conference.'' Click on those words.

4. On the page titled ''Welcome to the NRC Technical Conference Forum,'' click where it says to participate in Technical Conferences.

5. Scroll down to the topic ''Nuclear Materials Management and Safeguards System.'' Comments may be submitted on-line by clicking on ''comments.'' You may also view other comments submitted by clicking on ''comments.''

In addition to participating via the Internet, you may also submit comments in writing to the Nuclear Regulatory Commission, Attn: Barry T. Mendelsohn (ms T–8H7), Washington, DC 20555–0001.

Dated at Rockville, Maryland, this 9th day of August 2000.

For the Nuclear Regulatory Commission.

Charles W. Emeigh,

Section Chief, Safety and Safeguards Support Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–20842 Filed 8–15–00; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request; Review of Reinstated Information Collection: Instructions and Form 1417

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for clearance of a revised information collection. Form 1417, Combined Federal Campaign Annual Reporting, is used to collect information from 384 local CFC's around the country to verify campaign results.

We estimate 384 Form 1417's are completed annually. Each form takes approximately 60 minutes to complete. The annual estimated burden is 384 hours.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on 202/606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before October 16, 2000.

ADDRESSES: Send or deliver comments to: Mara T. Patermaster, Director, Office of CFC Operations, US Office of Personnel Management, 1900 ''E'' Street, NW, Room 5450, Washington, DC 20415.

For information regarding administrative coordination contact: Mara T. Patermaster, Director, Office of CFC Operations, US Office of Personnel Management, 1900 ''E'' Street, NW, Room 5450, Washington, DC 20415, (202) 606–2564.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 00–20652 Filed 8–15–00; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a New Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM), Office of Human Resource Development, submitted to the Office of Management and Budget a request for review of a new information collection instrument. OPM is committed to improving its programs and assuring that the training and assistance needs of client agencies are met. Our website (*http://www.opm.gov/hrd*) is instrumental in providing widespread access to information on human resource development programs, practices, and policies to our client agencies. In order to determine our success, OPM needs to learn what constituents think about the content of the website and its effectiveness. We're Listening—A Survey of the OHRD Website is designed for this purpose.

This is a new information collection instrument; therefore, an estimate of how many will be completed annually is not possible. The OHRD website averages over 30,000 hits per week. The survey should take a maximum of 10 minutes to complete.

The annual estimated burden is 5,000 hours.

Comments are invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or *mbtoomey@opm.gov.*

DATES: Comments on this proposal should be received on or before September 15, 2000.

ADDRESSES: Send or deliver comments to—

Sarah D. Adams, Director, Office of Human Resource Development, Office of Workforce Relations, U.S. Office of Personnel Management, 1900 E Street, NW, Room 1453

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 00–20653 Filed 8–15–00; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for a New Customer Satisfaction Survey for the Workforce Compensation and Performance Service Web Pages

AGENCY: Office of Personnel Management.

ACTION: Notice

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for an emergency clearance to add a customer survey to the Workforce Compensation and Performance Service (WCPS) web pages located on the OPM web site, including the Performance Management Technical Assistance Center, the Compensation Administration pages, the Federal Classification System pages, and the Strategic Compensation page. This survey will allow WCPS to elicit customer feedback, and provide an opportunity for web page users to communicate their needs. Thus, the survey will further improve customer service. The WCPS web pages are used by Federal human resources specialists, managers, supervisors, employees, and the general public. Participation in the survey is voluntary. Readers complete the survey online. We estimate it will take 1 minute to complete the survey. Approximately 900 surveys will be completed annually. The total annual burden is 15 hours.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who may respond, through the use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or e-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before September 15, 2000.

ADDRESSES: Send or deliver comments to—

Peggy Higgins, Chief, Performance Management and Incentive Awards Division, U.S. Office of Personnel Management, 1900 E Street, NW, Room 7412, Washington, DC 20415–8340

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Karen Lebing, Team Leader, Outreach & Operations, Performance Management and Incentive Awards Division, (202) 606–2720.

U.S. Office of Personnel Management.

Janice R. Lachance.

Director.

[FR Doc. 00–20654 Filed 8–15–00; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (MAXXAM Inc., Common Stock, $4.50 Par Value,) File No. 1–03924

August 10, 2000.

MAXXAM Inc. (''Company'') has filed applications with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Security Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.50 par value (''Security''), from listing and registration on the Pacific Exchange, Inc. (''PCX'') and on the Philadelphia Stock Exchange, Inc. (''Phlx'')

In its filings with the Commission, the Company cited the following factors in support of the decision to withdraw its Security form listing and registration on the PCX and the Phlx:

The Security is currently listed and registered on the American Stock Exchange LLC (''Amex'') as well as the PCX and Phlx. The Company believes that no advantage exists in maintaining listings for the Security on the regional exchanges and that these additional listings have resulted in unnecessary expenses to the Company not justified by the low volume of trading on the PCX and the Phlx.

The Company has stated that it has complied with the respective rules of he PCX and Phlx governing withdrawals of securities. The PCX and Phlx have each in turn indicated to the Company that they have no objection to the Security's withdrawal.

The Company's application relates solely to the withdrawal of the Security from listing and registration on the PCX and Phlx and shall have not effect upon the Security's continued listing and registration on the Amex. By reason of Section 12(b) of he Act[3] and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports with the Commission under Section 13 of the Act.[4]

Any interested person may, on or before August 31, 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 Phlx 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.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–20790 Filed 8–15–00; 8:45 am]

BILLING CODE 8010–01–M

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of (1) retroactive application of certain amendments submitted to Congress on May 1, 2000; (2) final policy priorities for amendment cycle ending May 1, 2001; and (3) request for comment on proposed criteria for selecting circuit conflict issues as policy priorities.

SUMMARY: (1) Retroactive Application.—The Commission has reviewed amendments submitted to Congress on May 1, 2000, that may result in lower guideline ranges and has designated three such amendments for inclusion in

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78n.

[5] 17 CFR 200.30–3(a)(1).

policy statement § 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range). *See* amendment following section designated ''Authority''.

(2) Final Policy Priorities.—In June, 2000, the Commission published a notice of possible policy priorities for the amendment cycle ending May 1, 2001. See 65 FR 113 (June 12, 2000). After reviewing public comment received pursuant to this notice, the Commission has identified its policy priorities for the upcoming amendment cycle. The Commission hereby gives notice of these policy priorities.

(3) Criteria for selecting circuit conflict issues.—The Commission has developed a set of criteria to guide its work in selecting, as policy priorities for any given amendment cycle, issues that involve conflicting interpretations of guideline language among the circuit courts. The Commission invites comment on this set of criteria.

ADDRESSES: Send comments to: United States Sentencing Commission, One Columbus Circle, NE, Suite 2–500 South, Washington, DC 20002–8002, Attention: Public Information—Comment on Criteria.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: (1) Retroactive Application.—The United States Sentencing Commission is an independent commission in the judicial branch of the United States Government and is empowered by 28 U.S.C. § 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. Section 994 also directs the Commission periodically to review and revise promulgated guidelines and authorizes it to submit guideline amendments to the Congress not later than the first day of May each year. See 28 U.S.C. §§ 994(o), (p). In connection with this promulgation authority, the Commission also is required to determine which amendments submitted to Congress may result in a reduced guideline range. See 28 U.S.C. § 994(u); § 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range). After identifying any such amendment, the Commission determines whether the amendment should be given retroactive effect based on factors such as the purpose of the amendment, the magnitude of the change in the guideline range made by the amendment, and the difficulty of applying the amendment retroactively to determine an amended guideline range. *See* § 1B1.10, comment. These amendments are then included in the list of amendments in § 1B1.10(c) that trigger a defendant's eligibility for consideration of a reduced sentence pursuant to 18 U.S.C. § 3582(c)(2). (Inclusion of an amendment in § 1B1.10(c) ''does not entitle a defendant to a reduced term of imprisonment as a matter of right.'' § 1B1.10, comment. (backgr'd.))

The Commission has analyzed the amendments submitted to Congress on May 1, 2000, and has designated three such amendments for inclusion in policy statement § 1B1.10. Those amendments are as follows:

(a) Amendment 591, which clarifies that a sentencing court must apply the offense guideline referenced in the Statutory Index for the statute of conviction unless the case falls within the limited ''stipulation'' exception set forth in § 1B1.2(a). Accordingly, in order for the enhanced penalties in § 2D1.2 (Drug Offense Occurring Near Protected Locations or Involving Underage or Pregnant Individuals) to apply, the defendant must be convicted of an offense referenced to that guideline.

(b) Amendment 599, which clarifies under what circumstances a defendant sentenced for a violation of 18 U.S.C. § 924(c) in conjunction with a conviction for other offenses may receive a weapon enhancement contained in the guidelines for those other offenses. This amendment directs that no guideline weapon enhancement should be applied when determining the sentence for the crime of violence or drug trafficking offense underlying the 18 U.S.C. § 924(c) conviction, nor for any conduct with respect to that offense for which the defendant is accountable under § 1B1.3 (Relevant Conduct).

(c) Amendment 606, which corrects a typographical error in the Chemical Quantity Table in § 2D1.11 (Unlawfully Distributing, Importing, Exporting, or Possessing a Listed Chemical) regarding certain quantities of Isosafrole and Safrole by changing those quantities from grams to kilograms.

(2) Final Policy Priorities.—As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, the Commission has identified 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. While the Commission intends to address these priority issues, it recognizes that other factors, such as the enactment of legislation requiring Commission action, may affect the Commission's ability to complete work on all of the identified policy priorities by the statutory deadline of May 1, 2001. The Commission may address any unfinished policy development work from this agenda during the amendment cycle ending May 1, 2002.

The specific policy priorities for the amendment cycle ending May 1, 2001, are as follows: (A) An economic crimes package, which may include (i) a consolidation of the theft, property destruction, and fraud guidelines to provide uniformity of applicable commentary and consistency in application; (ii) a revised loss table for the consolidated and related guidelines; (iii) a revised loss definition that is more consistent across offense types, is easier to use, and addresses issues raised by case law and guideline application; and (iv) conforming changes to other guidelines that refer to the fraud and theft loss tables; (B) money laundering; (C) counterfeiting of bearer obligations of the United States; (D) further responses to the Protection of Children from Sexual Predators Act of 1998, Pub. L. 105–314; (E) firearms, with particular focus on the issue of the involvement of multiple firearms in an offense; (F) nuclear, chemical, and biological weapons, and, possibly, related national security issues; (G) the implementation of any crime legislation enacted during the second session of the 106th Congress warranting a Commission response; (H) the initiation of a review of the guidelines relating to criminal history and the computation of criminal history points under those guidelines; (I) the initiation of an analysis of the operation of the ''safety valve'' guideline, § 5C1.2 (Limitation on Applicability of Statutory Minimum Sentences in Certain Cases); (J) other guideline amendments the Commission determines necessary for proper operation of the sentencing guideline system; and (K) the resolution of conflicts among the circuit courts on the following sentencing guideline issues:

(i) Whether admissions made by the defendant during a guilty plea hearing, without more, can be considered ''stipulations'' under § 1B1.2(a). *Compare, e.g., United States* v. *Nathan,* 188 F.3d 190, 201 (3d Cir. 1999) (statements made by defendants during the factual-basis hearing for a plea agreement do not constitute ''stipulations'' for the purpose of this sentencing enhancement, and a statement is a stipulation only if it is part of a defendant's written plea agreement or if both the government and the defendant explicitly agree at a factual-basis hearing that the facts being placed on the record are stipulations that might subject a defendant to

§ 1B1.2(a)), *with United States* v. *Loos,* 165 F.3d 504, 508 (7th Cir. 1998) (the objective behind § 1B1.2(a) is best answered by reading ''stipulation'' to mean any acknowledgment by the defendant that he committed the acts that justify use of the more serious guideline, not in a formal agreement).

(ii) Whether the four-level adjustment for the use of a dangerous weapon during an aggravated assault is impermissible double-counting in a case in which the weapon is not ''inherently dangerous.'' *Compare, e.g., United States* v. *Williams,* 954 F.2d 204, 205–08 (4th Cir. 1992) (applying the dangerous weapon enhancement under § 2A2.2(b)(2)(B) for defendant's use of his chair as a dangerous weapon did not constitute impermissible double counting, even though defendant's use of the chair as a dangerous weapon increased his offense level twice: first, by triggering the application of the aggravated assault guidelines, and second, as the basis for the four-level enhancement), *with United States* v. *Hudson,* 972 F.2d 504, 506–07 (2d Cir. 1992) (if the use of a weapon has resulted in a higher base offense level because the weapon caused the crime to be classified as an aggravated assault, a district court is not permitted to enhance a base offense level pursuant to § 2A2.2(b) for the use of the same non-inherently dangerous weapon (such as an automobile); a sentence may be enhanced pursuant to § 2A2.2(b) if an aggravated assault is accomplished with an inherently dangerous weapon such as a gun).

(iii) Whether interest due but unpaid on a loan can be included in the amount of victim's loss for purposes of calculating the offense level under § 2F1.1. *Compare, e.g., United States* v. *Sharma,* 190 F.3d 220, 228 (3d Cir. 1999) (interest due but unpaid on a fraudulently obtained loan is included in the amount of the victim's loss for purposes of calculating the offense level under § 2F1.1), *with United States* v. *Hoyle,* 33 F.3d 415, 419 (4th Cir. 1994) (bargained-for interest on a fraudulently obtained student loan is not included in loss calculation, and the interest represented by the time-value of money lost by lenders should be excluded).

(iv) Whether the offense level can be calculated using intended loss amounts without regard to any considerations of impossibility or economic reality. *Compare, e.g., United States* v. *Robinson,* 94 F.3d 1325, 1328 (9th Cir. 1996) (intended loss is used in the offense-level calculation under § 2F1.1 even though the actual loss is zero or even if the loss is not realistically possible), *with United States* v. *Ensminger,* 174 F.3d 1143 (10th Cir. 1999) (an intended loss under § 2F1.1 cannot exceed the loss a defendant in fact could have occasioned if the defendant's fraud had been entirely successful).

(v) Whether the fraud guideline enhancement for an offense that involved a misrepresentation that the defendant was acting on behalf of a charitable, educational, religious or political organization, or a government agency (§ 2F1.1(b)(4)(A)) applies in the absence of exploitative conduct. *Compare, e.g., United States* v. *Marcum,* 16 F.3d 599 (4th Cir. 1994) (enhancement is appropriate even if the defendant did not misrepresent his authority to act on behalf of a particular organization, but rather only misrepresented that he was conducting an activity wholly on behalf of such organization), *with United States* v. *Frazier,* 53 F.3d 1105 (10th Cir. 1995) (limiting the application of § 2F1.1(b)(4) to cases in which the defendant exploits his victim by claiming to have authority which in fact does not exist rather than using funds to which an organization was entitled for unauthorized purposes).

(vi) Whether a crime committed after the commission of the instant federal offense of felon in possession of a firearm, but for which the defendant is sentenced prior to sentencing on the federal charge, is counted as a prior felony conviction in determining the defendant's base offense level. *Compare, e.g., United States* v. *Pugh,* 158 F.3d 1308, 1311 (D.C. Cir. 1998) (the guideline language is ambiguous but the commentary language is clear, thereby counting prior felony conviction that was sentenced prior to sentencing for the instant federal offense, even if the defendant committed the prior felony offense after the instant federal offense), *with United States* v. *Barton,* 100 F.3d 43, 46 (6th Cir. 1996) (defendant's state drug crime, which was committed after federal offense of being felon in possession of firearm, could not have been counted as prior felony conviction under § 2K2.1(a), even though defendant was convicted and sentenced on state offense prior to sentencing on federal charge; only those convictions that occur prior to the commission of the firearm offense may be counted against the defendant in determining the base offense level).

(vii) Whether a mitigating role adjustment (§ 3B1.2) can be precluded automatically in a single defendant drug courier case if the courier's base offense level is determined solely by the quantity personally handled by the courier and that quantity constitutes all of the courier's relevant conduct. *Compare, e.g., United States* v. *Isaza-Zapata,* 148 F.3d 236, 241 (3d. Cir. 1998) (court specifically rejects argument that a defendant not charged with concerted activity and whose base offense level corresponds only to amounts defendant personally handled is precluded from a § 3B1.2 downward adjustment; defendant pleaded guilty to importing heroin and sentencing was based on amounts in his personal possession, but if he can meet the requirements of § 3B1.2 he is entitled to the reduction upon appropriate proof; specifically disagrees with the Seventh Circuit), *with United States* v. *Isienyi,* 207 F.3d 390 (7th Cir. 2000) (defendant pleaded to one count of importing a specified quantity of heroin; defendant is ineligible for a mitigating role adjustment when his offense level consisted only of amounts he personally handled).

(viii) Who constitutes the ''victim'' under section 3D1.2(a) in child pornography cases and for purposes of grouping. *Compare, e.g., United States* v. *Tillmon,* 195 F.3d 640, 643 (11th Cir. 1999) (for purposes of grouping, the victim of child pornography is the child or children depicted and each child constitutes a separate group, rejecting the concept that society at large was the victim), *with United States* v. *Toler,* 901 F.2d 399 (4th Cir. 1990) (society as a whole is the victim of child pornography trafficking offenses).

(ix) Whether money laundering and fraud convictions should be grouped together for sentencing under § 3D1.2. *Compare, e.g., United States* v. *Cusumano,* 943 F.2d 305, 313 (3d Cir. 1991), *cert. denied,* 502 U.S. 1036 (1992) (affirming the district court's decision to group money laundering with other offenses in a case in which ''the evidence demonstrated that the unlawful kickbacks, the embezzlement, the conspiracy, the Travel Act violations and the money laundering were all part of one scheme to obtain money'' from an employee benefit fund), *with United States* v. *Napoli,* 179 F.3d 1 (2d Cir.), *cert. denied,* 120 S. Ct. 1176 (1999) (fraud and money laundering harm different victims; the respective guidelines measure the harms differently and therefore the two offenses cannot be grouped).

(x) Whether a defendant's status as a deportable alien and his consent to deportation is a ground for a downward departure during sentencing, notwithstanding the lack of a colorable defense to deportation. *Compare, e.g., United States* v. *Galvez-Falconi,* 174 F.3d 255, 260 (2d Cir. 1999) (must present a colorable, non-frivolous defense to deportation, such that the act

of consenting to deportation carries with it unusual assistance to the administration of justice; the act of consenting to deportation, alone, would not constitute a circumstance that distinguishes a case as sufficiently atypical to warrant a downward departure), *with United States* v. *Smith,* 27 F.3d 649, 655 (D.C. Cir. 1994) (downward departure may be appropriate in a case in which the defendant's status as a deportable alien is likely to cause a fortuitous increase in the severity of his sentence).

(xi) Whether collateral consequences that a deportable alien may incur, such as likelihood of deportation, ineligibility for minimum security facilities and absence from family in Mexico, constitute a basis for downward departure. *Compare, e.g., United States* v. *Restrepo,* 999 F.2d 640, 647 (2d Cir. 1993) (erroneous to view deportation as so harsh as to warrant a reduction in the period of imprisonment prescribed by the Guidelines), *with United States* v. *Farouil,* 124 F.3d 838, 847 (7th Cir. 1997) (district court is free to consider whether status as a deportable alien has resulted in unusual or exceptional hardship in conditions of confinement).

(3) Criteria for Selecting Circuit Conflict Issues.—The Commission has developed the following set of criteria to guide its work in selecting, as policy priorities for any given amendment cycle, issues that involve conflicting interpretations of guideline language among the circuit courts:

Commission Policy Regarding Resolution of Guideline Circuit Conflicts

The United States Sentencing Commission will consider the following non-exhaustive list of factors in deciding whether a particular guideline circuit conflict warrants resolution by the Commission: Potential defendant impact; potential impact on sentencing disparity; number of court decisions involved in the conflict and variation in holdings; and ease of resolution, both as a discrete issue, and in the context of other agenda matters scheduled for consideration during the available amendment cycle.

Commentary

The Commission has the authority and responsibility periodically to amend previously issued guidelines, policy statements, or commentary for the purpose of addressing and resolving conflicting interpretations of *Guidelines Manual* language by the Federal courts, including conflicts among the courts of appeals. *See* 28 U.S.C. §§ 991(b)(1)(B), 994(o), (p); *Braxton* v. *United States,* 500 U.S. 344 (1991). The purposes of amendments of this nature include (1) promoting a more uniform body of guideline-related law, (2) reducing unwarranted sentencing disparity, and (3) in general, achieving more fully the purposes of sentencing and the goals of the Sentencing Reform Act.

The Commission believes that resolution of outstanding circuit conflicts necessitates a balanced consideration of the factors set forth in this policy, along with other factors that may be relevant to a particular issue. In applying these criteria to particular issues, the Commission welcomes formal and informal communications from members of the criminal justice system and any other interested persons. Because of the press of other responsibilities, the Commission anticipates that, in any given year, it will be able to address successfully only a limited number of higher priority conflict issues.''.

The Commission invites public comment on these criteria, specifically regarding whether any additional criteria should be considered.

Authority: 28 U.S.C. § 994(a), (o), (p), (u); USSC Rules of Practice and Procedure 5.2.

Diana E. Murphy,

Chair.

Amendment: Section 1B1.10(c) is amended by striking ''and 516.'' and inserting ''516, 591, 599, and 606.''.

Reason for Amendment: This amendment expands the listing in § 1B1.10(c) to implement the directive in 28 U.S.C. § 994(u) regarding guideline amendments that may be considered for retroactive application. Inclusion of an amendment in § 1B1.10(c) triggers a defendant's eligibility for consideration of a reduced sentence pursuant to 18 U.S.C. § 3582(c)(2), although such inclusion does not entitle a defendant to reduced sentence as a matter of right.

[FR Doc. 00–20780 Filed 8–15–00; 8:45 am]

BILLING CODE 2210–40–P

DEPARTMENT OF STATE

[Public Notice 3391]

Culturally Significant Objects Imported for Exhibition Determinations: ''Faberge—Kremlin Objects''

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Faberge—Kremlin Objects,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the exhibit objects at the Riverfront Arts Center in Wilmington, Delaware from on or about September 9, 2000 to on or about February 18, 2001, and possibly at an additional venue or venues yet to be determined is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: August 8, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 00–20819 Filed 8–15–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3389]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the 25 letters.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202 663–2700).

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: August 2, 2000.

William J. Lowell,

Director, Office of Defense Trade Controls.

May 4, 2000.

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $14,000,000 or more.

The transaction contained in the attached certification involves the export of 895 TOW 2A missiles for the Hellenic Ministry of National Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 013–00

The Honorable J. Dennis Hastert, Speaker of the House of Representative.

July 21, 2000

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles and/or defense services sold commercially under a contract in the amount of $50,000,000.00 or more.

The transaction described in the attached certification involves the export of twenty (20) F–16D Aircraft including engines, five (5) additional spare engines, a software maintenance facility, spare parts, associated equipment, and technical data.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 018–00

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker:

Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially.

The transaction contained in the attached certification involves the export of defense services and technical data for the development and production of Brimstone Missile Bus Electro-Mechanical Actuators, in the United Kingdom.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 36–00

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2000.

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and assistance to Germany for the manufacture of the AN/APG–65 radar system and related equipment for end use by the Governments of Germany, Greece and United States.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 041–00

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to Japan of three T–400 training aircraft, support equipment and support services for government end-use.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 054–00

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker:

Pursuant to Section 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles and defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the amendment of a current manufacturing license agreement with Germany for the production of tank fire control systems for end use by the governments of NATO countries, Sweden, Switzerland, Austria and Thailand.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 059–00

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of a JCSAT commercial communications satellite for launch from French Guiana and sale to Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 061–00

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and support for the Mid-Life Upgrade of F/A–18 Aircraft in Australia.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 64–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and technical data to support the design, and manufacture of Joint Striker Fighter (JSF) 119 Gas Turbine Engine Exhaust Nozzle parts and components, in The Netherlands.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 68–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment sold under a contract in the amount of $14,000,000 or more.

The transaction described in the attached certification involves the retransfer of one (1) Sikorsky S–70A Helicopter from Brunei to Jordan.

The United States Government is prepared to authorize the retransfer of this item having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 069–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves a technical assistance agreement to provide performance and interface requirements to Japan for the design and manufacture of satellite components for use on U.S. commercial communication satellites.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 071–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction described in the attached certification involves the export of 2 commercial communications satellites (XM–1 and XM–2) to either French Guiana for launch on an Ariane space launch vehicle or to the Sea Launch Platform for launch on a Zenit space launch vehicle. Upon orbit, the satellite will be operated by XM Satellite Radio Inc. located in Washington, D.C.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 072–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction described in the attached certification involves the export of two iSKY commercial communications satellites to French Guiana for launch.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 073–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the manufacture of an EP–3C airframe for use by the Japanese Self Defense Force.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 074–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract.

The transaction contained in the attached certification involves the export of defense services for the manufacture of the ''Bushmaster'' 7.62mm Chain Gun in Canada and the United Kingdom, for further resale into specified territories.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 77–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Manufacturing License Agreement with Finland.

The transaction described in the attached certification involves the transfer of technical data, and naval architectural services for the design of the T–2000 Air Cushion Vehicle for the Finnish Government.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. 078–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Manufacturing License Agreement with Canada.

The transaction described in the attached certification involves the transfer of technical data and defense services for the manufacture, sale, service and repair of 25mm HEI–T and TP–T ammunition in Canada with added sales in Australia and New Zealand.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. 079–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Chairman: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Manufacturing License Agreement with Spain.

The transaction described in the attached certification involves the transfer of technical data, manufacturing know-how and training to Spain for the construction of F–85 Aegis Frigates for the Norwegian Navy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. 080–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of the QuickBird-2 remote sensing satellite and technical data to Russia for launch from Plesetsk, Russia.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 082–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles and/or defense services sold commercially under a contract in the amount of $50,000,000.00 or more.

The transaction described in the attached certification involves the export of three (3) shipsets of the MK 15 MOD12 Phalanx Close-In Weapon System to the Japan Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 084–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the continued export to Saudi Arabia of technical, training, and logistical support for the operation and maintenance of the HAWK and PATRIOT Air Defense Systems.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary Legislative Affairs
Enclosure: Transmittal No. DTC 085–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with the United Kingdom.

The transaction described in the attached certification involves the transfer of technical data and assistance in the manufacture of

biological and chemical agents detection and monitoring equipment for end use by the governments of the United Kingdom and United States.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. 088–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and technical data to support the overhaul and upgrade of (25) LVTP7/LVTC7 amphibious vehicles to the AAVP7A1 configuration, the production of (9) AAVC7A1 new amphibious vehicles, and the conduct of training courses for crew and maintenance personnel in Italy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 90–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with the United Kingdom.

The transaction described in the attached certification involves the manufacture of wing and fuselage components for the Joint Strike Fighter for use by the U. S. Navy, U.S. Air Force, and U.S. Marine Corps.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 091–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 21, 2000.

Dear Mr. Speaker: Pursuant to Section 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services, articles and technical data to support the co-production of F/A–18 C/D structural components and subassemblies, in Australia.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,
Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 92–00
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

[FR Doc. 00–20673 Filed 8–15–00; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 3390]

Bureau for International Narcotics and Law Enforcement Affairs; International Law Enforcement Academy—Roswell, New Mexico

AGENCY: Office of Europe, NIS, and Training; Bureau for International Narcotics and Law Enforcement Affairs, State.

ACTION: Notice.

SUMMARY: The Department of State (DOS) is soliciting a proposal to conduct international law enforcement training at the deBremmond National Guard facility, located in Roswell, New Mexico. The recipient will have access to the deBremmond facility for the purpose of implementing this program, as required by the pertinent congressional appropriation language. The recipient is required to have extensive knowledge of the local area and experience in dealing with cooperative agreements.

The facilities available at the deBremmond complex include dormitories, classrooms, office space, conference rooms, an auditorium and storage areas. These buildings will undergo extensive renovations prior to their occupancy, to meet exacting international standards. Initial training will be conducted at temporary commercial facilities. Dining and recreational facilities will be either provided on-site or contracted elsewhere. The maintenance, operation and repair of these buildings are the responsibility of the New Mexico National Guard.

This project envisions the creation of an International Law Enforcement Academy, utilizing a curriculum comprised of courses similar to those provided at a typical Criminal Justice university/college. The courses shall be designed and taught by academicians, for foreign law enforcement officials. The students will be mid-to-senior law enforcement and criminal justice officials from Eastern Europe, Russia, the former Soviet Union, ASEAN member countries and the PRC. After an initial period, countries from Latin America and Africa will also participate.

Typically, these courses will cover topics such as police organization and administration, psychology of criminal behavior, police organization and administration, family violence, planning for police operations, women in policing, urban violence, civil disobedience and dissent, etc. The instruction should be structured in four separate modules, each one week in duration, for an overall course length of four weeks. In addition, a cultural and institutional orientation component should be blended throughout the course. These courses will be offered year around, except for two breaks, one in the summer and the other at year's end, each lasting two weeks.

Each class will be comprised of approximately 50 students. After an initial phase of approximately one year, two classes will be run simultaneously bringing the student population to 100 for a total annual output of 1200 students. The instruction will be in English with simultaneous translation into at least three languages.

The recipient will be expected to offer administrative and logistical support for the program, to include, but not limited to: international and domestic travel arrangements for all participants, coordination with United States missions overseas to effect the

identification and notification of candidates, cultural and programmatic orientation, provision of lodging and meals for the students, facilitation of emergency medical care, shipping of instructional materials, maintenance of personal and academic files, coordination with university staff to develop curriculum and deliver instruction, implementation of training plans, evaluation of training effectiveness, dissemination of information concerning the Academy, hosting of official visitors and foreign dignitaries, facilitation of cultural and recreational activities, interaction with city, county and military personnel connected with the Academy.

The Department of State's involvement in the execution of this project is considered substantial. DOS will provide guidance in the nature and composition of the courses, selection of students, training schedules, coordination with U.S. missions overseas, extracurricular activities and interaction with foreign officials involved in the operation of the program. DOS will also play a predominant role in the evaluation and modification of training methodologies. A DOS representative resident in Roswell, NM, and the International Narcotics and Law Enforcement (INL) Bureau, in Washington, DC will conduct these activities.

DATES: Strict deadlines for submissions are: Full proposals must be received at INL no later than 30 days from the date of the announcement. Prospective respondents to this notice should contact Linda Gower, Grants Officer, as soon as they have determined an interest in this notice. For contact information see page 4.

Sixty days from the closing date should be used as the proposed start date on proposals, unless otherwise directed by a program manager. All proposals must be submitted in accordance with the guidelines below. Failure to heed these guidelines may result in proposals being returned without review.

ADDRESSES: Proposals may be submitted to: U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, Navy Hill South, 2430 E Street NW., Washington, DC 20520, Attn: Linda Gower.

FOR FURTHER INFORMATION CONTACT: Linda Gower, Grants Officer, at above address, TEL: 202–776–8774, Fax: 202–776–8775, E-mail: gowerlg@state.gov or Thom Browne at above address, Tel: 202–736–4662, Fax: 202–647–6962.

Once the RFA deadline has passed, DOS staff may not discuss competition in any way with applicants until the proposal review process has been completed.

SUPPLEMENTARY INFORMATION:

Funding Availability

This Program Announcement is for a project to be conducted by agencies/programs outside the Federal government, over a period of up to five years. Actual funding levels will depend upon availability of funds. Current plans are for up to a total of $6,000,000 for the first year and $5,000,000 for every year thereafter, to be available for one new award. The funding instrument for this award will be a cooperative agreement. Funding for non-U.S. institutions and contractual arrangements for services and products for delivery to INL are not available under this announcement. No proposal should exceed a total cost of $26,000,000.

Program Authority

Authority: Section 635(b) of the Foreign Assistance Act of 1961, as amended.

Program Objectives

The goal of this program is to increase the technical capabilities of foreign country law enforcement officials to combat crime, institute democratic practices, and to ensure that through international law enforcement cooperation, U.S. agencies succeed in intercepting the movement of transnational criminal elements into the U.S. and throughout the world.

Program Priorities

This Announcement invites proposals for the following program priorities. The recipient shall be responsible for the execution of all four areas described below:

(1) Development of curriculum to meet the requirements described in the Summary above.

(2) Organization and start-up of the Academy in Roswell, NM.

(3) Day-to-day operations and administrative and logistical support of the Academy.

(4) Conduct of training activities to reach the student output levels described in the Summary above.

Any applicants who will be working with universities to implement the proposed assessment or evaluation programs may sub-grant or sub-contract services to assist in fulfilling program objectives.

Eligibility

Eligibility is limited to non-Federal agencies and organizations. Universities and non-profit organizations are included among entities eligible for funding under this announcement. Direct funding for non-U.S. institutions is not available under this announcement.

Evaluation Criteria

Consideration for financial assistance will be given to those proposals which adequately address the Program Priorities identified above and meet the following evaluation criteria:

(1) Relevance (15%): Importance and relevance to the goal and objectives of the program identified above. Definition of how the training to be provided at the Academy will satisfy the needs of the participating countries, as described under ''Program Objectives''.

(2) Methodology (25%): Adequacy of the proposed approach and activities, including development of training programs and project milestones. Clear definition of the steps required for the gradual implementation of the program, from its inception to full development.

(3) Readiness (25%): Relevant history and experience in conducting training related programs, past performance record of proposers. Familiarity with foreign environments and ability to deal with individuals of diverse linguistical and cultural backgrounds.

(4) Linkages (20%): Ability to interact with key personnel in the local community, intended training facility and universities in the Roswell, NM area.

(5) Costs (15%): Adequacy/efficiency of the proposed resources.

Selection Procedures

All proposals will be evaluated and ranked in accordance with the assigned weights of the above evaluation criteria by independent peer panel review composed of INL and other Department of State experts. The panel's recommendations and evaluations will be considered by the program managers in final selections. Those ranked by the panel and program managers as not recommended for funding will not be given further consideration and will be notified of non-selection. For the proposals rated for possible funding, the program managers will: (a) Ascertain which proposals meet the objectives and fit the criteria posted; (b) select the proposals to be funded in accordance with the evaluation criteria.

Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding.

Proposal Submission

The guidelines for proposal preparation provided below are mandatory. Failure to heed these guidelines may result in proposals being returned without review.

(a) Full Proposals

(1) Proposals submitted to INL must include the original and three unbound copies of the proposal. (2) Program descriptions must be limited to 30 pages (numbered), not including budget, personal vitae, letters of support and all appendices, and should be limited to funding requests for one to five years duration. Federally mandated forms are not included within the page count. (3) Proposals should be sent to INL at the above address. (4) Facsimile transmissions of full proposals will not be accepted.

(b) Required Elements

(1) Signed title page: The title page should be signed by the Project Director (PD) and the institutional representative. The PD and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period.

(2) Abstract: An abstract must be included and should contain an introduction, rationale and a brief summary of work to be completed. The abstract should appear as a separate page, headed with the proposal title, institution(s) name, total proposed cost and budget period.

(3) Prior program experience: A summary of prior experience (especially those related to training programs) should be described, including activities related to program priorities identified above. Reference to each prior program award should include the title, agency, award number, period of award and total award. The section should be a brief summary and should not exceed two pages total.

(4) Project description: The proposed project must be completely described, including identification of project objectives, relevance to the goal and objectives of the program, and the program priorities listed above.

(5) Budget: Applicants must submit a Standard form 424 ''Application for Federal Assistance,'' including a detailed budget using the Standard Form 424a, ''Budget Information—Non-Construction Programs.'' The proposal must include total and annual budgets corresponding with the descriptions provided in the statement of work. Standard Forms may be downloaded from the following website: www.whitehouse.gov/omb/grants.

Additional text to thoroughly support expenses should be included (*i.e.*, salaries and benefits by each proposed staff person by name (if known); direct costs such as travel (airfare, per diem, miscellaneous travel costs); equipment, supplies, contractual, insurance and indirect costs). Indicate if indirect rates are DCAA or other Federal agency approved or proposed rates and provide a copy of the current rate agreement. In addition, furnish the same level of information regarding sub-grantee costs, if applicable, and submit a copy of your most recent A–110 audit report. A guideline for budget preparation may be obtained from the Grants Officer listed above.

(6) Vitae: Abbreviated curriculum vitae are sought with each proposal. Vitae for each project staff person should not exceed three pages in length.

(c) Other Requirements

Primary Applicant Certification—All primary applicants must submit a completed Form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; DrugFree Workplace Requirements and Lobbying.'' Applicants are also hereby notified of the following:

1. Non procurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, section 105) are subject to 15 CFR Part 26, ''Non-procurement Debarment and Suspension,'' and the related section of the certification form prescribed above applies;

2. Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 26, Subpart F, ''Government wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. Anti-Lobbying—Persons (as defined at 15 CFR Part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants of more than $100,000; and

4. Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit SFLLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

(1) Recipients must require applicants/bidders for subgrants or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure Form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to Department of State (DOS). SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOS in accordance with the instructions contained in the award document.

(2) Recipients and sub-recipients are subject to all applicable Federal laws and Federal and Department of State policies, regulations, and procedures applicable to Federal financial assistance awards.

(3) Pre-award Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of the Department of State to cover pre-award costs.

(4) This program is subject to the requirements of OMB Circular No. A–110, ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' OMB Circular No. A–133, ''Audits of Institutions of Higher Education and Other Non-Profit Institutions,'' and 15 CFR Part 24, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' as applicable. Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(5) All non-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associate with the applicant have been convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(6) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(7) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to the Department of State are made.

(8) Buy American-Made Equipment or Products—Applicants are reminded that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

(9) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(d) If an application is selected for funding, the Department of State has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of State.

(e) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of or be subjected to discrimination under any program or activity receiving assistance from this INL program.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The standard forms have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB approval number 0348–0043, 0348–0044, and 0348–0046. Classification: This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: August 11, 2000.

Thomas M. Browne,

Deputy Director, Office of Europe, NIS, and Training, Bureau for International Narcotics and Law Enforcement Affairs, U.S. Department of State.

[FR Doc. 00–20818 Filed 8–15–00; 8:45 am]

BILLING CODE 4710–17–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2000–7692]

Guidelines for Assessing Merchant Mariners Through Demonstrations of Proficiency as Officers in Charge of Navigational Watches on Ships of Less Than 500 Gross Tonnage as Measured Under the International Tonnage Convention (ITC) While Engaged on Near-Coastal Voyages

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard announces the availability of, and seeks public comments on, the national performance measures proposed here for use as guidelines when mariners demonstrate their proficiency as Officers in Charge of Navigational Watches on ships of less than 500 gross tonnage ITC while engaged on near-coastal voyages. A working group of the Merchant Marine Personnel Advisory Committee (MERPAC) developed and recommended national performance measures for this proficiency. The Coast Guard has adapted the measures recommended by MERPAC.

DATES: Comments and related material must reach the Docket Management Facility on or before October 16, 2000.

ADDRESSES: Please identify your comments and related material by the docket number of this rulemaking [USCG 2000–7692]. Then, to make sure they enter the docket just once, submit them by just one of the following means:

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

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

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

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

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

The measures proposed here are also available from Mark Gould or Gerald Miante, Maritime Personnel Qualifications Division, Office of Operating and Environmental Standards, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, telephone 202–267–0229.

FOR FURTHER INFORMATION CONTACT: For questions on this Notice or on the national performance measures proposed here, write or call Mr. Gould or Mr. Miante where indicated under **ADDRESSES**. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

What Action Is the Coast Guard Taking?

Table A–II/3 of the Code accompanying the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended in 1995, articulates qualifications for ensuring merchant mariners' attaining the minimum standard of competence through demonstrations of their proficiency as Officers in Charge of Navigational Watches on ships of less than 500 gross tonnage ITC while engaged on near-coastal voyages. The Coast Guard tasked MERPAC with referring to the Table, modifying and specifying it as it deemed necessary, and recommending national performance measures. The Coast Guard has adapted the measures recommended by MERPAC and is proposing them here for use as guidelines for assessing that proficiency.

Next we set forth the Five Skills by which a mariner must demonstrate that proficiency and we give an example of a Performance Condition, a Performance Behavior, and three Performance Standards for one of the skills.

Five Skills: Plan and conduct a passage and determine position; maintain a safe navigational watch; use radar and ARPA to maintain the safety of navigation; transmit and receive information by visual signaling; and maneuver the ship.

The Performance Condition for the skill entitled, ''Plan and conduct a passage and determine position'' is: On a ship or in a navigational laboratory, given notices to mariners and uncorrected charts and publications.

The Performance Behavior for the same skill is: The candidate will correct five charts and three publications, including the *Light List* or the *List of Lights*.

The Performance Standards for the same skill are: Charts and publications needing correction are identified; corrections are correctly made to the affected charts and publications; and all corrections to charts are recorded on the chart, and in the chart-correction record or on the chart-correction spreadsheet, and all corrections to publications are recorded on the correction page of the publication and on either the publication-correction card or the publication-correction spreadsheet.

If the mariner properly meets all of the Performance Standards, he or she passes the practical demonstration. If he or she fails to properly carry out any of the Performance Standards, he or she fails it.

Why Is the Coast Guard Taking This Action?

The Coast Guard is taking this action to comply with STCW, as amended in 1995 and incorporated into domestic law at 46 CFR parts 10, 12, and 15 in 1997. Guidance from the International Maritime Organization on shipboard assessments of proficiency suggests that Parties develop standards and measures of performance for practical tests as part of their programs for training and assessing seafarers.

How May I Participate in This Action?

You may participate in this action by submitting comments and related material on the national performance measures proposed here. (Although the Coast Guard does not seek public comment on the measures recommended by MERPAC, as distinct from the measures proposed here, those measures are available on the Internet at the Homepage of MERPAC, http://www.uscg.mil/hq/g-m/advisory/merpac/merpac.htm.) These measures are available on the Internet at http://dms.dot.gov. They are also available from Mr. Gould or Mr. Miante where indicated under **ADDRESSES**. If you submit written comments please include:

- Your name and address;
- The docket number for this notice [USCG 2000–7692];
- The specific section of the performance measures to which each comment applies; and
- The reason for each comment.

You may mail, deliver, fax, or electronically submit your comments and related material to the Docket Management Facility, using an address or fax number listed in **ADDRESSES**. Please do not submit the same comment or material more than once. If you mail or deliver your comments and material, they must be on 8½-by-11-inch paper, and the quality of the copy should be clear enough for copying and scanning. If you mail your comments and material and would like to know whether the Docket Management Facility received them, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the 60-day comment period.

Once we have considered all comments and related material, we will publish a final version of the national performance measures for use as guidelines by the general public. Individuals and institutions assessing the competence of mariners may refine the final version of these measures and develop innovative alternatives. If you vary from the final version of these measures, however, you must submit your alternative to the National Maritime Center for approval by the Coast Guard under 46 CFR 10.303(e) before you use it as part of an approved course or training program.

Dated: July 27, 2000.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 00–20784 Filed 8–15–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–93–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–93–90 (TD 8364), Corporations; Consolidated Returns—Special Rules Relating to Dispositions and Deconsolidations of Subsidiary Stock (§§ 1.337(d)–2 and 1.1502–20).

DATES: Written comments should be received on or before October 16, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Corporations; Consolidated Returns—Special Rules Relating to Dispositions and Deconsolidations of Subsidiary Stock.

OMB Number: 1545–1160.

Regulation Project Number: CO–93–90.

Abstract: This regulation prevents elimination of corporate-level tax because of the operation of the consolidated returns investment adjustment rules. Statements are required for dispositions of a subsidiary's stock for which losses are claimed, for basis reductions within 2 years of the stock's deconsolidation, and for elections by the common parent to retain the net operating losses of a disposed subsidiary.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 6,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB

approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 9, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–20707 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2000–35

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2000–35, Section 1445 Withholding Certificates.

DATES: Written comments should be received on or before October 16, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Section 1445 Withholding Certificates.

OMB Number: 1545–1697.

Revenue Procedure Number: Revenue Procedure 2000–35.

Abstract: Revenue Procedure 2000–35 provides guidance concerning applications for withholding certificates under Code section 1445.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 6,000.

Estimated Time Per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 60,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 9, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–20708 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedures 97–36, 97–38, 97–39, and 99–49

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedures 97–36, 97–38, 97–39, and 99–49, Changes in Methods of Accounting.

DATES: Written comments should be received on or before October 16, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedures should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Changes in Methods of Accounting.

OMB Number: 1545–1551.

Revenue Procedure Numbers: Revenue Procedures 97–36, 97–38, 97–39, and 99–49.

Abstract: The information collected in the four revenue procedures is required in order for the Commissioner to determine whether the taxpayer properly is requesting to change its method of accounting and the terms and conditions of the change.

Current Actions: There are no changes being made to these revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and farms.

Estimated Number of Respondents: 24,000.

Estimated Time Per Respondent: 9 hours, 21 minutes.

Estimated Total Annual Burden Hours: 224,389.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 9, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–20709 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–208165–91; REG–209035–86]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulations, REG–208165–91 (TD 8770), Certain Transfers of Stock or Securities by U.S. Persons to Foreign Corporations and Related Reporting Requirements; and REG–209035–86 (TD 8862), Stock Transfer Rules (§§ 1.367(a)–8 and 1.367(b)–1).

DATES: Written comments should be received on or before October 16, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: REG–208165–91 (TD 8770), Certain Transfers of Stock or Securities by U.S. Persons to Foreign Corporations and Related Reporting Requirements; and REG–209035–86 (TD 8862), Stock Transfer Rules.

OMB Number: 1545–1271.

Regulation Project Number: REG–208165–91 and REG–209035–86.

Abstract: A United States entity must generally file a gain recognition agreement with the IRS in order to defer gain on a Code section 367(a) transfer of stock to a foreign corporation, and must file a notice with the IRS if it realizes any income in a Code section 367(b) exchange. These regulations provide guidance and reporting requirements related to these transactions to ensure compliance with the respective Code sections.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 580.

Estimated Time Per Respondent: 4 hours, 7 minutes.

Estimated Total Annual Burden Hours: 2,390.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 9, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–20710 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8554

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8554, Application for Renewal of Enrollment To Practice Before the Internal Revenue Service.

DATES: Written comments should be received on or before October 16, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Renewal of Enrollment To Practice Before the Internal Revenue Service.

OMB Number: 1545–0946.

Form Number: 8554.

Abstract: The information obtained from Form 8554 relates to the approval of continuing professional education programs and the renewal of the enrollment status for those individuals admitted (enrolled) to practice before the Internal Revenue Service. The information will be used by the Director of Practice to determine the qualifications of individuals who apply for renewal of enrollment.

Current Actions: There are no changes being made to the form at this time. However, there are some minor changes under consideration in the near future.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 39,500.

Estimated Time Per Response: 1 hour, 12 minutes.

Estimated Total Annual Burden Hours: 47,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 8, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–20711 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 9117

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9117, Excise Tax Program Order Blank for Forms and Publications.

DATES: Written comments should be received on or before October 16, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Excise Tax Program Order Blank for Forms and Publications.

OMB Number: 1545–1096.

Form Number: 9117.

Abstract: Form 9117 allows taxpayers who must file Form 720 returns a systemic way to order additional tax forms and informational publications.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 15,000.

Estimated Time Per Respondent: 2 minutes.

Estimated Total Annual Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 7, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–20712 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–57–94]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–57–94 (TD 8652), Cash Reporting by Court Clerks (§ 1.6050I–2).

DATES: Written comments should be received on or before October 16, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Cash Reporting by Court Clerks.

OMB Number: 1545–1449.

Regulation Project Number: IA–57–94.

Abstract: This regulation concerns the information reporting requirements of Federal and State court clerks upon receipt of more than $10,000 in cash as bail for any individual charged with a specified criminal offense. The Internal Revenue Service will use the information to identify individuals with large cash incomes. Clerks must also furnish the information to the United States Attorney for the jurisdiction in which the individual charged with the crime resides and to each person posting the bond whose name is required to be included on Form 8300.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Federal, state, local, or tribal governments.

Estimated Number of Respondents: 250.

Estimated Time Per Respondents: 30 minutes.

Estimated Total Annual Burden Hours: 125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

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

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 4, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–20713 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for 11–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 11–C, Occupational Tax and Registration Return for Wagering.

DATES: Written comments should be received on or before October 16, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Occupational Tax and Registration Return for Wagering.

OMB Number: 1545–0236.

Form Number: 11–C.

Abstract: Form 11–C is used to register persons accepting wagers, as required by Internal Revenue Code section 4412. The IRS uses this form to register the respondent, collect the annual stamp tax imposed by Code section 4411, and to verify that the tax on wagers is reported on Form 730, Tax on Wagering.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 11,500.

Estimated Time Per Respondent: 9 hr., 39 min.

Estimated Total Annual Burden Hours: 110,975.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 9, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–20714 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending June 30, 2000.

Last name	First	Middle
ALVEAR	LARS	MIKAEL
AN	SUK	HYUN
AURSTAD	MARIT	ARLEEN
AVAZNIA	NATASHA.	
BAARSDEN	ESPEN.	
BAILEY	CHONG	CHA
BARILI	OK	PUN
BOECK	GEORGE	HENRY
BOREL	DIDIER.	
CANELLOPOULOS	TAKIS	P.
CHANG	DAVID	HAK
CHEUNG	KAREN	TIH LOH
CHIPPS	MYONG	SUK
CIHLA	PETER	ERNST
CIPRIANO	ROBERT	JAMES
CONMY	KEVIN	FRANCIS
COOPER	BRYAN	PATRICK
CORBETT JR	CHARLES	FREDERICK
CROOK	HOWARD	ALAN
DAHL	ANNE.	
DUBLIN-POULOS	SURI	E.
EMERY	MARY	ELIZABETH
EMERYIII	ROLAND	SCOTT
FELICIANO	EUN	YE
FOOTE	CHARLOTTE	MARIA
FREEMAN	DERRICK	BLAIR
FUERNISS	ELISABETH	JULIA
GATES-ROBERT	DIANE.	
HALTER	CORNELIA	ADRIANA, MARIA
HALTER	PIETER.	
HAN	JUNG-SOOK.	
HEADFORD	JUNE	CAROL
HENDERSON	TERESA	MICHEILE
HILLGARD	ELSIE	MARIE-BRIGITTE
HOBDEN	JOHN	ANDREW
HOMANN-HERIMBERG	CLAUDE	MARIE
HSUE	GLEN	JEN
HUGHES	LINDA	JOANS
JIMENEZ	CARMEN	DORA
JIMENEZ	ENRIQUE	MANUEL
JIMENEZ	MARIA	ELENA
JIMENEZ	OLGA	MARIA
JOHNSON JR	GLENN	ELWOOD
JONES	JUERGEN	RICHARD
KELLER	PETER	JOHN
KIM	KI	SUN
KIM	TED	YONG
KO	MIGUEL.	

Last name	First	Middle
LAN NG	MACY	YUEN
LAWRENCE	DEBORAH	S.
MALMS	CHRISTOPH	P.
MALONE	NANCY	ISOLDE
MANSFIELD	PATRICIA	JOAN
MARCUS	MARY	ELLEN
MARIAS	KIM	IRENE
MC KENNA	JOANNE	MARIE
MCCARTHY	MARY.	
MICHAEL-BEERBAUM	MEREDITH	TRUE
OYE	BRADFORD.	
PARK	CHOON	DUK
PETERSON	THEDOSIUS	NICHOLAS
PFISTER	GUSTAV	R.
PORRINO	ANO	JASON
POULOS	DARREL	HAYWORD
REINSURANCE, LTD	RBC.	
RUSH	WAYNE	ALAN
SALHAB	TANJA.	
SALISBURY	GERALD	ALLEN
SANFORD-NYDES	ROBIN.	
SAYRE	HEIDI	BACHEM
SCHOCH	CHARLES	ROLF
SEDA	JESSICA	CHOE
SEVO	MIKE.	
SHIH	CHOON	FONG
SHIN	KYUNG	HEE
SMITH-SCOTT	JENNIFER	CAMERON
SO	YONG	SIN
TANG	DAISY	LEE
TEPPER	ELISABETH	CONNIE
THORPE	OZEY	LEE
THORSEN	JOHANNES	MARTIN
THORVALDSEN	ANNE	LISA
TOBIAS	ROY	MICHAEL
TUNG LEE	RICHARD	CHAR
VEDILAGO	JOHN	DAVID
WALTON	KETH	PATRICK-POL-LARD'
WEBER	YVONNE.	
WONG	SHING	KWAN ROGER
ZIVY	ANDREW	HENRY

Approved: July 31, 2000.

Doug Rogers,

Chief, Special Projects Branch, International District.

[FR Doc. 00–20716 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Brooklyn District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Friday, September 8, 2000.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Friday September 8, 2000, 6:00 p.m. to 9:00 p.m. at the Internal Revenue Service Brooklyn Building located at 625 Fulton Street, Brooklyn, NY 11201. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555. The public is invited to make oral comments from 8:30 p.m. to 9:00 p.m. on Friday, September 8, 2000. Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY, 11201.

The Agenda will include the following: various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: August 2, 2000.

John J. Mannion,

Program Manager, TAS.

[FR Doc. 00–20715 Filed 8–15–00; 8:45 am]

BILLING CODE 4830–01–U

Federal Register

Wednesday,
August 16, 2000

Part II

Postal Service

39 CFR Part 111

Domestic Mail Manual Changes for Sacking and Palletizing Periodicals Nonletters and Standard Mail (A) Flats, for Traying First-Class Flats, and for Labeling Pallets; Final Rule

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Changes for Sacking and Palletizing Periodicals Nonletters and Standard Mail (A) Flats, for Traying First-Class Flats, and for Labeling Pallets

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth revised Domestic Mail Manual (DMM) standards adopted by the Postal Service for First-Class Mail (flat-size only), Standard Mail (A), and Periodicals. This final rule: requires for Periodicals and Standard Mail (A) that is prepared as trays, sacks, or packages on pallets, that carrier route sorted mail be placed on separate 5-digit pallets from 5-digit packages of automation rate and Presorted rate mail except as provided in added DMM M920, M930, or M940; revises pallet label standards and clarifies pallet preparation standards in DMM M045 for Periodicals, Standard Mail (A), and Standard Mail (B); adds DMM M910 which allows mailers of flat-size First-Class Mail, nonletter-size Periodicals, and flat-size Standard Mail (A) to combine packages of automation rate mail and packages of Presorted rate mail in the same sack or tray under certain conditions; adds DMM M920 that allows mailers of nonletter-size Periodicals and flat-size Standard Mail (A) to combine carrier route packages, 5-digit automation rate packages, and 5-digit Presorted rate packages in the same sack (merged 5-digit scheme sack or merged 5-digit sack) or on the same pallet (merged 5-digit scheme pallet or merged 5-digit pallet) under certain conditions using the Carrier Route Indicators field in the City State Product, and adds DMM M930 and M940 that allows mailers of nonletter-size Periodicals and flat-size Standard Mail (A) to combine carrier route packages, 5-digit automation rate packages, and 5-digit Presorted rate packages on the same pallet (merged 5-digit scheme pallet or merged 5-digit pallet) under certain conditions using either a 5% threshold for 5-digit sorted mail (M930) or a combination of a 5% threshold for 5-digit sorted mail and the Carrier Route Indicators field in the City State Product (M940).

DATES: *Effective Date:* December 15, 2000.

Implementation Date: It is anticipated that implementation of the rates resulting from the R2000–1 rate case will be sometime in early January 2001. Compliance with this rule will be required on the date that coincides with implementation of the rates resulting from the R2000–1 rate case, and notice of that implementation date will be published in the **Federal Register**. Until such notice is published, compliance with this rule is optional beginning on December 15, 2000.

FOR FURTHER INFORMATION CONTACT: Lynn Martin, (202) 268–6351, or Linda Kingsley, (202) 268–2252.

SUPPLEMENTARY INFORMATION: On February 29, 2000, the Postal Service published in the **Federal Register** (65 FR 10735) a proposal to (1) Require for Periodicals and Standard Mail (A) that carrier route sorted mail be placed on separate 5-digit pallets from 5-digit automation rate and Presorted rate mail, except as provided in new DMM M720; (2) revise pallet label standards and clarify pallet preparation standards in DMM M045 for Periodicals, Standard Mail (A), and Standard Mail (B); (3) add DMM M710 to allow mailers of First-Class Mail, Periodicals, and Standard Mail (A) to combine packages of automation rate mail and packages of Presorted rate mail in the same sack or tray if mailers can provide appropriate presort and rate documentation; (4) add DMM M720 to allow mailers of nonletter-size Periodicals and flat-size Standard Mail (A) to combine carrier route, automation rate, and Presorted rate packages that are part of the same mailing job in the same 5-digit carrier routes sack (a ''merged 5-digit'' sack) or on the same 5-digit pallet (a ''merged 5-digit'' pallet) for those 5-digit ZIP Codes where the Postal Service has identified that it performs carrier route incoming secondary sortation at the delivery unit; and (5) add in DMM M720 a provision for mailers of nonletter-size Periodicals and flat-size Standard Mail (A) to prepare 5-digit sacks and pallets using both the ''merged'' sortation and labeling list L001 for scheme sortation. This proposal was amended on March 30, 2000 (65 FR 16859) to add a 5-digit scheme carrier routes sack and pallet sortation level to the initial proposal. The deadline for submitting comments on the original proposal and the amendment was April 14, 2000.

Part A below summarizes the major revisions made to the proposal in this final rule. Part B sets forth the evaluation of the comments received.

A. Summary of Revisions to the Proposed Rule

Based on comments received in response to the proposed rule, the Postal Service is adopting the standards set forth in the proposed rule and the amendment to the proposed rule with the following changes.

(1) DMM sections M700, M710 and M720 contained in the proposed rule have been renumbered as M900, M910 and M920 in this final rule for administrative reasons.

(2) The requirement to use Presort Accuracy Validation and Evaluation (PAVE)-certified software when sorting under DMM M910 (formerly M710) is revised to allow mailers to use either PAVE-certified software or standardized documentation under DMM P012. (DMM M910 allows, under certain conditions, mailers of First-Class Mail, Periodicals, and Standard Mail (A) to co-tray or co-sack packages from automation rate mailings with packages from Presorted rate mailings.)

(3) The Line 1 sack label instructions for Periodicals mixed ADC sacks under DMM M910 (proposed as M710) have been corrected to show that the sack must be labeled using DMM L803, or if entered at an ASF or BMC must be labeled using DMM L802 (the proposed rule erroneously showed this sack was labeled to the origin SCF).

(4) The pallet sortation standards in DMM M045 and DMM M920 (formerly M720) have been revised to encompass the sortation and labeling list changes published as a final rule in the May 19, 2000 **Federal Register** (65 FR 31815), ''Preparation Changes for Palletized Standard Mail (A) and Bound Printed Matter and for Standard Mail (A) and Standard Mail (B) claimed at DBMC Rates,'' and according to the amendment to that final rule published in the **Federal Register** on August 8, 2000.

(5) The pallet sortation standards for Periodicals in DMM M045 and the sacking and pallet provisions for Periodicals in DMM M920 (formerly M720) are revised to show that scheme sort using L001 will be required for Periodicals as set forth in the **Federal Register** final rule ''Sack Preparation Changes for Periodicals Nonletter-Size Pieces and Periodicals Prepared on Pallets'' that was published July 28, 2000 (65 FR 46361).

(6) A new provision for copalletizing carrier route packages, 5-digit automation rate packages, and 5-digit Presorted rate packages on the same merged 5-digit or merged 5-digit scheme pallet is added as DMM M930. This new option will allow mailers to merge such packages on the same pallet using a 5% threshold per 5-digit ZIP Code area instead of the Carrier Route Indicators field in the City State Product. DMM M930 also reflects the sortation and labeling list changes published as a final rule on May 19, 2000 (65 FR 31815), ''Preparation Changes for Palletized

Standard Mail (A) and Bound Printed Matter and for Standard Mail (A) and Standard Mail (B) claimed at DBMC Rates,'' and according to the amendment to that final rule published in the **Federal Register** on August 8, 2000. DMM M930 also reflects the final rule ''Sack Preparation Changes for Periodicals Nonletter-Size Pieces and Periodicals Prepared on Pallets'' that was published July 28, 2000 (65 FR 46361) that requires use of scheme sort (L001) for Periodicals.

(7) A new provision for copalletizing carrier route packages, 5-digit automation rate packages, and 5-digit Presorted rate packages on the same merged 5-digit or merged 5-digit scheme pallet is added as DMM M940. This new option will allow mailers to merge 5-digit packages with carrier route packages on the same merged 5-digit or merged 5-digit scheme pallet with no limit on the number of pieces in 5-digit packages for those 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product. It will also allow mailers to merge 5-digit packages with carrier route packages on those two levels of pallet under the 5% threshold for pieces in 5-digit packages for those 5-digit ZIP Codes that have a ''B'' or ''D'' indicator in the Carrier Route Indicators field in the City State Product. DMM M940 also reflects the sortation and labeling list changes published as a final rule on May 19, 2000 (65 FR 31815), ''Preparation Changes for Palletized Standard Mail (A) and Bound Printed Matter and for Standard Mail (A) and Standard Mail (B) claimed at DBMC Rates,'' and according to the amendment to that final rule published in the **Federal Register** on August 8, 2000. DMM M940 also reflects the final rule ''Sack Preparation Changes for Periodicals Nonletter-Size Pieces and Periodicals Prepared on Pallets'' that was published July 28, 2000 (65 FR 46361) that requires use of scheme sort (L001) for Periodicals.

(8) The requirement to show on 3-digit and SCF pallet labels the destination entry rate levels contained on those pallets is removed.

(9) DMM E140.1.4 and E640.2.3 are amended to show the new location in the City State Product where information on the 5-digit ZIP Codes that are eligible for preparation at letter-size automation carrier route rates resides.

(10) The first sentence of M041.5.2 is amended to clarify that the pallet sortation requirements apply to all palletized Standard Mail (B) and not only to Parcel Post mail.

(11) The implementation date is revised. Based on mailer comments, the Postal Service has determined to implement both the required and optional provisions of this final rule on the same date that rates resulting from the R2000–1 rate case will be implemented. It is anticipated this will be a day in early January 2001. In order to provide a brief transition period for mailings prepared using these new preparation standards, mailers may prepare and enter mailings under the provisions of this final rule on an optional basis beginning December 15, 2000. Mailers will not need to obtain an exception to the implementation date from the Rates and Classification Service Centers to enter mail prepared under the provisions of this final rule when entered into the mail on or after December 15, 2000.

B. Evaluation of Comments Received

a. General

Fifteen comments were received. Five commenters indicated that they supported the proposed option to co-sack automation rate and Presorted rate packages. Two commenters indicated support for all of the changes in the proposed rule.

b. Required vs. Optional Use of Proposed DMM M910 and M920 Preparation

Three commenters requested that the rules in DMM M910 permitting co-sacking of automation and Presorted rate packages be made mandatory and that the provisions in DMM M920 for preparing merged 5-digit sacks and pallets that contain carrier route, automation, and Presorted rate mail also be made mandatory.

One commenter indicated that some software vendors will not support optional sortation methods. This commenter further stated that, if the software did incorporate the preparation methods as an option, there would be too many optional parameter settings for the software and it would become confusing and difficult to predict optimal mailing job parameters. Another commenter indicated that he believes major vendors eventually will provide the options, but will do so in a manner that requires the user to ''opt in'' to get the benefits.

Two commenters requested that if it is not feasible to require these proposed preparation methods for all mailers, then mailers using PAVE-certified software should be required to use these options. One of these commenters requested that if the Postal Service cannot require users of PAVE-certified software to prepare mail under these new sortation methods now, that they be required to do so in the future.

One commenter stated that at a minimum, PAVE-certified software vendors should make the use of these presort options the default method of preparation for its users.

One commenter applauded the Postal Service for the concept of keeping the provisions of proposed DMM M910 and M920 optional for all mailers.

This final rule provides that co-sacking or co-traying automation rate and Presorted rate packages under DMM M910 will become an optional sortation method on the date the rates resulting from the R2000–1 rate case are implemented (anticipated to be early January 2001). However, in view of the comments, the Postal Service plans to issue a separate **Federal Register** notice to propose that this method of sortation become required, rather than optional, for only Periodicals mail, on the date that the rates resulting from the R2000 rate case are implemented. The commenters proposing required use of these options were primarily from the Periodicals mailing industry. Furthermore, Periodicals mailers currently have available to them a similar option of co-sacking automation rate and Presorted rate packages within 3-digit, SCF, ADC, and mixed ADC sacks (DMM M820.1.9). The M910 option set forth in this final rule will replace the current provision in DMM M820.1.9 and is different from the current option for Periodicals in that the final rule allows co-sacking of automation rate and Presorted rate packages in 5-digit sacks as well as in 3-digit, SCF, ADC, and mixed ADC sacks. If the anticipated future proposal to require sortation under DMM M910 for Periodicals nonletter-size mail is adopted, the Postal Service plans to study the impact of doing so. After such study, the Postal Service may in the future also propose to require use of the DMM M910 preparation method with First-Class and Standard Mail (A) mailings.

Because the standards for preparation of merged containers at the 5-digit level set forth in DMM M920 are complex, use of PAVE-certified software will continue to be required for use of this option under this final rule. Because not all of our customers use PAVE-certified software, this method of preparation will remain optional for both Periodicals and Standard Mail (A).

The Postal Service has determined, however, to require that the preparation options in DMM M910 and M920 be set as the default preparation methods for PAVE-certified software that supports

these options. The next PAVE testing cycle will test whether software that supports the preparation options set forth in this final rule in DMM M910 and M920 are the default preparation settings for preparation of flat-size First-Class Mail (DMM M910 preparation only), nonletter-size Periodicals mail, and flat-size Standard Mail (A).

c. Require Scheme Sortation Using DMM L001

Three commenters believed that mailers should be required to use scheme sortation using DMM labeling list L001 because it makes operational sense. Two of these commenters believed that all mailers should be required to use this sortation option. One commenter stated that this is not an onerous requirement and that smaller or local mailers could perform this sort manually. One commenter stated that software should be used by all mailers.

One commenter indicated that scheme sortation using DMM L001 should initially be required as a default setting for PAVE-certified software, and subsequently be required for all mailers that use PAVE-certified software.

All of the commenters on this issue were from the Periodicals industry. The Postal Service published a separate proposed rule on May 16, 2000 (65 FR 31118) to require scheme sortation using labeling list DMM L001 for all applicable Periodicals mailings. On July 28, 2000 the final rule ''Sack Preparation Changes for Periodicals Nonletter-Size Pieces and Periodicals Prepared on Pallets'' (65 FR 46361) was published in the **Federal Register** which requires using scheme sortation for nonletter-size Periodicals on the date the rates resulting from the R2000–1 rate case will be implemented. In addition, for Standard Mail (A) the Postal Service has determined that it will require scheme sortation (using DMM L001) to be a default setting for PAVE-certified software that supports the L001 scheme sortation option. The next PAVE testing cycle, will test to determine whether DMM L001 scheme sortation is a default preparation setting, where applicable, for preparation of Standard Mail (A) flats and, will test for Periodicals flats and irregular parcels that scheme sortation is a required preparation level.

d. Remove Requirement for PAVE-Certified Software for Proposed DMM M910 and M920 Preparation

Three commenters indicated they would like the requirement for PAVE-certified software removed from proposed DMM M910, which allows mailers to co-sack automation and Presort rate packages. These commenters pointed out that PAVE-certified software is not required for Periodicals mailers who currently may co-sack automation and Presorted rate packages at the 3-digit, SCF, ADC, and mixed ADC levels under current DMM M820.1.9. Only use of standardized documentation is required for use of this current option for Periodicals. Two commenters indicated that they believe use of standardized documentation should be sufficient. One commenter requested that, at a minimum, those preparing mail under current DMM M820.1.9 be allowed to add the ability to co-sack automation and Presorted rate packages at the 5-digit sack level without using PAVE-certified software. Two commenters indicated that the Postal Service's plans to retrofit FSM 1000s with optical character readers (OCRs) make this change very feasible without a need for mandatory PAVE. One commenter pointed out that PAVE-certified software is not required for co-palletized mailings in which carrier route, automation, and Presorted rate packages may be placed on the same pallet. This commenter requested that sacks prepared under new DMM M910 that are part of a co-palletized mailing job should not be required to be prepared with PAVE-certified software. One commenter was concerned that there will not be enough time for mailer-produced software to obtain PAVE-certification prior to the proposed implementation date for these rules, which means that some customers won't be able to use this option when it is implemented.

One commenter requested that use of PAVE-certified software be removed as a requirement for both proposed DMM M910 and DMM M920. Another commenter believed the PAVE-certified software requirement should be removed for DMM M910 preparation, but should be retained for the ''merged'' sortation methods set forth in DMM M920.

The Postal Service has determined to allow mailers the choice of using either PAVE-certified software or standardized documentation under DMM P012 to meet the requirements for sorting under the DMM M910 co-traying or co-sacking options. However, because the standards for preparation of merged containers at the 5-digit level set forth in DMM M920 are complex, use of PAVE-certified software will continue to be required for use of this option, as well as for the two new options for this type of sorting in DMM M930 and M940, under this final rule.

e. Provide a ''Threshold'' Alternative To DMM M920 To Allow a Small Portion of 5-Digit Sorted Mail on Merged 5-Digit Pallets for All 5-Digit ZIP Codes Without Regard to the Carrier Route Indicators Field

Three commenters requested that the Postal Service allow a small portion of 5-digit automation rate and 5-digit Presorted rate packages to be combined with carrier route sorted mail on the same 5-digit pallet regardless of whether the Carrier Route Indicators field permits merging of such packages. All three commenters indicated that currently they suppress printing barcodes or otherwise do not claim automation rates for 5-digit packages that would otherwise be eligible for automation rates in order to be able to combine those 5-digit packages on the same 5-digit pallet as carrier route packages. (Currently, automation rate 5-digit packages must be placed on separate 5-digit pallets than carrier route rate and Presorted rate 5-digit packages.) These commenters indicated that there must be some point where it is more economical to allow some non-carrier route sorted mail on 5-digit pallets for manual distribution at delivery units as opposed to having those 5-digit packages processed on Small Parcel and Bundle Sorters (SPBSs) and FSMs at the plants.

One commenter pointed out that by requiring 5-digit packages to be placed on 5-digit pallets that are separate from 5-digit pallets containing carrier route packages most likely will result in the 5-digit packages being placed on a 3-digit or higher level pallet or in sacks. This commenter also questioned whether any cost savings realized by the Postal Service were adequate to override the risk to service for those 5-digit packages. When this commenter compared the 5-digit pallet destinations of his company's mailings against the preliminary information available for the new Carrier Route Indicators field in the City State Product, he determined that only a very small percentage of the 5-digit pallets currently prepared would be able to be prepared using merged sortation under DMM M920 (for six mailings that he analyzed, only 45 of 844 5-digit pallet destinations would have been eligible for the merged pallet sortation). This commenter suggested that the Postal Service establish a policy that would allow 5-digit packages to be combined with carrier route packages on 5-digit pallets whenever carrier route packages constitute 75% or more of a mailing job. An analysis performed by this commenter on his mailings showed that such a 75% carrier route per

mailing threshold would in most cases result in 5-digit pallets that contain from 97% to 99.5% carrier route packages. This commenter indicates that a per-mailing threshold will be easier to administer than a per-pallet threshold.

This commenter further indicated that most FSM 1000-size mail is not sorted to carrier route on the FSM 1000. Therefore, it would make sense for the Postal Service to always allow carrier route and 5-digit packages to be merged on 5-digit pallets when the pieces are FSM 1000-sized.

The Postal Service has determined to allow copalletization of carrier route packages and 5-digit packages on the same merged 5-digit or merged 5-digit scheme pallet using a threshold for the number of pieces in 5-digit packages that may be placed on such pallets. Two new sections have been added to the DMM to provide for such preparation.

New DMM M930 has been added to the final rule to allow mailers to place 5-digit packages with carrier route packages on the same merged 5-digit pallet or on the same merged 5-digit scheme pallet provided the number of pieces in 5-digit packages for any single 5-digit ZIP Code on any of the aforementioned pallets does not exceed 5% of the total number of pieces for the 5-digit ZIP Code on the pallet(s) for the presort destination. For example, if 3,500 pieces weighing 2,800 pounds are on two 5-digit pallets for ZIP Code 22033, up to 175 pieces (5% of 3,500 pieces) prepared in 5-digit packages may be placed on either of the pallets. There are additional rules concerning the 5% threshold that are set forth in DMM M930.1.4 and M930.2.3, and additional documentation requirements in M930.1.1j and M930.2.1l. In a meeting of the Mailer's Technical Advisory Committee (MTAC) Presort Optimization subgroup, software vendors and mailers indicated that a threshold based upon individual 5-digit ZIP Codes was preferable to implementing a threshold based on the total number of pieces in a mailing job. This is because smaller mailers or newer publications may be able to qualify some pallets under a threshold based upon total mail to individual 5-digit ZIP Codes, whereas they may not be able to qualify any pallets for such preparation under a threshold based on the total number of pieces in a mailing job.

New DMM M940 also has been added to allow mailers to prepare merged 5-digit and merged 5-digit scheme pallets using both the City State Product and the 5% threshold provisions. Under this new preparation method, mailers will be permitted to merge an unlimited number of pieces prepared in 5-digit packages with carrier route packages on merged 5-digit and merged 5-digit scheme pallets for those 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product. For 5-digit ZIP Codes with ''B'' or ''D'' indicators in the City State Product, mailers may place 5-digit packages with carrier route packages on the same merged 5-digit pallet or on the same merged 5-digit scheme pallet when the number of pieces in 5-digit packages for any single 5-digit ZIP Code on any of the aforementioned pallets does not exceed 5% of the total number of pieces for the 5-digit ZIP Code on the pallet(s) for the presort destination (referred to as a ''logical'' pallet). There are additional rules concerning the 5% threshold in M940.1.4 and M940.2.3. There are also additional documentation requirements in M940.1.1k and M940.2.1k.

FSM 1000 mail will be subject to the requirements of either proposed DMM M920 or of the new threshold options described above in DMM M930 or M940. At this time the Postal Service will not allow carrier route sorted packages and an unlimited number of pieces in 5-digit sorted packages of FSM 1000-size mail to be placed on the same merged 5-digit or merged 5-digit scheme pallet. The Postal Service does not know at this time what the final machinability requirements will be for the new AFSM 100s. The Postal Service wants to reserve the decision as to where to process what is currently identified as FSM 1000-size mail. The AFSM 100 is expected to be able to process a portion of current FSM 1000-compatible pieces. An Engineering study is planned with results expected some time in early 2001. There are also concerns that mailers may be encouraged to prepare heavier pieces or pieces that otherwise require FSM 1000 processing if a rule allowing unlimited copalletization of carrier route and 5-digit sorted pieces were allowed for FSM 1000-sized pieces. The Postal Service plans to re-evaluate this decision concerning FSM 1000-sized pieces after the AFSM 100s are further deployed and their machinability requirements are determined.

f. The List of ZIP Codes Eligible for Merged Sortation Should Be a Separate Table in Electronic Form Rather Than Part of the City State Product

One commenter indicated that all geographic information used for sortation should be in one place—in an electronic list. This commenter indicated that the National Customer Support Center (NCSC) in Memphis already distributes labeling list changes to customers and therefore keeping the labeling list information up-to-date in this manner should not be a problem. This commenter also indicated that there are quite a few mailing-related software programs that do not require use of the City State Product and that requiring mailers to use the City State Product for sortation is unnecessarily burdensome.

Many PAVE-certified software vendors do incorporate a link to the City State Product in their presort software. Such a link is currently required to perform 5-digit scheme sorts for automation rate letters and to perform automation carrier route sortation for automation rate letters. Use of PAVE-certified software is a requirement for use of the options permitting merged sortation of carrier route and 5-digit sorted mail on 5-digit pallet levels. Also, in order to be able to use the options for merged sortation, mailers must present mailings using the information in the City State Product within 90 days of the release date of the City State Product they used for the presort. This is necessary to ensure use of up-to-date preparation information. Although DMM L module labeling lists are revised and distributed electronically on a bimonthly basis that corresponds roughly to the bimonthly release of the City State Product and other Address Information Products, they do not have a ''release date''. Rather, they are distributed with a mandatory effective date. The Postal Service has limited resources for developing such new products and none of the vendors that are currently PAVE-certified submitted any comments to request that this information be provided in the format of a separate electronic list. Therefore, the Postal Service will not pursue creation of a separate electronic file containing the Carrier Route Indicators field information in the City State File at this time. Mailers wishing to sort using the new options in M920 and M940 that require use of the City State Product will be required to use PAVE-certified presort software that incorporates a link to the City State Product.

g. Revise Requirements for Scheme Sortation Used in Conjunction With Merged Sortation Under DMM M920

One commenter indicated that the overlay of merged sortation using the ''Yes'' and ''No'' indicators in the City State Product with scheme sortation using DMM labeling list L001 is difficult to use. This commenter questioned the need for such complexity in view of his belief that this is a transitional requirement dependent on installation of new hardware (AFSM 100s). He

suggested that we simplify the proposed rules by using a single ZIP Code for the L001 scheme (the ''label to'' ZIP Code for the scheme) to look up the ''Yes'' or ''No'' indicator in the City State Product, and apply this indicator to all ZIP Codes for the scheme. Alternatively, this commenter suggested that we modify the scheme sortation L001 lists so that each scheme has either all ''Yes'' indicators or all ''No'' indicators.

The Postal Service has reviewed the preliminary information in the Carrier Route Indicators field in the City State Product and matched it against the DMM L001 scheme sortation labeling list. Over one-half of the schemes on the L001 list consist of 5-digit ZIP Codes that are a mix of ''A'' or ''C'' indicators and ''B'' or ''D'' indicators. Therefore, use of the indicator listed for the ''label to'' ZIP Code of the scheme for all of the ZIP Codes in the scheme would result in sortation that does not mirror Postal Service processing in about one-half of the scheme sorts. Furthermore, the one commenter on this issue does not currently use PAVE-certified software, the use of which will be required for the merged sortation option in M920 (and also for the new M940 option). Also, separating an existing scheme sort into two schemes so that all ZIP Codes in a scheme will have either an ''A'' or ''C'' indicator or a ''B'' or ''D'' indicator will dilute the value of scheme sortation in terms of the number of 5-digit ZIP Codes that can be combined to create a scheme pallet. Accordingly, the Postal Service has determined not to pursue implementing this suggested revision to the proposed rule.

h. For All Types of Sortation (Current and New) a Minimum 24-Piece Carrier Route Sack Should Be Implemented

One commenter indicated that the minimum 24-piece carrier route sack requirement that was proposed when sacking mail under the ''merged'' sortation options in DMM M920 should be applied to all methods of sortation for Periodicals carrier route sacks. This commenter indicated that this requirement should have no impact on service since carrier route packages that could not be placed in a direct carrier route sack would still be placed in 5-digit carrier routes or 5-digit scheme carrier routes sacks that would be cross-docked to the delivery unit for distribution to the appropriate carrier.

The Postal Service published a separate **Federal Register** notice on May 16, 2000 (65 FR 3118) proposing that all Periodicals carrier route sacks contain a minimum of 24 pieces. This proposal was adopted as a final rule on July 28, 2000 (65 FR 46361) and will also be effective on the date that coincides with implementation of the rates resulting from the R2000–1 rate case.

i. Allow Commingling of Automation Rate and Presorted Rate Pieces in the Same Package

One commenter indicated that the proposal to allow mailers to co-sack or co-tray packages of automation rate and Presorted rate mail does not go far enough. This commenter indicated that allowing mail to be merged within the same package would result in more finely presorted mail, fewer packages, and heavier packages.

FSM 881s and AFSM 100s have OCRs. Accordingly, it would be feasible to allow merging at the package level for mail that is FSM 881- or FSM 100-compatible. There are also plans to retrofit FSM 1000s with OCRs. The Postal Service will pursue this suggestion at a later date. The Postal Service wants to first evaluate what mail is machinable on AFSM 100s, have a deployment schedule for retrofitting FSM 1000s with OCRs, and determine a method to distinguish between pieces that are non-barcoded because mailers made no attempt to barcode the pieces versus pieces that do not bear a barcode because mailer attempts to barcode were unsuccessful, before making a decision on this suggestion.

j. Implementation Date

Eight commenters indicated that the proposed early September implementation date does not give the software industry or mailers enough time to implement these changes. These commenters suggested that the implementation date be set as the same date that the rates resulting from the R2000–1 rate case will be implemented. This would reduce the number of software installations that mailers must make this year. One commenter pointed out that the September implementation date would result in three software updates this year. The majority of these commenters indicated concern that the September date is not feasible because software vendors must build the software, test it, document it, PAVE-certify it, Beta test it, revise it, and cut and ship the software by July in order to give their customers time to implement and test the software by September. One commenter stated that such aggressive implementation schedules are a formula for disaster in terms of the quality of the presort products. Another commenter indicated that processing of their mail begins 6 to 8 weeks prior to mailing and that they will be in the midst of production at the same time they must test new software releases.

One commenter pointed out that, because there are some required changes in the proposed rule, mailers would be required to update software even if they opt not to perform the other options provided in the notice. Another commenter suggested that if the Postal Service does not find it feasible to delay implementation until the date that the rates resulting from the R2000–1 rate case will be implemented, these rule changes should be delayed until at least October 7, 2000. Another commenter suggested that there should be a phased-in implementation where the rule changes would be optional on ''Day X'' and required on ''Day X plus 90 or 120 days.''

One commenter was concerned about the feasibility of training acceptance clerks on these new presort options and asked whether Quick Service Guides and ''new books'' would be published prior to the proposed September implementation date. This commenter also pointed out that the rule would already be in effect prior to the next National Postal Forum, which would prevent some mailers from obtaining more information on the changes before having to implement them.

Based on the comments received, the Postal Service has determined to place all the provisions of this final rule (both required and optional sortation changes) into effect on the date the rates resulting from the R2000–1 rate case are implemented. It is anticipated that this date will be some time in early January 2001. Notice of this exact date will be published in a later issue of the **Federal Register**. In order to provide a brief transition period for mailings prepared using these new preparation standards, mailers may prepare and enter mailings under the provisions of this final rule on an optional basis beginning December 15, 2000. Mailers will not need to obtain an exception to the implementation date from the Rates and Classification Service Centers to enter mail prepared under the provisions of this final rule when entered into the mail on or after December 15, 2000.

k. Issues Outside the Scope of the Federal Register

Two commenters indicated that they could not support a redefinition of widely used ''skin sacks'' as fewer than 24 pieces rather than 6 pieces, or the prohibition of sacks containing fewer than 6 pieces where it is necessary for service. One commenter indicated that the Postal Service needs to develop accurate cost data by package and container level to aid in developing

similar regulations that will drive costs out of the mail stream. One commenter indicated that the Postal Service needs to develop a new container or ''mini-pallet'' that would address issues with sacks.

These comments are outside the scope of this rulemaking.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR Part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual (DMM) as set forth below:

Domestic Mail Manual (DMM)

E Eligibility

* * * * *

E100 First-Class Mail

* * * * *

E130 Nonautomation Rates

* * * * *

3.0 PRESORTED RATE

[Revise the heading of 3.1 to read as follows:]

3.1 All Pieces

[Amend 3.1d to provide for preparation under M910 to read as follows:]

In addition to the standards in 1.0, all pieces in a Presorted First-Class rate mailing must:

* * * * *

d. Be marked, sorted, and documented as specified in M130 or, alternatively for flat-size mail, under M910.

* * * * *

E140 Automation Rates

1.0 BASIC STANDARDS

1.1 All Pieces

[Amend 1.1g to provide for preparation under M910 to read as follows:]

All pieces in a First-Class Mail automation rate mailing must:

* * * * *

g. Be marked, sorted, and documented as specified in M810 for letters and cards, or as specified in M820 or M910 for flats.

* * * * *

[Amend the first sentence of 1.4 to show new location of information pertaining to ZIP Codes eligible for automation carrier route rates to read as follows:]

1.4 Carrier Route Presort

Carrier route rates are available only for letter-size mail and only for those 5-digit ZIP Code areas identified with an ''A'' or ''B'' in the Carrier Route Indicators field of the USPS City State Product used for address coding. * * *

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2.0 RATE APPLICATION

* * * * *

2.2 Flats

[Amend the first sentence of 2.2 to provide for sortation under M910 to read as follows:]

First-Class Mail automation rates apply to each piece that is sorted under M820 or under M910 into the corresponding qualifying groups: * * *

* * * * *

E200 Periodicals

* * * * *

E230 Nonautomation Rates

1.0 BASIC INFORMATION

1.1 Standards

[Amend 1.1 to provide for preparation under M045, M910, M920, M930, and M940 to read as follows:]

The standards for Presorted rates are in addition to the basic standards for Periodicals in E210, the standards for other rates or discounts claimed, and the applicable preparation standards in M045, M200, M910, M920, M930, or M940.

Not all combinations of presort level, automation, and destination entry discounts are permitted.

* * * * *

2.0 CARRIER ROUTE RATES

* * * * *

2.2 Sequencing

[Amend 2.2a to provide for preparation under M045, M920, M930, and M940 to read as follows:]

Preparation to qualify eligible pieces for carrier route rates is optional and is subject to M045, M200, or (nonletter-size mail only) M920, M930, or M940. Carrier route sort need not be done for all carrier routes in a 5-digit area. Specific rate eligibility is subject to these standards:

a. The carrier route rates for letter-size mail apply to copies that are prepared in carrier route packages of six or more pieces each that are sorted to carrier route, 5-digit carrier routes, or 3-digit carrier routes trays. The carrier route rates for flat-size mail apply to copies of flat-size or irregular parcel-size pieces prepared in carrier route packages of six or more pieces each and that are sorted to pallets under M045 or M920, M930, or M940, or sorted to carrier route, 5-digit scheme carrier routes, 5-digit carrier routes, or, under M920, merged 5-digit scheme or merged 5-digit sacks. Preparation of 5-digit scheme carrier routes sacks or pallets is required and must be done for all 5-digit scheme destinations. Preparation of merged 5-digit sacks and merged 5-digit scheme sacks is optional but if performed must be done for all 5-digit ZIP Codes for which there is an ''A'' or ''C'' indicator in the City State Product that permits co-containerization of carrier route and 5-digit packages. Preparation of merged 5-digit pallets and merged 5-digit scheme pallets is optional but if performed must be done for all 5-digit ZIP Codes or 5-digit schemes for which those pallet levels are possible (under M920 if there is an ''A'' or ''C'' indicator in the City State Product, under M930 if the 5% threshold standard is met, and under M940 if ZIP Codes have an ''A'' or ''C'' indicator in the City State Product and if ZIP Codes with a ''B'' or ''D'' indicator in the City State Product meet the 5% threshold standards). For merged 5-digit scheme sacks or pallets, preparation also must be done for all 5-digit scheme destinations. The applicable sequencing requirements in M050 and in 2.2b or 2.2c also must be met.

b. Basic carrier route rate mail must be prepared either in carrier walk sequence or in line-of-travel (LOT) sequence according to LOT schemes prescribed by the USPS (M050).

c. The high density and saturation rates apply to pieces that are eligible for the carrier route rates under 2.2a, are prepared in carrier walk sequence, and meet the applicable density standards in 6.0 for the rate claimed.

3.0 5-DIGIT RATES

[Amend the first sentence of 3.0 and 3.0b to provide for preparation of mail under M045, M910, M920, M930, or M940 as follows:]

Subject to M045, M200, or (nonletter-size mail only) M910, M920, M930, or M940, 5-digit rates apply to: * * *

* * * * *

b. Flat-size pieces in 5-digit packages of six or more pieces each, placed in 5-digit sacks, merged 5-digit sacks, or merged 5-digit scheme sacks or palletized under M045 or M920, M930, or M940.

4.0 3-DIGIT RATES

[Amend the first sentence of 4.0 and 4.0b to provide for preparation under M045, M910, M920, M930, or M940 to read as follows:]

Subject to M045, M200, or (nonletter-size mail only) M910 or M920, M930, or M940, 3-digit rates apply to:

* * * * *

b. Flat-size pieces in 5-digit and 3-digit packages of six or more pieces each, placed in 3-digit sacks or palletized under M045 or M920, M930, or M940.

5.0 BASIC RATES

[Amend 5.0 to provide for preparation of mail under M045, M910, M920, M930, or M940 to read as follows:]

Basic rates apply to pieces prepared under M045, M200, or (nonletter-size mail only) M910, M920, M930, or M940, that are not eligible for and claimed at carrier route, 5-digit, or 3-digit rates.

6.0 WALK-SEQUENCE DISCOUNTS

6.1 Eligibility

[Amend 6.1 to provide for preparation under M045, M920, M930, or M940 as follows:]

The high density or saturation rates apply to each walk-sequenced piece in a carrier route mailing, eligible under 2.2 and prepared under M045, M200, or (nonletter-size mail only) M920, M930, or M940, that also meets the corresponding addressing and density standards in 6.4. High density and saturation rate mailings must be prepared in carrier walk sequence according to schemes prescribed by the USPS (see M050).

* * * * *

E240 Automation Rates

1.0 BASIC STANDARDS

1.1 All Pieces

[Amend 1.1f to provide for preparation under M045, M910, M920, M930, or M940 as follows:]

All pieces in an automation Periodicals mailing must:

* * * * *

f. Be marked, sorted, and documented as specified in M045, or M810 (letters) or M820 (flats) or, for nonletter-size mail, M910, M920, M930 or M940.

* * * * *

2.0 RATE APPLICATION

2.1 5-Digit Rates

[Amend the first sentence of 2.1 and 2.1b to provide for preparation of flats under M910, M920, M930, or M940 to read as follows:]

Subject to M045, M810, M820, M910, M920, M930, or M940, 5-digit automation rates apply to:

* * * * *

b. Flats. 5-digit rates apply to pieces in 5-digit packages of six or more pieces each, prepared under M045, M820, M910, M920, M930, or M940.

2.2 3-Digit Rates

[Amend the first sentence of 2.2 and 2.2b to provide for preparation of flats under M910, M920, M930, or M940 to read as follows:]

Subject to M045, M810, M820, M910, M920, M930, or M940 3-digit automation rates apply to:

* * * * *

b. Flats. 3-digit rates apply to pieces in 3-digit packages of six or more pieces each, prepared under M045, M820, M910, M920, M930, M940.

2.3 Basic Rates

[Amend the first sentence of 2.3 and 2.3b to provide for preparation of flats under M910, M920, M930, or M940, and to delete the reference to M200 to read as follows:]

Subject to M045, M810, M820, M910, M920, M930, or M940, basic automation rates apply to:

* * * * *

b. Flats. Basic rates apply to pieces prepared under M045, M820, M910, M920, M930, or M940 that are not claimed at 5-digit or 3-digit rates.

E250 Destination Entry

* * * * *

2.0 DDU RATE

2.1 Eligibility

[Amend 2.1 to provide for preparation under M920, M930, or M940 to read as follows:]

The destination delivery unit (DDU) rate applies to pieces entered at the facility where the carrier cases mail for the carrier route serving the delivery address on the mailpiece. Letter-size copies claimed at DDU rates must be part of a carrier route package placed in a carrier route tray or a 5-digit carrier routes tray, prepared under M200, and otherwise eligible for and claimed at a carrier route rate. Flat-size or irregular parcel-size copies claimed at DDU rates must be part of a carrier route package placed in a carrier route sack; a 5-digit carrier routes sack, a 5-digit scheme carrier routes sack, a merged 5-digit sack, or a merged 5-digit scheme sack prepared under M200 or M920, or palletized under M045, M920, M930, or M940, and otherwise eligible for and claimed at a carrier route rate. Except for the standards for preparing basic carrier route or walk-sequence carrier route rate mail, there is no additional minimum volume required for a DDU rate mailing.

* * * * *

E600 Standard Mail

* * * * *

E620 Nonautomation Standard Mail (A) Rates

1.0 PRESORTED REGULAR AND NONPROFIT RATES

1.1 Basic Standards

[Amend 1.1d to provide for preparation of flat-size mail under M045, M910, M920, M930, or M940 as follows:]

All pieces in a Presorted Regular or Presorted Nonprofit Standard Mail (A) mailing must:

* * * * *

d. Be marked, sorted, and documented as specified in M045, M610, or, (flat-size mail only) under M910, M920, M930, or M940.

* * * * *

1.5 Presorted Rates

[Amend the first sentence of 1.5 to provide for preparation of flat-size mail under M910, M920, M930, or M940. Redesignate 1.5g as 1.5e through 1.5h, respectively. Add new 1.5d and revise redesignated 1.5e to read as follows:]

Presorted Regular or Nonprofit Standard Mail (A) rates apply to Regular or Nonprofit Standard Mail letters, flats, and machinable and irregular parcels weighing less than 16 ounces that are prepared under M045, M610, or (flat-size mail only) under M910, M920, M930, or M940. Basic Presorted rates apply to pieces that do not meet the standards for the 3/5 Presorted rates described below. Basic rate and 3/5 rate pieces prepared as part of the same mailing are subject to a single minimum volume standard. Pieces that do not qualify for the 3/5 rate must be paid at the basic rate and prepared accordingly. Pieces may qualify for the 3/5 rate if they are presented:

* * * * *

d. In a 5-digit package of 10 or more flat-size pieces that is part of a group of packages sorted to a merged 5-digit sack(s) or merged 5-digit scheme sack(s) destination that contains either at least one qualifying carrier route package of

10 or more pieces, or contains at least 125 pieces or 15 pounds of pieces prepared in 5-digit packages (both automation and Presorted rate 5-digit packages count toward the 125-piece or 15-pound sack minimum).

e. In a 5-digit or 3-digit package of 10 or more flat-size pieces palletized under M045, M920, M930, or M940.

* * * * *

2.0 ENHANCED CARRIER ROUTE RATES

2.1 General

[Amend 2.1c to provide for preparation of carrier route packages under M920, M930, or M940 to read as follows:]

All pieces in an Enhanced Carrier Route Standard Mail mailing (letters, flats, or, if merchandise samples distributed with detached address labels, irregular parcels) must:

* * * * *

c. Be sorted to carrier routes, marked, and documented under M045 (if palletized), M620 or, for flats only, M920, M930, or M940.

* * * * *

2.8 Basic Rates

[Amend the first sentence of 2.8 and 2.8b to provide for preparation of flat-size mail under M045, M920, M930 or M940 to read as follows:]

Basic (nonautomation) carrier route rates apply to each piece that is sorted under M045 (pallets), M620 or, for flats only, M920, M930, or M940 into the corresponding qualifying groups:

* * * * *

b. Flat-size pieces in a carrier route package of 10 or more pieces palletized under M045, M920, M930, or M940, or placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces, or placed in a 5-digit carrier routes, 5-digit scheme carrier routes, merged 5-digit, or merged 5-digit scheme sack. Preparation of 5-digit scheme carrier routes sacks or pallets is optional but if performed must be done for all 5-digit scheme destinations. Preparation of merged 5-digit sacks and merged 5-digit scheme sacks is optional but if performed must be done for all 5-digit ZIP Codes for which there is an ''A'' or ''C'' indicator in the City State Product that permits co-sacking of carrier route and 5-digit packages. Preparation of merged 5-digit pallets and merged 5-digit scheme pallets is optional, but if performed must be done for all 5-digit ZIP Codes or 5-digit schemes for which those pallet levels are possible (under M920 if there is an ''A'' or ''C'' indicator in the City State Product, under M930 if the 5% threshold standard is met, and under M940 if ZIP Codes have an ''A'' or ''C'' indicator in the City State Product and if ZIP Codes with a ''B'' or ''D'' indicator in the City State Product meet the 5% threshold standards). For merged 5-digit scheme sacks or pallets, preparation also must be done for all 5-digit scheme destinations.

* * * * *

E640 Automation Standard Mail (A) Rates

1.0 REGULAR AND NONPROFIT RATES

1.1 All Pieces

[Amend 1.1g to provide for preparation under M045, M910, M920, M930, or M940 to read as follows:]

All pieces in an automation rate Regular or Nonprofit Standard Mail (A) mailing must:

* * * * *

g. Be marked, sorted, and documented as specified in M045, M810 (letter-size), M820 (flat-size), or (flat-size only) M910, M920, M930, or M940.

* * * * *

1.4 Rate Application—Flats

[Amend the first sentence of 1.4 to provide for preparation under M045, M910, M920, M930, and M940 to read as follows:]

Automation rates apply to each piece that is sorted under M045, M820, M910, M920, M930, or M940, into the corresponding qualifying groups: * * *

* * * * *

2.0 ENHANCED CARRIER ROUTE RATES

* * * * *

[Amend the first sentence of 2.3 to show new location of information pertaining to ZIP Codes eligible for letter-size automation basic carrier route rates to read as follows:]

2.3 Carrier Route Information

The automation basic carrier route rate is available only for letter-size mail and only or those 5-digit ZIP Code areas identified with an ''A'' or ''B'' in the Carrier Route Indicators field in the USPS City State Product used for address coding. * * *

* * * * *

E650 Destination Entry

E651 Regular, Nonprofit, and Enhanced Carrier Route Standard Mail

* * * * *

6.0 DSCF DISCOUNT

* * * * *

6.2 Eligibility

[Amend 6.2 by adding the following as the second sentence of 6.2 to allow DSCF rates for 5-digit packages in merged 5-digit or merged 5-digit scheme sacks or pallets that are deposited at the destination delivery unit to read as follows:]

* * * Pieces prepared under 1.0 through 4.0 and 6.0 and that are prepared in 5-digit packages placed in a merged 5-digit sack or pallet or in a merged 5-digit scheme sack or pallet that is deposited at the destination delivery unit as defined in 7.1, are eligible for the DSCF rate. * * *

7.0 DDU DISCOUNT

* * * * *

7.2 Eligibility

[Amend the first sentence of 7.2 to provide for preparation under M910, M920, M930, or M940 to read as follows:]

Pieces in a mailing that meet the standards in 1.0 through 4.0 and 7.0 are eligible for the DDU rate when deposited at a DDU, addressed for delivery within that facility's service area (carrier routes), and placed in properly prepared and labeled carrier route packages sorted to carrier route trays (letters) or sacks (flats and irregular parcels), 5-digit carrier routes trays (letters) or sacks (flats and irregular parcels), 5-digit scheme carrier routes sacks (flats) under M600 or M920, merged 5-digit sacks (flats), merged 5-digit scheme sacks (flats) under M920, or palletized under M045 or M920, M930, or M940 and otherwise eligible for and claimed at a carrier route rate. * * *

* * * * *

L Labeling Lists

L000 General Use

L001 5-Digit Scheme—Periodicals Flats and Irregular Parcels and Standard Mail (A) Flats

[Amend the first sentence of L001 to read as follows:]

When 5-digit scheme sort is used for Periodicals flats and irregular parcels packages and Standard Mail (A) flats packages, the applicable mail for the ZIP Codes shown in Column A must be combined on merged 5-digit scheme, 5-digit scheme carrier routes, or 5-digit scheme pallets, or in merged 5-digit scheme or 5-digit scheme carrier routes sacks labeled to the corresponding destination shown in Column B.

* * * * *

M Mail Preparation and Sortation

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

* * * * *

1.2 Presort Levels

[Amend 1.2 by redesignating 1.2g through 1.2p as 1.2k through 1.2t, respectively, and adding new 1.2g through 1.2j to read as follows:]

Terms used for presort levels are defined as follows:

* * * * *

g. *Merged 5-digit sacks:* the carrier route packages and/or automation rate 5-digit packages and/or Presorted rate 5-digit packages in a sack are all for a 5-digit ZIP Code that has an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product that allows combining carrier route rate packages with automation rate 5-digit packages and Presorted rate 5-digit packages in the same 5-digit container.

h. *Merged 5-digit pallets:* the carrier route packages and/or automation rate 5-digit packages and/or Presorted rate 5-digit packages on a pallet are: (1) Prepared under M920, and are all for a 5-digit ZIP Code that has an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product, or (2) prepared under M930, and pieces in 5-digit packages meet the 5% threshold requirement, or (3) prepared under M940, and pieces are either all for a 5-digit ZIP Code that has an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product, or are all for a ZIP Code with a ''B'' or ''D'' indicator in the City State Product and the pieces in 5-digit packages meet the 5% threshold requirement.

i. *Merged 5-digit scheme sack:* the 5-digit ZIP Codes on pieces in carrier route packages and/or automation rate 5-digit packages and/or Presorted rate 5-digit packages in a sack are all for 5-digit ZIP Codes that are part of a single scheme as shown in L001, and the automation rate 5-digit packages and/or the Presorted rate 5-digit packages are also for 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product that allows combining carrier route packages with automation rate 5-digit packages and Presorted rate 5-digit packages within the same 5-digit container.

j. *Merged 5-digit scheme pallet:* the 5-digit ZIP Codes on pieces in carrier route packages and/or automation rate 5-digit packages and/or Presorted rate 5-digit packages on a pallet are all for 5-digit ZIP Codes that are part of a single scheme as shown in L001, and the pieces in automation rate 5-digit packages and/or the Presorted rate 5-digit packages are: (1) All for 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product when prepared under M920, or (2) within the 5% threshold requirement for each 5-digit in the scheme when prepared under M930, or (3) are all either for 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product, or are for ZIP Codes with a ''B'' or ''D'' indicator in the City State Product and the pieces in 5-digit packages meet the 5% threshold requirement for such a 5-digit ZIP Code in the scheme when prepared under M940.

* * * * *

1.3 Preparation Instructions

[Amend 1.3h to reflect the requirement for 5-digit scheme pallets to be prepared as either pure 5-digit scheme carrier routes pallets or as 5-digit scheme pallets that do not contain carrier route mail; amend 1.3i to show that 5-digit and 5-digit scheme sorts may contain only 5-digit packages; redesignate 1.3j through 1.3v as 1.3n through 1.3z, respectively; add new 1.3j and 1.3k to contain information on new merged 5-digit sortations; and add new 1.3l and 1.3m to contain information on new merged 5-digit scheme sortations to read as follows:]

For purposes of preparing mail:

* * * * *

h. A 5-digit/scheme carrier routes sort for carrier route rate Periodicals flats and irregular parcels and Enhanced Carrier Route rate Standard Mail (A) flats prepared in sacks or as packages on pallets yields a 5-digit scheme carrier routes sack or pallet for those 5-digit ZIP Codes listed in L001 and 5-digit carrier routes sacks or pallets for other areas. The 5-digit ZIP Codes in each scheme are treated as a single presort destination subject to a single minimum sack or pallet volume, with no further separation by 5-digit ZIP Code required. Sacks or pallets prepared for a 5-digit scheme carrier routes destination that contain carrier route packages for only one of the schemed 5-digit areas are still considered 5-digit scheme carrier routes sorted and are labeled accordingly. The 5-digit/scheme sort is required for carrier route packages of flat-size and irregular parcel Periodicals and optional for carrier route packages of flat-size Enhanced Carrier Route rate Standard Mail (A) prepared in sacks or as packages on pallets. When preparation of 5-digit scheme carrier routes sacks or pallets is performed, it must be done for all 5-digit scheme destinations. A 5-digit/scheme carrier routes sort may contain only carrier route packages prepared in sacks or as packages on pallets.

i. *A 5-digit/scheme sort for Periodicals flats and irregular parcels and Standard Mail (A) flats prepared as packages on pallets* yields 5-digit scheme pallets containing automation rate and Presorted rate 5-digit packages for those 5-digit ZIP Codes listed in L001 and 5-digit pallets containing automation rate and Presorted rate 5-digit packages for other areas. The 5-digit ZIP Codes in each scheme are treated as a single presort destination subject to a single minimum pallet volume, with no further separation by 5-digit ZIP Code required. Pallets prepared for a 5-digit scheme destination that contain 5-digit packages for only one of the schemed 5-digit areas are still considered 5-digit scheme sorted and are labeled accordingly. The 5-digit/scheme sort is required for flat-size and irregular parcel-size Periodicals and optional for flat-size Standard Mail (A) prepared as packages on pallets and may not be used for other mail prepared on pallets, except for 5-digit packages of Standard Mail (A) irregular parcels that are part of a mailing job that is prepared in part as palletized flats at automation rates. If preparation of 5-digit scheme pallets is performed, it must be done for all 5-digit scheme destinations.

j. A merged 5-digit sort for Periodicals flats and irregular parcels and Standard Mail (A) flats prepared in sacks yields merged 5-digit sacks that contain carrier route packages and/or automation rate 5-digit packages, and/or Presorted rate 5-digit packages that are all for a 5-digit ZIP Code that has an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product that allows combining carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages in the same 5-digit sack or pallet. The merged 5-digit sort is optional for Periodicals flats and irregular parcels and Standard Mail (A) flats prepared in sacks. Sacks prepared for a merged 5-digit destination that contain only a single rate level of package(s) (only carrier route packages(s) or only automation rate 5-digit package(s) or only Presorted rate 5-digit packages) or that contain only two rate levels of package(s) are still considered to be merged 5-digit sorted and are labeled accordingly. If preparation of merged 5-digit sacks is performed, it must be done for all 5-

digit ZIP Code destinations with an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product that allows combining carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages in the same 5-digit container.

k. A merged 5-digit sort for Periodicals flats and irregular parcels and Standard Mail (A) flats prepared as packages on pallets yields merged 5-digit pallets that contain carrier route packages and/or automation rate 5-digit packages, and/or Presorted rate 5-digit packages that are: (1) Prepared under M920 and are all for a 5-digit ZIP Code that has an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product that allows combining carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages in the same 5-digit sack or pallet, or (2) prepared under M930, and pieces in 5-digit packages meet the 5% threshold requirement, or (3) prepared under M940, and pieces are either all for a 5-digit ZIP Code that has an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product, or are all for a ZIP Code with a ''B'' or ''D'' indicator in the City State Product and the pieces in 5-digit packages for such ZIP Codes meet the 5% threshold requirement. The merged 5-digit sort is optional for Periodicals flats and irregular parcels and Standard Mail (A) flats prepared in sacks or as packages on pallets. Sacks or pallets prepared for a merged 5-digit destination that contain only a single rate level of package(s) (only carrier route packages(s) or only automation rate 5-digit package(s) or only Presorted rate 5-digit packages) or that contain only two rate levels of package(s) are still considered to be merged 5-digit sorted and are labeled accordingly. If preparation of merged 5-digit pallets is performed, it must be done for all 5-digit ZIP Code destinations for which it is possible under M920, M930, or M940.

l. A merged 5-digit scheme sort for Periodicals flats and irregular parcels and Standard Mail (A) flats prepared in sacks yields merged 5-digit scheme sacks that contain carrier route packages for those 5-digit ZIP Codes that are part of a single scheme as shown in L001, and/or automation rate 5-digit packages and/or Presorted rate 5-digit packages for 5-digit ZIP Codes in the scheme that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product that allows combining carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages in the same 5-digit container under M920. Sacks prepared for a merged 5-digit scheme destination that contain only a single rate level of package(s) (only carrier route packages(s) or only automation rate 5-digit package(s) or only Presorted rate 5-digit packages) or that contain only two rate levels of package(s), or that contain packages for only one of the schemed 5-digit areas are still considered to be merged 5-digit scheme sorted and are labeled accordingly. If preparation of merged 5-digit scheme sacks is performed, it must be done for all 5-digit scheme destinations in L001, and it must be done for all 5-digit destinations with an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product, under the provisions of M920.

m. A merged 5-digit scheme sort for Periodicals flats and irregular parcels and Standard Mail (A) flats prepared as packages on pallets yields merged 5-digit scheme pallets that contain carrier route packages for those 5-digit ZIP Codes that are part of a single scheme as shown in L001, and/or automation rate 5-digit packages and/or Presorted rate 5-digit packages for 5-digit ZIP Codes in the scheme that: (1) Have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product, when prepared under M920, that allows combining carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages in the same 5-digit container, or (2) are within the 5% threshold requirement for each 5-digit in the scheme when prepared under M930, or (3) are all either for 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product, or are for ZIP Codes with a ''B'' or ''D'' indicator in the City State Product and the pieces in 5-digit packages meet the 5% threshold requirement for such a 5-digit ZIP Code in the scheme when prepared under M940. Pallets prepared for a merged 5-digit scheme destination that contain only a single rate level of package(s) (only carrier route packages(s) or only automation rate 5-digit package(s) or only Presorted rate 5-digit packages) or that contain only two rate levels of package(s), or that contain packages for only one of the schemed 5-digit areas are still considered to be merged 5-digit scheme sorted and are labeled accordingly. If preparation of merged 5-digit scheme pallets is performed, it must be done for all 5-digit scheme destinations in L001, and it must be done for all 5-digit destinations possible under M920, M930, or M940.

* * * * *

M031 Labels

* * * * *

4.0 PALLET LABELS

* * * * *

[Revise the heading and amend the contents of 4.4 to remove the requirement for pallet labels to contain the information required by the sack labeling standard for the class and rate claimed to read as follows:]

4.4 Required Information

Labels must contain the information required under 4.0 and under M045, M920, M930 or M940 for the preparation method and class and rate claimed.

* * * * *

[Amend the heading and contents of 4.7 to permit and require a ''CARRIER ROUTES'' or ''CR–RTS'' designation only on 5-digit carrier routes or 5-digit carrier routes scheme pallets to read as follows:]

4.7 5-Digit, 5-Digit Carrier Routes, and 5-Digit Scheme Carrier Routes Pallets

All 5-digit carrier routes or 5-digit scheme carrier routes pallets must show the words ''CARRIER ROUTES'' (or ''CR–RTS'') after the processing category description on the content line under M045, M920, M930, and M940. Five-digit pallets of Bound Printed Matter that contain only carrier route rate mail must also show the words ''CARRIER ROUTES'' (or ''CR–RTS'') after the processing category description on the content line under M045.

[Remove 4.8. Designations pertaining to destination entry levels on pallets will no longer be required. Redesignate 4.9 through 4.13 as 4.8 through 4.12.]

[Revise the heading of and contents of redesignated 4.8 to read as follows:]

4.8 Automation Status

All Periodicals and Standard Mail (A) 5-digit, 5-digit scheme, 3-digit, SCF, ADC, ASF, and BMC pallets must show ''BARCODED'' or ''BC'' on the contents line if the pallet contains automation rate mail as provided in M045, M920, M930, and M940. Except for machinable parcels, all Periodicals and Standard Mail (A) 5-digit, 5-digit scheme, 3-digit, SCF, ADC, ASF, and BMC pallets must show ''NONBARCODED'' or ''NBC'' on the contents line if the pallet contains Presorted rate mail under M045, M920, M930, and M940. If a pallet contains copalletized automation rate and Presorted rate mail, the separate ''BARCODED'' and ''NONBARCODED'' designations may be abbreviated ''BC/NBC.''

* * * * *

[Add 4.13 to provide for additional pallet label information to read as follows:]

4.13 Pallet Package or Bundle Information

It is recommended that mailers preparing packages on pallets add to the pallet label, below the office of mailing or mailer information line and according to the provisions of M032.4.11, additional information listing the number of packages for each package sortation and rate level on the pallet (i.e., the number of carrier route packages, the number of 5-digit, 3-digit, and ADC automation rate packages, and the number of 5-digit, 3-digit, and ADC Presorted rate packages on each pallet).

* * * * *

5.0 SECOND LINE CODES

[Amend 5.0 to add the pallet abbreviation for CARRIER ROUTES and to add the abbreviation for NONBARCODED to read as follows:]

The codes shown below must be used as appropriate on Line 2 of sack, tray, and pallet labels.

Content type	Code
* * * * *	
Barcoded and Nonbarcoded.	BC/NBC
Carrier Route	C (type of route)
Carrier Routes	CR–RTS (5-digit sack and pallet designation)
* * * * *	
Nonbarcoded	Non BC (sacks) NBC (pallets, and co-trayed or co-sacked mail under M910)

Content type	Code
* * * * *	

M032 Barcoded Labels

1.0 BASIC STANDARDS—TRAY AND SACK LABELS

1.1 Use

[Amend the second and third sentences of 1.1 to require use of barcoded tray and sack labels for mailings prepared under M910 and M920 to read as follows:]

* * * * *

* * * Barcoded tray labels are required for all mailings of automation rate First-Class Mail flat-size pieces, for co-trayed automation rate and Presorted rate First-Class Mail flat-size pieces under M910, and for automation rate First-Class Mail, Periodicals, and Standard Mail (A) letter-size pieces. Barcoded sack labels are required for all mailings of automation rate Periodicals and Standard Mail (A) flat-size pieces prepared in sacks and, under M910 and M920, for co-sacked automation rate and Presorted rate mailings and co-sacked carrier route, automation rate, and Presorted rate mailings. * * *

1.2 Destination Line (Line 1)

[Amend 1.2b and 1.2c to include information on ''merged 5-digit'' sack labels to read as follows:]

The destination line must meet these standards:

* * * * *

b. *Information.* The destination line must contain only the information required by the applicable standards for the class, processing category, sortation level of the tray or sack, and the rates claimed. This information is contained in module L labeling lists for all sortation and rate levels except trays and sacks to carrier route, 5-digit carrier routes, merged 5-digit, and 5-digit destinations, and except for automation letter trays to 5-digit scheme destinations. For the destination line of carrier route, 5-digit carrier routes, merged 5-digit, and 5-digit trays and sacks, the city, two-letter state abbreviation, and 5-digit ZIP Code of the destination 5-digit ZIP Code area must be shown. For 5-digit scheme trays, the city, two-letter state abbreviation, and ZIP Code for the destination scheme must be obtained from the City State Product. The destination line may contain abbreviated city and state information if such abbreviations are those in the City State Product or in Publication 65, National Five-Digit ZIP Code and Post Office Directory.

c. *Military Destinations:* On carrier route, 5-digit carrier routes, and 5-digit trays and sacks and on merged 5-digit sacks, the destination 5-digit ZIP Code of the mail contained in the tray or sack must be preceded by ''APO'' or ''FPO,'' as applicable, and ''AE'' (for 090–098 ZIP Codes), ''AA'' (for 340 ZIP Codes), or ''AP'' (for 962–966 ZIP Codes), as applicable.

1.3 Content Line (Line 2)

* * * * *

Exhibit 1.3a 3-Digit Content Identifier Numbers

* * * * *

Class and mailing	CIN	Human-readable content line
* * * * * * *		
FIRST-CLASS MAIL		
* * * * * * *		
[Amend Exhibit 1.3a by adding the following after ''FCM Flats—Presorted'' to read as follows:]		
FCM Flats—Co-Trayed Automation and Presorted		
5-digit trays	221	FCM FLTS 5D BC/NBC
3-digit trays	222	FCM FLTS 3D BC/NBC
ADC trays	231	FCM FLTS ADC BC/NBC
Mixed ADC trays	232	FCM FLTS BC/NBC WKG
* * * * * * *		
PERIODICALS (PER)		
* * * * * * *		
[Amend Exhibit 1.3a by adding the following after ''PER Flats—5-Digit, 3-Digit, and Basic'' to read as follows:]		
PER Flats—Co-Sacked Automation and Presorted		
5-digit sacks	321	PER FLTS 5D BC/NBC

Class and mailing	CIN	Human-readable content line
3-digit sacks	322	PER FLTS 3D BC/ NBC
SCF and origin/entry SCF sacks	329	PER FLTS SCF BC/ NBC
ADC sacks	331	PER FLTS ADC BC/ NBC
Mixed ADC sacks	332	PER FLTS BC/NBC WKG
PER Flats—Merged Carrier Route, Automation, and Presorted		
Merged 5-digit	339	PER FLTS CR/5D
Merged 5-digit scheme	349	PER FLTS CR/5D SCH
PER Irregular Parcels—Merged Carrier Route, Automation, and Presorted		
Merged 5-digit	340	PER IRREG CR/5D
Merged 5-digit scheme	365	PER IRREG CR/5D SCH
* * * * * * *		
PERIODICALS (NEWS)		
* * * * * * *		
[Amend Exhibit 1.3a by adding the following after ''NEWS FLATS—5-digit, 3-Digit, and Basic'' to read as follows:]		
NEWS Flats—Co-Sacked Automation and Presorted		
5-digit sacks	421	NEWS FLTS 5D BC/ NBC
3-digit sacks	422	NEWS FLTS 3D BC/ NBC
SCF and origin/entry SCF sacks	429	NEWS FLTS SCF BC/NBC
ADC sacks	431	NEWS FLTS ADC BC/NBC
Mixed ADC sacks	432	NEWS FLTS BC/NBC WKG
NEWS Flats—Merged Carrier Route, Automation, and Presorted		
Merged 5-digit	439	NEWS FLTS CR/5D
Merged 5-digit scheme	449	NEWS FLTS CR/5D SCH
NEWS Irregular Parcels—Merged Carrier Route, Automation, and Presorted		
Merged 5-digit	440	NEWS IRREG CR/5D
Merged 5-digit scheme	465	NEWS IRREG CR/5D SCH
* * * * * * *		
STANDARD MAIL (A)		
* * * * * * *		
[Amend Exhibit 1.3a by adding the following after ''Enhanced Carrier Route Flats—Nonautomation'' to read as follows:]		
STD Flats—Co-Sacked Automation and Presorted		
5-digit sacks	521	STD FLTS 5D BC/ NBC
3-digit and origin/entry 3-digit sacks	522	STD FLTS 3D BC/ NBC
ADC sacks	531	STD FLTS ADC BC/ NBC
Mixed ADC sacks	532	STD FLTS BC/NBC WKG
STD Flats—Merged Carrier Route, Automation, and Presorted		
Merged 5-digit	539	STD FLTS CR/5D
Merged 5-digit scheme	549	STD FLTS CR/5D SCH
* * * * * * *		

M033 Sacks and Trays

1.0 BASIC STANDARDS

* * * * *

1.7 Origin/Entry 3-Digit/Scheme Trays and Sacks

[Amend 1.7 to refer to the preparation of merged 5-digit sacks and merged 5-digit scheme sacks to read as follows:]

Except for flat-size and irregular parcel-size Periodicals under 1.8, after all carrier route, 5-digit carrier routes (and where permitted for flats in sacks, merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, and where permitted for letters in trays, 3-digit carrier routes), 5-digit (and where permitted for automation letters in trays,

5-digit scheme), 3-digit (and where permitted for automation letters in trays, 3-digit scheme) sacks/trays are prepared, an origin/entry 3-digit sack or tray (or, if applicable, origin/entry 3-digit scheme tray) must be prepared to contain any remaining mail for each 3-digit (or 3-digit scheme) area serviced by the SCF (mail processing office) serving the post office where the mail is verified (origin), and may be prepared for each 3-digit (or 3-digit scheme) area served by the SCF/plant where mail is entered (if that is different from the SCF/plant serving the post office where the mail is verified—*e.g.,* a PVDS deposit site). In all cases, only one less-than-full sack or tray may be prepared for each 3-digit (or 3-digit scheme) area.

1.8 Periodicals Flats and Irregular Parcels Origin/Entry SCF Sacks

[Amend 1.8 to refer to the preparation of merged 5-digit sacks and merged 5-digit scheme sacks to read as follows:]

For flat-size and irregular parcel-size Periodicals, after all carrier route, 5-digit carrier routes (and where permitted merged 5-digit scheme, 5-digit scheme carrier routes, and merged 5-digit), 5-digit, 3-digit, and required SCF sacks are prepared, an origin/entry SCF sack must be prepared to contain any remaining 5-digit and 3-digit packages for the 3-digit ZIP Code area(s) served by the SCF serving the post office where the mail is verified (origin), and may be prepared for the area served by the SCF/plant where mail is entered (if that is different from the SCF/plant serving the post office where the mail is verified—*e.g.,* a PVDS deposit site). In all cases, only one less-than-full sack may be prepared for each SCF area.

* * * * *

M040 Pallets

M041 General Standards

* * * * *

5.0 PREPARATION

5.1 Presort

[Amend 5.1 by replacing the first five sentences with the following six sentences to provide for advanced pallet preparation options in M920, M930, and M940 to read as follows:]

Pallet preparation and pallet sortation are subject to the specific standards in M045, M920, M930, and M940. Pallet sortation is generally intended to presort the palletized portion of a mailing to at least the finest extent required for the corresponding class of mail and method of preparation. Pallet sortation is sequential from the lowest (finest) level to the highest and must be completed at each required level before the next optional or required level is prepared. Standard preparation terms for pallets are defined in M011, standard presort levels are defined in M045, and advanced presort levels are defined in M920, M930, and M940. For sacks, trays, or machinable parcels on pallets, the mailer must prepare all required pallet levels before any mixed ADC or mixed BMC pallets are prepared for a mailing or job. Packages prepared under M045 or M920, M930, or M940 must not be placed on mixed ADC or mixed BMC pallets.* * *

5.2 Required Preparation

[Amend 5.2 to clarify that the pallet sortation requirement applies all Standard Mail (B) rather than just Parcel Post and to provide for advanced pallet preparation options in M920, M930, and M940 to read as follows:]

These standards apply to:

a. Periodicals, Standard Mail (A), and Standard Mail (B) (other than Parcel Post BMC Presort, OBMC Presort, DSCF, and DDU rate mail). A pallet must be prepared to a required sortation level when there are 500 pounds of Periodicals or Standard Mail packages, sacks, or parcels, or six layers of Periodicals or Standard Mail(A) letter trays. For packages of Periodicals flats and irregular parcels on pallets that are prepared under the standards for package reallocation to protect the SCF pallet (M045.5.0), not all mail for a required 5-digit scheme carrier routes, 5-digit scheme, 5-digit carrier routes, or 5-digit pallet or for an optional merged 5-digit scheme, optional merged 5-digit, or optional 3-digit pallet is required to be on that corresponding pallet level. For packages of Standard Mail (A) flats on pallets that are prepared under the standards for package reallocation to protect the SCF pallet (M045.5.0), not all mail for a required 5-digit carrier routes or 5-digit pallet or for an optional 5-digit scheme carrier routes, merged 5-digit scheme, 5-digit scheme, merged 5-digit pallet, or 3-digit pallet is required to be on that corresponding pallet level. For packages of Standard Mail (A) flats on pallets prepared under the standards for package reallocation to protect the BMC pallet (M045.6.0), not all mail for a required ASF pallet is required to be on an ASF pallet. Mixed ADC or mixed BMC pallets of sacks, trays, or machinable parcels, as appropriate, must be labeled to the BMC or ADC (as appropriate) serving the post office where mailings are entered into the mailstream. The processing and distribution manager of that facility may issue a written authorization to the mailer to label mixed BMC or mixed ADC pallets to the post office or processing and distribution center serving the post office where mailings are entered. These pallets contain all mail remaining after required and optional pallets are prepared to finer sortation levels under M045, as appropriate.

* * * * *

5.6 Mail on Pallets

[Amend 5.6 by removing current 5.6c and 5.6d; redesignating current 5.6e as 5.6f, and by adding new 5.6c through 5.6e to reflect new requirements for separating carrier route rate mail from non-carrier route rate mail on 5-digit and 5-digit scheme pallets to read as follows:]

These standards apply to mail on pallets:

* * * * *

c. For Bound Printed Matter (other than machinable parcels), carrier route rate mail and Presorted rate mail in the same mailing job may be combined on all levels of pallets.

d. For Standard Mail (A) and Periodicals letter-size mail prepared in trays on pallets, and for nonletter-size Periodicals and Standard Mail (A) prepared either as sacks on pallets or as packages on pallets, carrier route mail must be prepared on separate 5-digit pallets (5-digit carrier routes or 5-digit scheme carrier routes pallets) from automation rate or Presorted rate mail (that must be prepared on 5-digit pallets or 5-digit scheme pallets). *Exception:* When nonletter-size Periodicals and flat-size Standard Mail (A) is prepared under 5.6e, carrier route mail, automation rate mail, and Presorted rate mail may be copalletized on the same merged 5-digit pallet or on the same merged 5-digit scheme pallet for applicable 5-digit ZIP Codes.

e. Mailers of nonletter-size Periodicals and flat-size Standard Mail (A) that prepare packages on pallets may copalletize carrier route mail, automation rate mail, and Presorted rate mail on the same merged 5-digit pallet or on the same merged 5-digit scheme pallet when they meet the conditions and preparation standards in M920, M930, or M940.

* * * * *

6.0 COPALLETIZED, COMBINED, OR MIXED-RATE LEVEL MAILINGS OF FLAT-SIZE PIECES

* * * * *

6.2 Application

[Amend 6.2 by replacing ''M045'' with ''M045 or M920, M930, or M940.'']

6.3 Periodicals Publications

[Amend 6.3 by replacing ''M045'' in the next to last sentence with ''M045 or M920, M930, or M940.'']

6.4 Standard Mail (A)

[Amend the last sentence of 6.4 by replacing ''M045'' with ''M045 or M920, M930, or M940.'']

* * * * *

M045 Palletized Mailings

* * * * *

4.0 PALLET PRESORT AND LABELING

[Amend 4.0 by removing current 4.4; redesignating current 4.2 and 4.3 as 4.4 and 4.5, respectively; amending 4.1 to make it applicable to only Periodicals mail, to reflect new 5-digit pallet preparation procedures, and to clarify and amend the standards for line 2 of pallet labels; adding new 4.2 that separately specifies sortation of Standard Mail (A) pallets, reflects new 5-digit pallet preparation procedures, and clarifies and amends the standards for line 2 of pallet labels; adding new 4.3 that separately specifies sortation of Bound Printed Matter pallets, amending redesignated 4.4 for clarity, and clarifying and amending the standards for line 2 of pallet labels in all the aforementioned sections to read as follows:]

4.1 Periodicals Packages, Sacks, or Trays on Pallets

Mailers must prepare pallets in the sequence listed below except that for mailings of sacks or trays on pallets that are not permitted to be prepared using scheme sortation (L001) under 4.1a and 4.1b, mailers must begin preparing pallets under 4.1c. Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031. Alternatively, at the mailer's option, Periodicals nonletter mail prepared as packages on pallets may be palletized in accordance with one of the advanced presort options under M920, M930, or M940.

a. *5–Digit Scheme Carrier Routes.* Required for nonletter-size packages on pallets. Not permitted for sacks or trays on pallets. May contain only carrier route packages for the same 5-digit scheme under L001. Scheme sort must be done for all possible 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit carrier routes pallets under 4.1c where possible.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''CARRIER ROUTES'' or ''CR–TS'' and ''SCHEME'' or ''SCH.''

b. *5–Digit Scheme.* Required for nonletter-size packages on pallets. Not permitted for sacks or trays on pallets. May contain only automation rate and/or Presorted rate packages for the same 5-digit scheme under L001. Scheme sort must be done for all possible 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit pallets under 4.1d where possible.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; followed by ''SCHEME'' or ''SCH.''

c. *5-Digit Carrier Routes.* Required for sacks; required for packages (except for packages prepared to 5-digit scheme carrier routes pallets under 4.1a); optional for trays. May contain only carrier route mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' or, for trays on pallets only, ''LTRS'' as applicable; followed by ''CARRIER ROUTES'' or ''CR–RTS.''

d. *5-Digit.* Required for sacks; required for packages (except for packages prepared to 5-digit scheme pallets under 4.1b); optional for trays. May contain only automation rate and/or Presorted rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' or, for trays on pallets only, ''LTRS'' as applicable; followed by ''5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

e. *3-Digit.* Optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' or, for trays on pallets only ''LTRS'' as applicable; followed by ''3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

f. *SCF.* Required. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' or, for trays on pallets only, ''LTRS'' as applicable; followed by ''SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *ADC.* Required. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1 labeling: use L004.

(2) Line 2 labeling: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' or, for trays on pallets only, ''LTRS'' as applicable; followed by ''ADC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. *For sacks and trays on pallets only, mixed ADC.* Optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use ''MXD'' followed by the city/state/ZIP Code of the ADC serving the 3-digit ZIP Code prefix of the entry post office as shown in L004, Column A (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' or, for trays on pallets only, ''LTRS'' as applicable; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; and followed by ''WKG.''

4.2 Standard Mail (A) Packages, Sacks, or Trays on Pallets

Mailers must prepare pallets in the sequence listed below. Mailers not opting to perform or not permitted to perform scheme sortation under 4.2a and 4.2b using L001 must begin preparing pallets under 4.2c. Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031. At the mailer's option, flat-size Standard Mail (A) prepared as packages on pallets may be palletized in accordance with the advanced presort option under M920.

a. *5-Digit Scheme Carrier Routes.* Optional. Permitted only for flat-size packages on pallets. May contain only carrier route rate packages for the same 5-digit scheme under L001. If scheme

sort is performed, it must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit carrier routes pallets under 4.2c.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS''; followed by ''CARRIER ROUTES'' or ''CR-RTS''; and ''SCHEME'' or ''SCH.''

b. *5-Digit Scheme.* Optional. Permitted only for flat-size packages on pallets. May contain only automation rate and/or Presorted rate packages for the same 5-digit scheme under L001. If scheme sort is performed, it must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit pallets under 4.2d.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; and followed by ''SCHEME'' or ''SCH''.

c. *5-Digit Carrier Routes.* Required for sacks; required for packages (except for packages prepared to 5-digit carrier route scheme pallets under 4.2a); optional for trays. May contain only carrier route rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS'' or ''STD A IRREG'' or, for trays on pallets only, ''STD LTRS'' as applicable; followed by ''CARRIER ROUTES'' or ''CR–RTS''.

d. *5-Digit.* Required for sacks; required for packages (except for packages prepared to 5-digit scheme pallets under 4.2b); optional for trays. May contain only automation rate and/or Presorted rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D'' or ''STD A IRREG 5D'' or, for trays on pallets only, ''STD LTRS 5D'' as applicable; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

e. *3-digit:* optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D'' or ''STD A IRREG 3D'' or, for trays on pallets only, ''STD LTRS 3D'' as applicable; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

f. *SCF.* Required. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column C.

(2) Line 2: ''STD FLTS SCF'' or ''STD A IRREG SCF'' or, for trays on pallets only, ''STD LTRS SCF'' as applicable; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *ASF.* Required, except that an ASF sort may not be required if using package reallocation for flats to protect the BMC pallet under 6.0. May contain carrier route rate, automation rate, and/or Presorted rate mail. Sort ADC packages, trays or sacks to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package, tray, or sack in L004 (letters or flats) or L603 (irregular parcels). Sort AADC trays to ASF pallets based on the ''label to'' ZIP Code for the AADC destination of the tray in L801. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: ''STD FLTS ASF'' or ''STD A IRREG ASF'' or, for trays on pallets only, ''STD LTRS ASF'' as applicable; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. *Destination BMC:* Required. May contain carrier route rate, automation rate, and/or Presorted rate mail. Sort ADC packages, trays or sacks to BMC pallets based on the ''label to'' ZIP Code for the ADC destination of the package, tray, or sack in L004 (letters or flats) or L603 (irregular parcels). Sort AADC trays to BMC pallets based on the ''label to'' ZIP Code for the AADC destination of the tray in L801. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L601.

(2) Line 2: ''STD FLTS BMC'' or ''STD A IRREG BMC'' or, for trays on pallets only, ''STD LTRS BMC'' as applicable; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

i. *For sacks and trays on pallets only, mixed BMC.* Optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code prefix of the entry post office (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: ''STD FLTS'' or ''STD A IRREG'' or, for trays on pallets only, ''STD LTRS'' as applicable; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; and followed by ''WKG.''

4.3 Bound Printed Matter Packages or Sacks on Pallets

Prepare pallets in the sequence listed below. Label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. *5-digit.* Required for sacks and for packages. May contain Carrier Route and/or Presorted rate mail.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D'' or ''STD B IRREG 5D'' as applicable, and, if the pallet contains only Carrier Route mail, followed by ''CARRIER ROUTES'' (OR ''CR–RTS'').

b. *3-digit.* Optional. May contain carrier route rate and/or Presorted rate mail.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D'' or ''STD B IRREG 3D'' as applicable.

c. *SCF.* Required. May contain carrier route rate and/or Presorted rate mail.

(1) Line 1: use L002, Column C.

(2) Line 2: ''STD FLTS SCF'' or ''STD B IRREG SCF'' as applicable.

d. *Destination ASF.* Required. May contain carrier route rate and/or Presorted rate mail. Sort ADC packages or sacks to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package or sack in L004 (flats) or L603 (irregular parcels).

(1) Line 1: use L602.

(2) Line 2: ''STD FLTS ASF'' or ''STD B IRREG ASF'' as applicable.

e. *Destination BMC.* Required. May contain carrier route rate and/or Presorted rate mail. Sort ADC packages or sacks to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package or sack in L004 (flats) or L603 (irregular parcels).

(1) Line 1: use L601.

(2) Line 2: ''STD FLTS BMC'' or ''STD B IRREG BMC'' as applicable.

f. *For sacks on pallets only, mixed BMC.* Optional. May contain Carrier Route and/or Presorted rate mail.

(1) Line 1: use ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code prefix of the entry post office (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: ''STD FLTS'' or ''STD B IRREG'' as applicable, followed by ''WKG.''

4.4 Machinable Parcels—Standard Mail (A), Bound Printed Matter, and Parcel Post (Except BMC Presort, OBMC Presort, and Parcel Select DDU and DSCF)

Mailers must prepare pallets in the sequence listed below. Mailers may prepare Parcel Post other than BMC Presort, OBMC Presort, and Parcel Select DDU and DSCF on pallets under this section as an option. If Parcel Post is optionally sorted under this section it must meet all the requirements of this section. Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031.

a. *5-digit.* Required, except optional for Standard Mail (A) if 3/5 rates are not claimed.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD A MACH 5D'' or ''STD B MACH 5D'' as applicable.

b. *For Standard Mail (A) and Parcel Post if DBMC rates are not claimed and for all Bound Printed Matter: Destination BMC.* Required.

(1) Line 1: use L601.

(2) Line 2: ''STD A MACH BMC'' or ''STD B MACH BMC,'' as applicable.

c. *For Standard Mail (A) and Parcel Post if DBMC rates are claimed: Destination ASF/BMC.* Option 1: Mailers may opt to sort mail to ASFs using L602 only when the mail on the ASF pallet will be deposited at the ASF to claim the DBMC rate. After ASF pallets are prepared (mail need not be sorted to all ASFs) remaining mail must be sorted to BMCs using L601. Mail on BMC pallets deposited at the applicable BMC facility will be eligible for DBMC rates only if its 3-digit ZIP Code prefix is listed in Exhibit E651.5.1 (Standard Mail (A)) or Exhibit E652.1.3 (Parcel Post) for that entry BMC. *Option 2:* Mailers may sort mail only to BMCs using L601. Under option 2, only mail for 3-digit ZIP Codes served by a BMC listed in Exhibit E651.5.1 or Exhibit E652.1.3 are eligible for DBMC rates (i.e., mail for 3-digit ZIP Codes served by an ASF in Exhibit E651.5.1 or Exhibit E652.1.3 are not eligible for DBMC rates, nor are 3-digit ZIP Codes that do not appear on Exhibit E651.5.1 or Exhibit E652.1.3).

(1) Line 1: *Option 1:* use L602 for ASF pallets; use L601 for BMC pallets.

Option 2: use L601.

(2) Line 2: ''STD A MACH' or ''STD B MACH'' as applicable; followed by ''ASF'' or ''BMC'' as applicable.

d. *Mixed BMC.* Optional.

(1) Line 1: use ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code prefix of the entry post office (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: ''STD A MACH'' or ''STD B MACH'' as applicable, followed by ''WKG.''

4.5 Presorted Special Standard and Library Mail

Mailers must prepare 5-digit pallets for Presorted 5-digit rate mailings and must prepare BMC pallets for Presorted BMC rate mailings as described below. Label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. *5-digit (5-digit rate only).* Required.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D'' or ''STD B IRREG 5D'' or ''STD B MACH 5D'' as applicable.

b. *Destination BMC (BMC rate only).* Required.

(1) Line 1: use L601.

(2) Line 2: ''STD FLTS BMC'' or ''STD B IRREG BMC'' or ''STD B MACH BMC'' as applicable.

5.0 PACKAGE REALLOCATION FOR PERIODICALS FLATS AND IRREGULAR PARCELS AND STANDARD MAIL (A) FLATS ON PALLETS

5.1 Basic Standards

[Amend the second sentence of 5.1 to provide for new pallet levels to read as follows:]

* * * The software will determine if mail for an SCF service area would fall beyond the SCF level if all optional merged 5-digit scheme, optional 5-digit scheme carrier routes, optional 5-digit scheme, merged 5-digit, required 5-digit carrier routes, required 5-digit, or optional 3-digit pallets are prepared.

* * *

5.2 General Reallocation Rules

[Amend 5.2b, 5.2c, and 5.2d to provide for new pallet levels to read as follows:]

Reallocation rules:

* * * * *

b. Reallocate packages from the highest available pallet level possible. If it is not possible to reallocate some mail from a 3-digit pallet first, then attempt to eliminate a 3-digit pallet and reallocate all mail from that pallet to create an SCF pallet; if mail cannot be reallocated from a 3-digit pallet, then attempt to reallocate some mail from a 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme pallet.

c. The reallocation process may result in the elimination of a 3-digit pallet to create an SCF pallet, but a 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme pallet may not be eliminated in order to create an SCF pallet.

d. When reallocating mail to create an SCF pallet, reallocate mail from only one more finely sorted pallet. This may be accomplished by reallocating a portion of a 3-digit pallet, reallocating all mail from a 3-digit pallet, or reallocating a portion of one of the following pallets: 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme.

* * * * *

5.3 Reallocation of Packages if Optional 3–Digit Pallets are Prepared

[Amend 5.3c and 5.3d to provide for new pallet levels to read as follows:]

Reallocation rules:

* * * * *

c. If preparation is under M045 and there are no 3-digit pallets, attempt to identify a 5-digit, 5-digit carrier routes, 5-digit scheme, or 5-digit scheme carrier routes pallet of adequate weight to support reallocation of one or more packages to bring the mail that would fall beyond the SCF pallet level back to the SCF level. If preparation is under M920, M930, or M940 and there are no 3-digit pallets, attempt to identify a 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme pallet of adequate weight to support reallocation of one or more packages to bring the mail that would fall beyond the SCF pallet level back to the SCF level. A sufficient volume of mail must remain on the applicable pallet after reallocation to meet the pallet weight minimum established by the mailer in compliance with applicable DMM standards. If a 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme pallet, as applicable, of adequate weight is available, create an SCF pallet by combining the reallocated packages with the mail that would fall beyond the SCF pallet level.

d. If no single 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme pallet, as applicable, within the SCF service area contains an

adequate volume of mail to allow reallocation of a portion of the mail on a pallet as described in 5.3c, then no packages will be reallocated and an SCF pallet will not be prepared; the mail that falls beyond the SCF pallet level must be placed on the appropriate level pallet (ADC, ASF, or BMC) or in the appropriate level sack.

5.4 Reallocation of Packages if Optional 3-digit Pallets are Not Prepared

[Amend 5.4a and 5.4b to provide for new pallet levels to read as follows:]

Reallocation rules:

a. Attempt to identify a 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme pallet of adequate weight to support reallocation of one or more packages to bring the mail that would fall beyond the SCF pallet level back to the SCF level. A sufficient volume of mail must remain on the 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme pallet after reallocation to meet the pallet weight minimum established by the mailer in compliance with applicable DMM standards. If a 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme pallet of adequate weight is available, create an SCF pallet by combining the reallocated packages with the mail that would fall beyond the SCF pallet level.

b. If no single 5-digit, 5-digit carrier routes, merged 5-digit, 5-digit scheme, 5-digit scheme carrier routes, or merged 5-digit scheme pallet within the SCF service area contains an adequate volume of mail to allow reallocation of a portion of the mail on a pallet as described in 5.4a, then no packages will be reallocated and an SCF pallet will not be prepared; the mail that falls beyond the SCF pallet level must be placed on the appropriate level pallet (ADC, ASF, or BMC) or in the appropriate level sack.

* * * * *

[Amend the title of 7.0 to read as follows:]

7.0 PALLETS OF PACKAGES AND TRAYS

7.1 Periodicals

[Amend 7.1 by adding a new first sentence; by redesignating the current first sentence as 7.1a and removing the phrase ''letter-size''; by redesignating the current last sentence as 7.1b; and by replacing the current second sentence with 7.1c to require placement of carrier route sorted mail on separate pallets from automation rate and Presorted rate mail at the 5-digit presort level to read as follows:]

Additional pallet preparation:

a. Combined Mailings. When two or more publications are part of a combined mailing, the mailer must keep records for each mailing (publication) as required by standard.

b. Destination Delivery Unit Rates. Pieces claimed at destination delivery unit rates do not require separation from pieces claimed at other rates on the same pallet.

c. Carrier Route Mail on Separate 5-Digit Level Pallets. Carrier route sorted pieces must be prepared on separate 5-digit pallets (5-digit carrier routes or 5-digit scheme carrier routes pallets) from automation rate or Presorted rate pieces (prepared on 5-digit pallets or 5-digit scheme pallets). *Exception:* When non-letter-size Periodicals are prepared as packages on pallets under M920, M930, or M940, then carrier route sorted mail, 5-digit sorted automation rate mail, and 5-digit sorted Presorted rate mail may be placed on the same merged 5-digit pallet or on the same merged 5-digit scheme pallet for those 5-digit ZIP Codes for which (1) there are ''A'' or ''C'' indicators in the City State Product under M920, or (2) the 5-digit packages are within the 5% threshold requirement under M930, or (3) the 5-digit packages are either all for 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the City State Product, or are for 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product and the pieces in such 5-digit packages meet the 5% threshold under M940.

7.2 Standard Mail (A)

[Amend 7.2 by adding a new first sentence; by redesignating the current first sentence as 7.2a; by redesignating the current last sentence as 7.2b; and by replacing the current second sentence with 7.2c to require placement of carrier route sorted mail on separate pallets from automation rate and Presorted rate mail at the 5-digit presort level to read as follows:]

Additional pallet preparation:

a. Combined Mailings. Nonprofit mail may be included in the same mailing or palletized on the same pallet as other Standard Mail (A) only as permitted by standard.

b. Destination Delivery Unit Rates. Pieces claimed at destination delivery unit rates do not require separation from pieces claimed at other rates on the same pallet.

c. Carrier Route Mail on Separate 5-Digit Level Pallets. Carrier route rate pieces must be prepared on separate 5-digit pallets (5-digit carrier routes or 5-digit scheme carrier routes pallets) from automation rate and/or Presorted rate pieces (prepared on 5-digit pallets or 5-digit scheme pallets). *Exception:* When flat-size pieces are prepared as packages on pallets under M920, M930, or M940, then carrier route sorted mail, 5-digit sorted automation rate mail, and 5-digit sorted Presorted rate mail may be placed on the same merged 5-digit pallet or on the same merged 5-digit scheme pallet for those 5-digit ZIP Codes for which (1) there are ''A'' or ''C'' indicators in the City State Product under M920, or (2) the 5-digit packages are within the 5% threshold requirement under M930, or (3) the 5-digit packages are either all for 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the City State Product, or are for 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product and the pieces in such 5-digit packages meet the 5% threshold under M940.

* * * * *

9.0 PALLETS OF COPALLETIZED PERIODICALS OR STANDARD MAIL (A) FLAT-SIZE PIECES

9.1 Basic Standards

[Amend 9.1 by adding the following after the first sentence to provide for preparation under M920, M930, and M940 to read as follows:]

* * * In addition, if copalletized under M920, M930, or M940, the provisions of one of those preparation options must also be met. * * *

* * * * *

[Amend the heading and the contents of 9.4 to read as follows:]

9.4 Pallet Labels

Pallet labels for copalletized mailings must meet the provisions of M031 and M045.4.0, or if applicable, M031 and M920, M930, or M940.

* * * * *

M100 First-Class Mail (Nonautomation)

* * * * *

M130 Presorted First-Class

1.0 BASIC STANDARDS

1.1 All Pieces

[Amend 1.1 to provide for preparation under M920 to read as follows:]

Each Presorted First-Class mailing must meet the applicable standards in E130 and in M010, M020, and M030; flat-size mail co-trayed with automation rate mail must be prepared under 1.6 and M910. All pieces must be in the same processing category, subject to 1.4, and must be sorted together and prepared under 2.0, 3.0, 4.0, or 5.0 as

appropriate; automation rate First-Class Mail must be prepared under M810, M820, or M910 as applicable. Letter-size pieces (including card-size pieces) must be prepared in letter trays; flat-size pieces must be prepared in flat trays; parcels must be prepared in sacks. Subject to M012, all pieces must be marked ''Presorted'' and ''First-Class.''

* * * * *

[Add new 1.6 to read as follows:]

1.6 Co-Traying with Automation Rate Mail

Packages of flat-size mail prepared under 4.1 may be co-trayed with automation rate mail that is part of the same mailing job at all levels of trays if prepared under M910.

* * * * *

M200 Periodicals (Nonautomation)

1.0 BASIC STANDARDS

1.1 General Preparation

[Amend 1.1 to provide for preparation under M910, M920, M930, and M940 to read as follows:]

All pieces in each nonautomation rate Periodicals mailing must be in the same processing category and sorted together to the finest extent required under 2.0 and either 3.0 or 4.0 as appropriate; automation rate Periodicals must be prepared under M810 or M820 as applicable; nonletter-size mail co-sacked with automation rate mail must be prepared under 1.6 and M910, or under 1.7 and M920. Letter-size pieces must be prepared in trays; nonletter-size pieces must be prepared in sacks. Palletization of trays, sacks, or packages is permitted by M041 and M045. Nonletter-size packages may also be palletized under M041 and M920, M930, or M940. Postmasters may authorize preparation of small mailings in non-postal containers if they consist primarily of packages for local ZIP Codes, do not exceed 20 pounds, and do not require postal transportation for processing.

* * * * *

[Add new 1.6 and 1.7 to provide for preparation under M910 and M920 to read as follows:]

1.6 Co-Sacking with Automation Rate Mail

Packages of nonletter-size mail prepared under 2.4a and 2.4c through 2.4f may be co-sacked with automation rate mail that is part of the same mailing job under the standards in M910.

1.7 Merged Containerization of Nonletter-Size Carrier Route, Automation Rate, and Presorted Rate Mail

Under the standards in M920, nonletter-size firm and 5-digit packages at Presorted rates that are prepared under 1.0 and 2.4a and 2.4c may be co-sacked with nonletter-size carrier route packages prepared under 1.0 and 2.4b and with nonletter-size 5-digit packages at automation rates prepared under M820 in merged 5-digit sacks and in merged 5-digit scheme sacks or pallets. Under the standards in M920, M930, or M940, nonletter-size firm and 5-digit packages at Presorted rates that are prepared under 1.0 and 2.4a and 2.4c may be copalletized with nonletter-size carrier route packages prepared under 1.0 and 2.4b and with nonletter-size 5-digit packages at automation rates prepared under M820 on merged 5-digit pallets and in merged 5-digit scheme sacks or pallets.

* * * * *

M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail (A)

1.0 BASIC STANDARDS

1.1 All Mailings

[Amend the first sentence of 1.1 and 1.1c to provide for preparation under M910, M920, M930 and M940 to read as follows:]

All mailings at Presorted Standard rates are subject to specific preparation standards in 2.0 through 6.0 and to these general standards (automation rate mail must be prepared under M810, M820, M910, M920, M930, or M940, as applicable):

* * * * *

c. All pieces must be sorted together and prepared under M045 or under M610 or, if flat-size under M910, 920, M930, or M940.

* * * * *

[Add new 1.5 and 1.6 to provide for preparation under M910, M920, M930, and M940 to read as follows:]

1.5 Co-Sacking with Automation Rate Mail

Packages of flat-size mail prepared under 4.3 may be co-sacked with automation rate mail that is part of the same mailing job under the standards in M910.

1.6 Merged Containerization With Carrier Route and Automation Rate Mail

When the conditions and preparation standards in M920 are met, flat-size 5-digit packages at Presorted rates prepared under 4.3a may be co-sacked with flat-size carrier route rate packages prepared under M620 and with flat-size 5-digit packages at automation rates prepared under M820 in merged 5-digit sacks or in merged 5-digit scheme sacks. When the conditions and preparation standards in M920, M930, or M940 are met, flat-size 5-digit packages at Presorted rates prepared under 4.3a may be copalletized with flat-size carrier route rate packages prepared under M620 and with flat-size 5-digit packages at automation rates prepared under M820 in merged 5-digit pallets, or in merged 5-digit scheme pallets.

* * * * *

M620 Enhanced Carrier Route Standard Mail

1.0 BASIC STANDARDS

1.1 All Mailings

[Amend 1.1c to provide for preparation under M920, M930, and M940 to read as follows:]

All nonautomation rate Enhanced Carrier Route mailings are subject to these general standards (automation rate Enhanced Carrier Route mailings must be prepared under M810):

* * * * *

c. All pieces must be sorted together and prepared under M045, M920, M930, or M940 (if palletized), or under M620 or M920 if sacked.

* * * * *

[Add new 1.6 to provide for preparation under M920, M930, and M940 to read as follows:]

1.6 Merged Containerization with Automation Rate and Presorted Rate Mail

When the conditions and preparation standards in M920 are met, flat-size carrier route rate packages prepared under 2.0 may be co-sacked with flat-size 5-digit packages at Presorted rates prepared under M610 and with flat-size 5-digit packages at automation rates prepared under M820 in merged 5-digit sacks or in merged 5-digit scheme sacks. When the conditions and preparation standards in M920, M930, or M940 are met, flat-size carrier route rate packages prepared under 2.0 may be copalletized with flat-size 5-digit packages at Presorted rates prepared under M610 and with flat-size 5-digit packages at automation rates prepared under M820 in merged 5-digit pallets or in merged 5-digit scheme pallets.

* * * * *

M800 All Automation Mail

* * * * *

M820 Flat-Size Mail

1.0 BASIC STANDARDS

* * * * *

[Revise the heading and contents of 1.9 to provide for preparation under M910 to read as follows:]

1.9 Co-Traying, Co-Sacking, or Copalletizing with Presorted Rate Mail

Packages prepared under M820 1.0 through 4.0 may be co-trayed or co-sacked with Presorted rate mail that is part of the same mailing job and mail class at all levels of tray or sack under the provisions of M910.

[Add new 1.10 to provide for preparation under M920 to read as follows:]

1.10 Merged Containerization with Carrier Route and Presorted Rate Mail

Under M920, 5-digit automation rate packages prepared under M820.1.0, M820.3.0, and M820.4.0 may be co-sacked with both carrier route rate packages and 5-digit Presorted rate packages in merged 5-digit sacks or pallets, or in merged 5-digit scheme sacks or pallets, for those 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the Carrier Route Indicators field of the City State Product that shows such combination is permissible. In addition, 5-digit automation rate packages prepared under M820.1.0, M820.3.0, and M820.4.0 may be copalletized with both carrier route rate packages and 5-digit Presorted rate packages on merged 5-digit pallets, or on merged 5-digit scheme pallets, under the conditions in M920, M930, or M940. Packages co-sacked or copalletized under M920, M930, or M940 must be part of the same mailing job and mail class.

* * * * *

[Add new section M900 to provide for co-traying and co-sacking of automation rate and Presorted rate packages and co-sacking and copalletization of carrier route packages, 5-digit automation packages, and 5-digit Presorted rate packages to read as follows:]

M900 Advanced Preparation Options

M910 Co-Traying and Co-Sacking of Automation Rate and Presorted Rate Mailings of Flat-Size Mail

1.0 FIRST-CLASS MAIL

1.1 Basic Standards

Packages of flat-size pieces in an automation rate mailing may be co-trayed with packages of flat-size pieces in a Presorted rate mailing under the following conditions:

a. The pieces in the automation rate mailing and in the Presorted rate mailing must be part of the same mailing job and reported on the same postage statement.

b. Pieces in the automation rate mailing must meet the criteria for a flat under C050.3.2 and C820. Pieces in the Presorted rate mailing must meet the criteria for a flat under C050.3.1.

c. The automation rate mailing must meet the eligibility criteria in E140, except that the traying criteria in 1.3 must be met rather than the traying criteria in M820.

d. The Presorted rate mailing must meet the eligibility criteria in E130, except that the traying and documentation criteria in 1.1 and 1.3 must be met rather than the traying and documentation criteria in M820.

e. The rates for pieces in the automation rate mailing are applied based on the level of package to which they are sorted under E140.2.0.

f. The automation rate pieces must be marked under M012. Pieces claimed at an automation rate must bear the ''First-Class'' marking or ''Presorted'' and ''First-Class'' markings and, except as provided in M012, ''AUTO.'' The Presorted rate pieces must be marked ''First-Class'' and ''Presorted.'' Presorted rate pieces must not bear the ''AUTO'' marking.

g. The packages prepared from the automation rate mailing and the packages prepared from the Presorted rate mailing must be sorted into the same trays as described in 1.3.

h. A complete, signed, appropriate postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing job prepared under these procedures. In addition to the applicable postage statement, documentation produced by PAVE-certified or MAC-certified software, or standardized documentation under P012, must be submitted with each co-trayed mailing job that describes for each tray sortation level the number of pieces qualifying for each applicable automation rate and the number of pieces that qualify for the Presorted rate under P012.

i. Barcoded tray labels under M032 must be used to label the trays.

1.2 Package Preparation

The automation rate mailing must be packaged and labeled under M820. The Presorted rate mailing must be packaged and labeled under M130.

1.3 Tray Preparation and Labeling

Presorted rate and automation rate packages prepared under 1.2 must be presorted together into trays (co-trayed) in the sequence listed below. Trays must be labeled using the following information for Lines 1 and 2 and M032 for other sack label criteria.

a. *5-digit:* required, full trays only (no overflow trays).

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''FCM FLTS 5D BC/NBC.''

b. *3-digit:* required, full trays only (no overflow trays).

(1) Line 1: Use L002, Column A.

(2) Line 2: ''FCM FLTS 3D BC/NBC.''

c. *Origin/entry 3-digit:* required for each 3-digit ZIP Code served by the SCF of the origin (verification) office, optional for each 3-digit ZIP Code served by the SCF of an entry office other than the origin office, no minimum.

(1) Line 1: Use L002, Column A.

(2) Line 2: ''FCM FLTS 3D BC/NBC.''

d. *ADC:* required, full trays only (no overflow trays), use L004 to determine ZIP Codes served by each ADC.

(1) Line 1: Use L004.

(2) Line 2: ''FCM FLTS ADC BC/NBC.''

e. *Mixed ADC:* required, no minimum.

(1) Line 1: Use ''MXD'' followed by the city, state, and ZIP Code of the facility serving the 3-digit ZIP Code of the entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM FLTS BC/NBC WKG.''

2.0 PERIODICALS

2.1 Basic Standards

Packages of nonletter-size pieces in an automation rate mailing may be co-sacked with packages of nonletter-size pieces in a Presorted rate mailing under the following conditions:

a. The pieces in the automation rate mailing and in the Presorted rate mailing must be part of the same mailing job and must be reported on the appropriate postage statement(s).

b. The pieces in the mailing job must all be nonletter-size and meet any other size and mailpiece design requirements applicable to the rate category for which they are prepared.

c. The automation rate mailing must meet the eligibility criteria in E240, except that the sacking and documentation criteria in 2.1, 2.3, and 2.4 must be met rather than the sacking and documentation criteria in M820.

d. The Presorted rate mailing must meet the eligibility criteria in E230, except that the sacking and documentation criteria in 2.1, 2.3, and 2.4 must be met rather than the sacking and documentation criteria in M820.

e. The rates for pieces in the automation rate mailing are applied based on the number of pieces in the

package and the level of package to which they are sorted under E240. The rates for pieces in the Presorted rate mailing are based on the number of pieces in the package and the level of sack in which they are placed under E230.

f. The packages prepared from the automation rate mailing and the packages prepared from the Presorted rate mailing must be sorted into the same sacks as described in 2.3 and 2.4.

g. A complete, signed, appropriate postage statement(s), using the correct USPS form or an approved facsimile, must accompany each mailing job prepared under these procedures. In addition to the applicable postage statement, documentation produced by PAVE-certified or MAC-certified software, or standardized documentation under P012, must be submitted with each co-sacked mailing job that describes for each sack sortation level the number of pieces qualifying for each applicable automation rate and the number of pieces that qualify for each applicable Presorted rate under P012.

h. Barcoded sack labels under M032 must be used to label sacks.

2.2 Package Preparation

The automation rate mailing must be packaged and labeled under M820 (all package levels). The Presorted rate mailing must be packaged and labeled under M200 (excluding carrier route packages).

2.3 Low-Volume Packages in Sacks or on Pallets

Five-digit and 3-digit packages prepared under M200 and M820 that contain fewer than six pieces may be placed in 5-digit, 3-digit and SCF sacks when the publisher determines that such preparation improves service. Pieces in such low volume packages must claim the applicable basic Presorted rate, except for firm packages at Presorted rates as applicable under M200.1.4.

2.4 Sack Preparation and Labeling

Presorted rate and automation rate packages prepared under 2.2 and 2.3 must be presorted together into sacks (co-sacked) in the sequence listed below. Sacks must be labeled using the following information for Lines 1 and 2 and M032 for other sack label criteria. If, due to the physical size of the mailpieces, the automation rate pieces are considered flat-size under C820 and the Presorted rate pieces are considered irregular parcels under C050, the processing category shown on the sack label must show ''FLTS.''

a. *5-digit:* required at 24 pieces to same 5-digit, optional with one six-piece package, or under 2.3 with at least one package of fewer pieces.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable and ''FLTS 5D BC/NBC.''

b. *3-digit:* required at 24 pieces to same 3-digit, optional with one six-piece package, or under 2.3 with at least one package of fewer pieces.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PER'' or ''NEWS'' as applicable and ''FLTS 3D BC/NBC.''

c. *SCF:* required at 24 pieces, optional with one six-piece package, or under 2.3 with at least one package of fewer pieces.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PER'' or ''NEWS'' as applicable and ''FLTS SCF BC/NBC.''

d. *Origin/entry SCF:* required for the SCF of the origin (verification) office, optional for the SCF of an entry office other than the origin office, no minimum.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PER'' or ''NEWS'' as applicable and ''FLTS SCF BC/NBC.''

e. *ADC:* required at 24 pieces, optional with one six-piece package (packages of fewer than 6 pieces are not permitted).

(1) Line 1: use L004.

(2) Line 2: ''PER'' or ''NEWS'' as applicable and ''FLTS ADC BC/NBC.''

f. *Mixed ADC:* required, no minimum, except that packages of fewer than 6 pieces at 5-digit, 3-digit, and ADC package levels are not permitted.

(1) Line 1: Use L802 (mail entered by the mailer at an ASF or BMC) or L803, as appropriate.

(2) Line 2: ''PER'' or ''NEWS'' as applicable and ''FLTS BC/NBC WKG.''

3.0 STANDARD MAIL (A)

3.1 Basic Standards

Packages of flat-size pieces in an automation rate mailing may be co-sacked with packages of flat-size pieces in a Presorted rate mailing under the following conditions:

a. The pieces in the automation rate mailing and in the Presorted rate mailing must be part of the same mailing job and reported on the same postage statement or consolidated postage statement.

b. Pieces in the automation rate mailing must meet the criteria for a flat under C050.3.2 and C820. Pieces in the Presorted rate mailing must meet the criteria for a flat under C050.3.1.

c. The automation rate mailing must meet the eligibility criteria in E640, except that the sacking and documentation criteria in 3.1, 3.3, and 3.4 must be met rather than the sacking and documentation criteria in M820.

d. The Presorted rate mailing must meet the eligibility criteria in E620, except that the sacking and documentation criteria in 3.1, 3.3, and 3.4 must be met rather than the sacking and documentation criteria in M610.

e. The rates for pieces in the automation rate mailing are applied based on the number of pieces in the package and the level of package to which they are sorted under E640.1.0. The rates for pieces in the Presorted rate mailing are based on the number of pieces in the package and the level of sack in which they are placed under E620.1.0.

f. The automation rate pieces must be marked under M012. Pieces claimed at an automation rate must be marked ''Presorted Standard'' (or ''PRSRT STD'') or ''Nonprofit Organization'' (or ''Nonprofit Org.'' or ''Nonprofit'') and, except as provided in M012, ''AUTO.'' The Presorted rate pieces must be marked ''Presorted Standard'' (or ''PRSRT STD'') or ''Nonprofit Organization'' (or ''Nonprofit Org.'' or ''Nonprofit''). Presorted rate pieces must not bear the ''AUTO'' marking.

g. The packages prepared from the automation rate mailing and the packages prepared from the Presorted rate mailing must be sorted into the same sacks as described in 3.3 and 3.4.

h. A complete, signed, appropriate postage statement(s), using the correct USPS form or an approved facsimile, must accompany each mailing job prepared under these procedures. In addition to the applicable mailing statement, documentation produced by PAVE-certified or MAC-certified software, or standardized documentation under P012, must be submitted with each co-sacked mailing job that describes for each sack sortation level the number of pieces qualifying for each applicable automation rate and the number of pieces that qualify for each applicable Presorted rate under P012.

i. Barcoded sack labels under M032 must be used to label the sacks.

3.2 Package Preparation

The automation rate mailing must be packaged and labeled under M820. The Presorted rate mailing must be packaged and labeled under M610. Loose packing under M610 is not permitted.

3.3 Sacking under 125-piece or 15-pound rules

When the minimum quantity of 125-pieces or 15-pounds of mail is specified

for a sack sortation level in 3.4, the provisions of M820.4.2 apply.

3.4 Sack Preparation and Labeling

Presorted rate and automation rate packages prepared under 3.2 must be presorted together into sacks (co-sacked) in the sequence listed below. Sacks must be labeled using the following information for Lines 1 and 2, and M032 for other sack label criteria.

a. *5-digit:* required, 125-piece/15-pound minimum, smaller volume not permitted.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS 5D BC/NBC.''

b. *3-digit:* required, 125-piece/15-pound minimum, smaller volume not permitted.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D BC/NBC.''

c. *Origin/entry 3-digit:* required for each 3-digit ZIP Code served by the SCF of the origin (verification) office, optional for each 3-digit ZIP Code served by the SCF of an entry office other than the origin office, no minimum.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D BC/NBC.''

d. *ADC:* required, 125-piece/15-pound minimum, smaller volume not permitted, use L004 to determine ZIP Codes served by each ADC.

(1) Line 1: use L004.

(2) Line 2: ''STD FLTS ADC BC/NBC.''

e. *Mixed ADC:* required, no minimum.

(1) Line 1: use L802 for mail entered by the mailer at an ASF or BMC, otherwise use L803.

(2) Line 2: ''STD FLTS BC/NBC WKG.''

M920 Merged Containerization of Periodicals and Standard Mail (A) Carrier Route, Automation, and Presorted Rate Mail Packages for the Same 5-Digit ZIP Code or 5-Digit Scheme Using the City State Product

1.0 PERIODICALS MAIL

1.1 Basic Standards

Carrier route packages of nonletter-size pieces in a carrier route rate mailing may be placed in the same sack or on the same pallet (a merged 5-digit sack or pallet, or a merged 5-digit scheme sack or pallet) as nonletter-size 5-digit packages from an automation rate mailing and nonletter-size 5-digit packages from a Presorted rate mailing under the following conditions:

a. A carrier route mailing must be part of the mailing job.

b. The pieces in the carrier route mailing, the automation rate mailing and the Presorted rate mailing must be part of the same mailing job.

c. Pieces in the automation rate mailing must meet the criteria for a flat under C050.3.2 and C820. Pieces in the Presorted rate mailing and the carrier route mailing must be nonletter-size.

d. Mailers must use the Carrier Route Indicators field in the City State Product to prepare the mailing and enter the mailing no later than 90 days after the release date of the City State Product used.

e. Carrier route packages may be co-sacked or copalletized with automation rate 5-digit packages and Presorted rate 5-digit packages only for those 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product indicating they are eligible for such co-sacking or copalletization. Containers of mail sorted in this manner are called ''merged 5-digit'' sacks or pallets. Containers of mail sorted in this manner for which scheme sortation is also performed are called ''merged 5-digit scheme'' sacks or pallets.

f. If sortation under this section is performed, merged 5-digit sacks or pallets must be prepared for all 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the City State Product that permits such preparation when there is enough volume for the 5-digit ZIP Code to prepare such a sack under 1.4 or such a pallet under 1.5. In addition, all possible merged 5-digit scheme sacks must be prepared under 1.4, or all possible merged 5-digit scheme and 5-digit scheme pallets must be prepared under 1.5.

g. The carrier route mailing must meet the eligibility criteria in E230, the automation rate mailing must meet the eligibility criteria in E240, and the Presorted rate mailing must meet the eligibility criteria in E230.

h. For sacked mailings, the rates for pieces in the carrier route mailing are based on the criteria in E230, the rates for pieces in the automation rate mailing are applied based on the number of pieces in the package and the level of package to which they are sorted under E240, and the rates for pieces in the Presorted rate mailing are based on the number of pieces in the package and the level of sack to which they are sorted under E230.

i. For palletized mailings, the rates are based on the level of package and the number of pieces in the package under E230 and E240.

j. The packages from each separate mailing must be sorted together into sacks (co-sacked) under 1.4 or on pallets (copalletized) under 1.5 using presort software that is PAVE-certified.

k. A complete, signed, appropriate postage statement(s), using the correct USPS form or an approved facsimile, must accompany each mailing job prepared under these procedures.

l. In addition to the applicable postage statement(s), documentation prepared by PAVE-certified software must be submitted with each co-sacked or copalletized mailing job that describes for each sack sortation level and sack, or each pallet sortation level and pallet, the number of pieces qualifying for each applicable carrier route rate, each applicable automation rate, and each applicable Presorted rate under P012.

m. Barcoded sack labels under M032 must be used to label sacks.

1.2 Package Preparation

Packages must be prepared as follows:

a. *Sacked Mailings.* The carrier route mailing must be packaged and labeled under M200. The automation rate mailing must be packaged and labeled under M820. The Presorted rate mailing must be packaged and labeled under M200.

b. *Palletized Mailings.* Packages placed on pallets must be prepared under the standards in M045.

1.3 Low-Volume Packages in Sacks or on Pallets

Carrier route and 5-digit packages prepared under M200 and M820 that contain fewer than six pieces must be placed in sacks under 1.4a through 1.4f or in 3-digit and SCF sacks, or on pallets under 1.5a through 1.5h, when the publisher determines that such preparation improves service. Pieces in such low-volume packages must claim the applicable basic rate, except that, as provided under M200.1.4, some firm packages may be eligible for carrier route rates and for 5-digit and 3-digit Presorted rates.

1.4 Sack Preparation and Labeling With Scheme Sort

Mailers must prepare sacks containing the individual carrier route and 5-digit packages from the carrier route, automation rate, and Presorted rate mailings in the mailing job in the following manner and sequence. All carrier route packages must be placed in sacks under 1.4a through 1.4e as described below. When sortation under this section is performed, merged 5-digit scheme sacks, 5-digit scheme carrier routes sacks, and merged 5-digit sacks must be prepared for all possible 5-digit schemes or 5-digit ZIP Codes as applicable, using L001 (merged 5-digit scheme and 5-digit scheme carrier routes sort only) and the Carrier Route Indicators field in the City State Product when there is enough volume for the 5-digit scheme or 5-digit ZIP Code to

prepare such sacks under 1.4. Mailers must label sacks according to the Line 1 and Line 2 information listed below and under M032. If, due to the physical size of the mailpieces, the automation rate pieces are considered flat-size under C820 and the carrier route sorted pieces and Presorted rate pieces are considered irregular parcels under C050, ''FLTS'' must be shown as the processing category shown on the sack label. If a mailing job does not contain an automation rate mailing and the carrier route mailing and the Presorted rate mailing are irregular parcel shaped, use ''IRREG'' for the processing category on the contents line of the label.

a. *Carrier Route.* Required. May contain only carrier route packages. Must be prepared when there are 24 or more pieces for the same carrier route. Smaller volume not permitted.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''CR'' for basic rate, ''WSH'' for high-density rate, or ''WSS'' for saturation rate; and followed by the route type and number.

b. *Merged 5-Digit Scheme.* Required. Permitted only when there is at least one 5-digit ZIP Code in the scheme with an ''A'' or ''C'' indicator in the City State Product. May contain carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in L001 as well as automation rate 5-digit packages and Presorted rate 5-digit packages for those 5-digit ZIP Codes in the scheme that have an ''A'' or ''C'' indicator in the City State Product. When preparation of this sack level is permitted, a sack must be prepared if there are any carrier route package(s) for the scheme. If there is not at least one carrier route package for any 5-digit destination in the scheme, preparation of this sack is required at 24 pieces in 5-digit packages, and optional with one six-piece package or at least one 5-digit package of fewer pieces for the scheme in L001 under 1.3, for any of the 5-digit ZIP Codes in the scheme that have an ''A'' or ''C'' indicator in the City State Product. For a 5-digit ZIP Code(s) in a scheme that has a ''B'' or ''D'' indicator in the City State Product, prepare sack(s) for the automation rate and Presorted rate packages under 1.4f through 1.4g. For 5-digit ZIP Codes not included in a scheme, prepare sacks under 1.4d through 1.4g.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR/5D SCH.''

c. *5-Digit Scheme Carrier Routes.* Required. May contain only carrier route packages for 5-digit ZIP Code(s) in a single scheme listed in L001 when all the 5-digits in the scheme have a ''B'' or ''D'' indicator in the City State Product. Must be prepared if there are any carrier route package(s) for such a scheme.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR-RTS SCH.''

d. *Merged 5-Digit.* Required. Must be prepared only for those 5-digit ZIP Codes that are not part of a scheme and that have an ''A'' or ''C'' indicator in the City State Product. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages. Must be prepared if there are any carrier route packages for the 5-digit. If there is not at least one carrier route package for the 5-digit destination, preparation of this sack is required at 24 pieces in 5-digit packages for the same 5-digit destination, and is optional with one six piece package or at least one package of fewer pieces under 1.3.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR/5D.''

e. *5-Digit Carrier Routes.* Required. Sack only carrier route packages for a 5-digit ZIP Code remaining after preparing sacks under 1.4a through 1.4d to this level. May contain only carrier route packages for any 5-digit ZIP Code that is not part of a scheme listed in L001 and that has a ''B'' or ''D'' indicator in the City State Product. No sack minimum.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR–RTS.''

f. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for the same 5-digit ZIP Code for any 5-digit ZIP Code that has a ''B'' or ''D'' indicator in the City State Product. Must be prepared at 24 or more pieces, optional with one six-piece package or at least one package of fewer pieces under 1.3.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS 5D BC/NBC'', except if there are no automation rate packages in the mailing job, label under M200.3.2f.

g. *3-digit Through Mixed ADC Sacks.* Any 5-digit packages remaining after preparing sacks under 1.4a through 1.4f, and all 3-digit, ADC, and Mixed ADC packages, must be sacked and labeled according to the applicable requirements under M910.2.0 for co-sacking of automation rate and Presorted rate packages, except if there are no automation rate packages in the mailing job, sack and label under M200.3.0.

1.5 Pallet Preparation and Labeling With Scheme (L001) Sort

Mailers must prepare pallets of packages in the manner and sequence listed below and under M041. When sortation under this option is performed, mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and/or the City State Product as applicable. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031. If, due to the physical size of the mailpieces, the automation rate pieces are considered flat-size under C820 and the carrier route sorted pieces and Presorted rate pieces are considered irregular parcels under C050, ''FLTS'' must be shown as the processing category shown on the pallet label. If a mailing contains no automation rate pieces and the carrier route mailing and the Presorted rate mailing are irregular parcel shaped, use ''IRREG'' for the processing category on the contents line of the label.

a. *Merged 5-Digit Scheme.* Required and permitted only when there is at least one 5-digit ZIP Code in the scheme that has an ''A'' or ''C'' indicator in the City State Product. May contain carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in L001 as well as automation rate 5-digit packages and Presorted rate 5-digit packages for those 5-digit ZIP Codes in the scheme that have an ''A'' or ''C'' indicator in the City State Product. For schemes in which all of the 5-digit ZIP Codes have a ''B'' or ''D'' indicator in the City State Product, begin preparing pallets under 1.5b (5-digit scheme carrier routes pallet). For 5-digit ZIP Codes not included in a scheme, begin preparing pallets under 1.5d (merged 5-digit pallet).

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR/5D SCHEME.''

b. *5-Digit Scheme Carrier Routes.* Required. May contain only carrier route packages for carrier routes in an L001 scheme for which all of the 5-digit ZIP Codes in the scheme have a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR-RTS SCHEME.''

c. *5-Digit Scheme.* Required. May contain only 5-digit packages of automation rate and Presorted rate mail for the same 5-digit scheme under L001 for ZIP Codes in the scheme that have a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; and followed by ''SCHEME'' or ''SCH.''

d. *Merged 5-Digit.* Required. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit for those 5-digit ZIP Codes that are not part of a scheme and that have an ''A'' or ''C'' indicator in the City State Product.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or IRREG'' as applicable; and followed by ''CR/5D.''

e. *5-Digit Carrier Routes.* Required. May contain only carrier route rate packages for the same 5-digit ZIP Code for those 5-digit ZIP Codes that are not part of a scheme and that have a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CARRIER ROUTES'' or ''CR-RTS.''

f. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for the same 5-digit ZIP Code for those 5-digit ZIP Codes that are not part of a scheme and that have a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *3-Digit.* Optional. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PER'' or ''NEWS'' as applicable, followed by ''FLTS'' or IRREG'' as applicable, followed by ''3D,'' followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail, and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. *SCF.* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

i. *ADC.* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L004.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''ADC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

2.0 STANDARD MAIL (A)

2.1 Basic Standards

Carrier route packages of flat-size pieces in a carrier route rate mailing may be placed in the same sack or on the same pallet (a merged 5-digit sack or pallet, or a merged 5-digit scheme sack or pallet) as flat-size 5-digit packages from an automation rate mailing and flat-size 5-digit packages from a Presorted rate mailing under the following conditions:

a. A carrier route mailing must be part of the mailing job.

b. The pieces in the carrier route rate mailing, the automation rate mailing, and the Presorted rate mailing must be part of the same mailing job, and all three mailings must be reported on the same postage statement or same consolidated postage statement.

c. Pieces in the automation rate mailing must meet the criteria for a flat under C050.3.2 and C820. Pieces in the Presorted rate mailing and the carrier route mailing must meet the criteria for a flat under C050.3.1.

d. Mailers must use the Carrier Route Indicators field in the City State Product to prepare the mailing and enter the mailing no later than 90 days after the release date of the City State Product used.

e. Carrier route rate packages may be co-sacked or copalletized with automation rate 5-digit packages and Presorted rate 5-digit packages only for those 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product indicating they are eligible for such co-sacking or copalletization. Containers of mail sorted in this manner are called ''merged 5-digit'' sacks or pallets. Containers of mail sorted in this manner for which scheme sortation is also performed are called ''merged 5-digit scheme'' sacks or pallets.

f. If sortation under this section is performed, merged 5-digit sacks or pallets must be prepared for all 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the City State Product that permits such preparation when there is enough volume for the 5-digit ZIP Code to prepare such a sack under 2.3 and 2.4 or 2.5, or such a pallet under 2.6 or 2.7. In addition, if mailers also choose to sort to L001, all possible merged 5-digit scheme sacks must be prepared under 2.5, or all possible merged 5-digit scheme and 5-digit scheme pallets must be prepared under 2.7.

g. The carrier route mailing must meet the eligibility criteria in E620, the automation rate mailing must meet the eligibility criteria in E640, and the Presorted rate mailing must meet the eligibility criteria in E620.

h. For sacked mailings, the rates for pieces in the carrier route mailing are based on the criteria in E620, the rates for pieces in the automation rate mailing are applied based on the number of pieces in the package and the level of package to which they are sorted under E640, and the rates for pieces in the Presorted rate mailing are based on the number of pieces in the package and the level of sack to which they are sorted under E620.

i. The pieces in each separate mailing must bear the applicable markings required under M610, M620, or M820 and under M012.

j. For palletized mailings, the rates are based on the level of package that the pieces are contained in under E620 and E640.

k. The packages from each separate mailing must be sorted together into sacks (co-sacked) under 2.3 and 2.4 or 2.5, or on pallets (copalletized) under 2.6 or 2.7, using presort software that is PAVE-certified or MAC-certified.

l. A complete, signed, appropriate postage statement or consolidated postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing job prepared under these procedures.

m. In addition to the applicable postage statement, documentation prepared by PAVE-certified or MAC-certified software must be submitted with each co-sacked or copalletized mailing job that describes for each sack sortation level and sack, or each pallet sortation level and pallet, the number of pieces qualifying for each applicable carrier route rate, each applicable automation rate, and each applicable Presorted rate under P012.

n. Barcoded sack labels under M032 must be used to label sacks.

2.2 Package Preparation

Packages must be prepared as follows:

a. *Sacked Mailings.* The carrier route mailing must be packaged and labeled under M620. The automation rate mailing must be packaged and labeled under M820. The Presorted rate mailing must be packaged and labeled under M610.

b. *Palletized Mailings.* Packages placed on pallets must be prepared under the standards in M045.

2.3 Sacking under 125-piece or 15-pound rules

When the minimum quantity of 125-pieces or 15-pounds of mail is specified for a sack sortation level in 2.4, the provisions of M820.4.2 apply.

2.4 Sack Preparation and Labeling Without Scheme Sort

Mailers must prepare sacks containing the individual carrier route and 5-digit packages from the carrier route rate, automation rate, and Presorted rate mailings in the mailing job in the following manner and sequence. All carrier route packages must be placed in sacks under 2.4a through 2.4c as described below. When sortation under this section is performed, merged 5-digit sacks must be prepared for all 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the City State Product that permits such preparation when there is enough volume for the 5-digit ZIP Code to prepare such a sack under 2.4. Mailers must label sacks according to the Line 1 and Line 2 information listed below and under M032.

a. *Carrier Route.* Required. May contain only carrier route packages. Must be prepared when there are 125 pieces or 15 pounds of pieces for the same carrier route. Smaller volume not permitted.

(1) Line 1 labeling: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2 labeling: ''STD FLTS''; followed by ''ECRLOT'', ''ECRWSH'', or ''ECRWSS'' as applicable for basic, high-density, and saturation rate mail; and followed by the route type and number.

b. *Merged 5-Digit.* Required. Must be prepared only for those 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the City State Product. May contain carrier route rate packages, automation rate 5-digit packages, and Presorted rate 5-digit packages. Must be prepared if there is at least one carrier route package for the 5-digit ZIP Code. If there is no carrier route package(s) for a 5-digit destination, must be prepared when there are at least 125 pieces or 15 pounds of pieces in 5-digit packages for the same 5-digit destination (smaller volume not permitted).

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS CR/5D.''

c. *5-Digit Carrier Routes.* Required. May contain only carrier route packages for a 5-digit ZIP Code that could not be sacked under 2.4a and b. No sack minimum. May contain only carrier route packages for a 5-digit ZIP Code with a ''B'' or ''D'' indicator in the City State Product. All carrier route packages remaining after preparing sacks under 2.4a and b must be sacked to this level.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS CR–RTS.''

d. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for a 5-digit ZIP Code with a ''B'' or ''D'' indicator in the City State Product. Must be prepared when there are at least 125 pieces or 15 pounds of pieces for the 5-digit ZIP Code. Smaller volume not permitted.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS 5D BC/NBC,'' except if there are no automation rate packages in the mailing job use ''STD FLTS 5D NON BC.''

e. *3-Digit Through Mixed ADC Sacks.* Any 5-digit packages remaining after preparing sacks under 2.4a through 2.4d, and all 3-digit, ADC, and Mixed ADC packages, must be sacked and labeled according to the applicable requirements under M910.3.0 for co-sacking of automation rate and Presorted rate packages, except if there are no automation rate packages in the mailing job, sack and label under M610.

2.5 Optional Sack Preparation and Labeling With Scheme Sort

When mailers choose to prepare mail under this option, they must prepare sacks containing the individual carrier route and 5-digit packages from the carrier route rate, automation rate, and Presorted rate mailings in the mailing job in the following manner and sequence. All carrier route packages must be placed in sacks under 2.5a through 2.5e as described below. When sortation under this section is performed, merged 5-digit scheme sacks, 5-digit scheme carrier routes sacks, and merged 5-digit sacks must be prepared for all possible 5-digit schemes or 5-digit ZIP Codes as applicable, using L001 (merged 5-digit scheme and 5-digit scheme carrier routes sort only) and the Carrier Route Indicators field in the City State Product when there is enough volume for the 5-digit scheme or 5-digit ZIP Code to prepare such sacks under 2.5. Mailers must label sacks according to the Line 1 and Line 2 information listed below and under M032.

a. *Carrier Route.* Required. May contain only carrier route packages. Must be prepared when there are 125 pieces or 15 pounds of pieces for the same carrier route. Smaller volume not permitted.

(1) Line 1 labeling: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2 labeling: ''STD FLTS''; followed by ''ECRLOT'', ''ECRWSH'', or ''ECRWSS'' as applicable for basic, high-density, and saturation rate mail; and followed by the route type and number.

b. *Merged 5-Digit Scheme.* Required and permitted only when there is at least one 5-digit ZIP Code in the scheme with an ''A'' or ''C'' indicator in the City State Product. May contain carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in L001 as well as automation rate 5-digit packages and Presorted rate 5-digit packages for those 5-digit ZIP Codes in the scheme with an ''A'' or ''C'' indicator in the City State Product. When preparation of this sack level is permitted, a sack must be prepared if there are any carrier route package(s) for the scheme. If there is not at least one carrier route package for any 5-digit destination in the scheme, preparation of this sack is required when there are at least 125 pieces or 15 pounds of pieces in 5-digit packages for any of the 5-digit ZIP Codes in the scheme that have an ''A'' or ''C'' indicator in the City State Product (smaller volume not permitted). For a 5-digit ZIP Code(s) in a scheme with a ''B'' or ''D'' indicator in the City State Product, prepare sack(s) for the

automation rate and Presorted rate packages under 2.5f and g. For 5-digit ZIP Codes not included in a scheme, prepare sacks under 2.5d through 2.5g.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR/5D SCH''.

c. *5-Digit Scheme Carrier Routes.* Required. May contain only carrier route packages for 5-digit ZIP Code(s) in a single scheme listed in L001 when all the 5-digit ZIP Codes in the scheme have a ''B'' or ''D'' indicator in the City State Product. Must be prepared if there are any carrier route package(s) for such a scheme.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR–RTS SCH''.

d. *Merged 5-Digit.* Required. Must be prepared only for those 5-digit ZIP Codes that are not part of a scheme and that have an ''A'' or ''C'' indicator in the City State Product. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages. Must be prepared if there are any carrier route packages for the 5-digit destination. If there is not at least one carrier route package for the 5-digit destination, must be prepared when there are at least 125 pieces or 15 pounds of pieces in 5-digit packages for the same 5-digit destination (smaller volume not permitted).

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS CR/5D''.

e. *5-Digit Carrier Routes.* Required. Sack only carrier route packages for a 5-digit ZIP Code remaining after preparing sacks under 2.5a through 2.5d to this level. May contain only carrier route packages for any 5-digit ZIP Code that is not part of a scheme listed in L001 and that has a ''B'' or ''D'' indicator in the City State Product. No sack minimum.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS CR–RTS''.

f. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for a 5-digit ZIP Code that has a ''B'' or ''D'' indicator in the City State Product. Must be prepared when there are at least 125 pieces or 15 pounds of pieces for the 5-digit ZIP Code. Smaller volume not permitted.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M032 for military mail).

(2) Line 2: ''STD FLTS 5D BC/NBC,'' except if there are no automation rate packages in the mailing job, use ''STD FLTS 5D NON BC.''

g. *3-Digit Through Mixed ADC Sacks.* Any 5-digit packages remaining after preparing sacks under 2.5 a through f, and all 3-digit, ADC, and Mixed ADC packages, must be sacked and labeled according to the applicable requirements under M910.3.0 for co-sacking of automation rate and Presorted rate packages, except if there are no automation rate packages in the mailing job, sack and label under M610.

2.6 Pallet Preparation and Labeling Without Scheme (L001) Sort

Mailers must prepare pallets of packages in the manner and sequence listed below and under M041. When sortation under this option is performed, merged 5-digit pallets must be prepared for all 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the City State Product that permits such preparation when there is enough volume for the 5-digit ZIP Code to prepare such a pallet under 2.6. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. *Merged 5-Digit.* Required. May be prepared only for those 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the City State Product. May contain carrier route rate packages, automation rate 5-digit packages, and Presorted rate 5-digit packages.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS CR/5D''.

b. *5-Digit Carrier Routes.* Required. May contain only carrier route rate packages for the same 5-digit ZIP Code that has a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS'', followed by ''CARRIER ROUTES'' or ''CR–RTS.''

c. *5-Digit.* Required. May contain automation rate 5-digit packages and automation rate 5-digit packages for the same 5-digit ZIP Code that has a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

d. *3-Digit.* Optional. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

e. *SCF:* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column C.

(2) Line 2: ''STD FLTS SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

f. *Destination ASF.* Required, except that an ASF sort may not be required if using package reallocation under 6.0. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: ''STD FLTS ASF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *Destination BMC:* Required. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to BMC and ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: Use L601.

(2) Line 2: ''STD FLTS BMC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

2.7 Optional Pallet Preparation and Labeling With Scheme (L001) Sort

When mailers choose to prepare mail under this option, they must prepare pallets of packages in the manner and sequence listed below and under M041. When sortation under this option is performed, mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and/or the City State Product as applicable. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. *Merged 5-Digit Scheme.* Required and permitted only when there is at least one 5-digit ZIP Code in the scheme that has an ''A'' or ''C'' indicator in the City State Product. May contain carrier route packages for any 5-digit ZIP Code(s) in a single scheme listed in

L001 as well as automation rate 5-digit packages and Presorted rate 5-digit packages for those 5-digit ZIP Codes in the scheme that have an ''A'' or ''C'' indicator in the City State Product. For schemes in which all of the 5-digit ZIP Codes have a ''B'' or ''D'' indicator in the City State Product, begin preparing pallets under 2.7b (5-digit scheme carrier routes pallet). For 5-digit ZIP Codes not included in a scheme, begin preparing pallets under 2.7d (merged 5-digit pallet).

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR/5D SCHEME''.

b. *5-Digit Scheme Carrier Routes.* Required. May contain only carrier route packages for carrier routes in an L001 scheme for which all of the 5-digit ZIP Codes in the scheme have a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR–RTS SCHEME''.

c. *5-Digit Scheme.* Required. May contain only 5-digit packages of automation rate and Presorted rate mail for the same 5-digit scheme under L001 for ZIP Codes in the scheme that have a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; and followed by ''SCHEME'' or ''SCH.''

d. *Merged 5-Digit.* Required. May contain carrier route rate packages, automation rate 5-digit packages, and Presorted rate 5-digit packages for those 5-digit ZIP Codes that are not part of a scheme and that have an ''A'' or ''C'' indicator in the City State Product.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS CR/5D.''

e. *5-Digit Carrier Routes.* Required. May contain only carrier route rate packages for the same 5-digit ZIP Code for those 5-digit ZIP Codes that are not part of a scheme and that have a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS,'' followed by ''CARRIER ROUTES'' or ''CR–RTS.''

f. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for the same 5-digit ZIP Code for those 5-digit ZIP Codes that are not part of a scheme and that have a ''B'' or ''D'' indicator in the City State Product.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *3-Digit.* Optional. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. *SCF:* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column C.

(2) Line 2: ''STD FLTS SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

i. *Destination ASF.* Required, except than an ASF sort may not be required if using package reallocation under 6.0. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: ''STD FLTS ASF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

j. *Destination BMC:* Required. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to BMC and ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: Use L601.

(2) Line 2: ''STD FLTS BMC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

M930 Merged Palletization of Periodicals and Standard Mail (A) Carrier Route and 5-Digit Packages on 5-Digit and 5-Digit Scheme Pallets Using Only a 5% Threshold (Not Using the City State Product)

1.0 PERIODICALS MAIL

1.1 Basic Eligibility Requirements

Nonletter-size 5-digit packages from an automation rate mailing and nonletter-size 5-digit packages from a Presorted rate mailing may be placed on the same pallet (a merged 5-digit pallet, or a merged 5-digit scheme pallet) as carrier route packages of nonletter-size pieces in a carrier route rate mailing under the following conditions:

a. A carrier route mailing must be part of the mailing job.

b. The pieces in the carrier route mailing, the automation rate mailing, and the Presorted rate mailing must be part of the same mailing job.

c. Pieces in the automation rate mailing must meet the criteria for a flat under C050.3.2 and C820. Pieces in the Presorted rate mailing and the carrier route mailing must be nonletter-size.

d. Automation rate 5-digit packages and Presorted rate 5-digit packages may be copalletized with carrier route packages only when the pieces in the 5-digit packages do not exceed the 5-percent limit described in 1.4. Pallets of mail sorted in this manner are called ''merged 5-digit'' pallets. Pallets of mail sorted in this manner for which scheme sortation is also performed are called ''merged 5-digit scheme'' pallets.

e. If sortation under this section is performed, merged 5-digit pallets and merged 5-digit scheme pallets must be prepared whenever there is enough volume of carrier route and 5-digit packages under M041 and 1.4 to prepare such pallets. In addition, all possible merged 5-digit scheme and 5-digit scheme pallets must be prepared under 1.4 and 1.5.

f. The carrier route mailing must meet the eligibility criteria in E230, the automation rate mailing must meet the eligibility criteria in E240, and the Presorted rate mailing must meet the eligibility criteria in E230.

g. The rates are based on the level of package and the number of pieces in the package under E230 and E240.

h. The packages from each separate mailing must be sorted together on pallets (copalletized) under 1.5 using presort software that is PAVE-certified.

i. A complete, signed, appropriate postage statement(s), using the correct USPS form or an approved facsimile, must accompany each mailing job prepared under these procedures.

j. In addition to the applicable postage statement(s), documentation prepared by PAVE-certified software must be submitted with each copalletized mailing job that describes for each pallet sortation level and pallet the number of pieces qualifying for each applicable carrier route rate, each applicable automation rate, and each applicable Presorted rate under P012. A separate 5% threshold summary also must be provided under P012 for each ''logical'' merged 5-digit scheme or ''logical'' merged 5-digit pallet presort destination. This 5% threshold summary must show for each 5-digit ZIP Code on the logical merged 5-digit scheme or logical merged 5-digit pallet (1) the total number of pieces on the pallet for the 5-digit ZIP Code (2) the total number of pieces sorted in carrier route packages for the 5-digit ZIP Code (including each firm package eligible for the carrier route rate and low-volume carrier route packages) (3) the total number of pieces sorted in 5-digit packages for the 5-digit ZIP Code (including each firm package eligible for the 5-digit or basic rate and low-volume 5-digit packages), and (4) of the total number of pieces for the 5-digit ZIP Code, the percentage of pieces sorted in 5-digit packages for that 5-digit ZIP Code. This additional 5% threshold summary must appear within the body of the documentation beneath the pallet rate listing for the last physical pallet for the logical pallet presort destination.

Note: If there are two or more physical pallets for the same presort destination, for example, the same merged 5-digit pallet destination, these two or more physical pallets would be considered as one ''logical pallet''. The separate pallet summary must be for the mail on all of the physical pallets (the ''logical pallet'') for that presort destination.

k. Portions of the mailing job that cannot be palletized must be prepared in sacks under M200, M820, M910, or M920.

1.2 Package Preparation

Packages placed on pallets must be prepared under the standards in M045.

1.3 Low-Volume Packages on Pallets

Carrier route and 5-digit packages prepared under M200, M820, and M045 that contain fewer than six pieces may be placed on pallets under 1.5a through 1.5h, when the publisher determines that such preparation improves service. Pieces in such low-volume packages must pay the applicable basic rate.

1.4 5% Threshold Standard

Mailers may place 5-digit packages with carrier route packages on the same merged 5-digit scheme or merged 5-digit pallet under 1.5 if all of the following conditions are met:

a. The number of pieces prepared in 5-digit packages for any single 5-digit ZIP Code on a ''logical'' merged 5-digit or merged 5-digit scheme pallet does not exceed 5% of the total number of pieces for the 5-digit ZIP Code on the logical pallet for that presort destination. That is, the total number of pieces for a 5-digit ZIP Code in 5-digit and carrier route packages must not be greater than the number of pieces in carrier route packages divided by 0.95.

b. The 5% threshold is calculated separately for each 5-digit ZIP Code. For example, if a scheme contains four different 5-digit ZIP Codes, a separate 5% threshold applies to each 5-digit ZIP Code for the scheme on a merged 5-digit scheme pallet.

c. All the mail in a logical 5-digit package must be able to be placed on the logical pallet under the 5% rule. A logical 5-digit package is all pieces for a mailing (rate level) prepared in a 5-digit package or packages for the same 5-digit destination. For each 5-digit ZIP Code it is possible to have a logical 5-digit package of automation rate mail and a logical 5-digit package of Presorted rate mail. If the total number of pieces in a logical 5-digit package exceeds the 5% limit, none of the pieces for that 5-digit package level may be placed on a merged 5-digit or merged 5-digit scheme pallet. For some ZIP Codes, the total number of pieces prepared in logical 5-digit packages (both an automation rate 5-digit package and a Presorted rate 5-digit package) may exceed 5% of the total mail for that ZIP Code, but the number of pieces for an individual automation rate logical 5-digit package for that ZIP Code does not exceed the 5% limit nor does an individual Presorted rate logical 5-digit package for that ZIP Code exceed the 5% limit. In such instances, mailers may choose to place all of the pieces in a logical 5-digit package for a single rate category on the logical merged 5-digit or merged 5-digit scheme pallet so that the 5% threshold is not exceeded.

Example: If there are a total of 1,100 pieces in carrier route and 5-digit packages for a 5-digit ZIP Code, a maximum of 55 pieces (5%) in 5-digit packages may be placed on a logical merged 5-digit or merged 5-digit scheme pallet with carrier route packages for that ZIP Code. If for this ZIP Code there are 30 pieces in a logical automation rate 5-digit package and 22 pieces in a logical Presorted rate package, the mailer could place all the pieces in both the logical automation rate and the logical Presorted rate packages on the merged 5-digit or merged 5-digit scheme pallet. If for this ZIP Code there are 45 pieces in a logical automation rate 5-digit package and 23 pieces in a logical Presorted rate 5-digit package, the mailer will choose to place either all of the automation rate pieces or all of the Presorted rate pieces on the merged 5-digit or merged 5-digit scheme pallet with carrier route packages for the 5-digit ZIP Code. However, if there are 60 pieces in a logical automation rate 5-digit package and 32 pieces in a logical Presorted rate package, the mailer could only choose to place the pieces in the logical Presorted rate package with pieces in carrier route packages on the merged 5-digit or merged 5-digit scheme pallet.

d. If the total number of pieces in both the logical 5-digit automation rate package and the logical 5-digit Presorted rate package each separately exceed 5% of the total number of pieces for the 5-digit ZIP Code, none of the pieces in 5-digit packages may be merged with carrier route packages on a merged 5-digit or merged 5-digit scheme pallet.

e. Pieces in low-volume carrier route packages will count as carrier route sorted pieces for purposes of determining the 5% limit under 1.4a through 1.4d even though the basic rate is paid. Pieces in low-volume 5-digit packages will count as 5-digit sorted pieces for purposes of determining the 5% limit under 1.4a through 1.4d even though the basic rate is paid.

f. Copies in firm packages claimed as one piece for rate purposes will be considered a single piece when performing the 5% limit calculation under 1.4a through 1.4d. As provided in M200.1.4, some firm packages claimed as one piece may be eligible for carrier route rates, 5-digit rates, or basic rates. The sortation level of each firm piece (package) for purposes of applying the 5% limit will be considered to be carrier route if the firm piece (package) is eligible for the carrier route rate under M200.1.4. Otherwise the firm package will be considered to be a 5-digit sorted piece (even if the basic rate must be paid on that piece).

1.5 Pallet Preparation and Labeling With Scheme (L001) Sort

Mailers must prepare pallets of packages in the manner and sequence listed below and under M041. Mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and the 5% threshold, as applicable. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031. If, due to the physical size of the mailpieces, the automation rate pieces are considered flat-size under C820 and the carrier route sorted pieces and Presorted rate pieces are considered irregular parcels under C050, ''FLTS''

must be shown as the processing category shown on the pallet label. If a mailing contains no automation rate pieces and the carrier route mailing and the Presorted rate mailing are irregular parcel shaped, use ''IRREG'' for the processing category on the contents line of the pallet label.

a. *Merged 5-Digit Scheme.* Required. Permitted only when 5-digit packages for at least one 5-digit ZIP Code in the scheme may be merged with carrier route packages under the 5% threshold standard in 1.4. May contain carrier route packages for any 5-digit ZIP Code in a single scheme listed in L001. May also contain automation rate 5-digit packages and Presorted rate 5-digit packages up to a maximum of 5% of the total number of pieces for each 5-digit ZIP Code in the scheme under 1.4. For 5-digit ZIP Codes not included in a scheme, begin preparing pallets under 1.5d (merged 5-digit pallet).

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR/5D SCHEME.''

b. *5-Digit Scheme Carrier Routes.* Required. May contain only carrier route packages for all carrier routes in an L001 scheme when a merged 5-digit scheme pallet could not be prepared under 1.5a.

(1) Line 1 use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR–RTS SCHEME.''

c. *5-Digit Scheme.* Required. May contain only 5-digit packages of automation rate and Presorted rate mail for the same 5-digit scheme under L001 that could not be placed on a merged 5-digit scheme pallet.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; and followed by ''SCHEME'' or ''SCH.''

d. *Merged 5-Digit.* Required. Permitted only when 5-digit packages may be merged with carrier route packages under the 5% threshold standard in 1.4 for a 5-digit ZIP Code that is not part of an L001 scheme. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages. The number of pieces in 5-digit packages is limited to 5% of the total number of pieces placed on the pallet under 1.4.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR/5D.''

e. *5-Digit Carrier Routes.* Required. May contain only carrier route rate packages for the same 5-digit ZIP Code that is not part of a scheme for which a merged 5-digit pallet could not be prepared under 1.5d.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CARRIER ROUTES'' or ''CR–RTS.''

f. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for the same 5-digit ZIP Code that is not part of a scheme and that could not be placed on a merged 5-digit pallet.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *3-Digit.* Optional. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. *SCF.* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

i. *ADC.* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L004.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''ADC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

2.0 STANDARD MAIL (A)

2.1 Basic Standards

Flat-size 5-digit packages from an automation rate mailing and flat-size 5-digit packages from a Presorted rate mailing may be placed on the same pallet (a merged 5-digit pallet, or a merged 5-digit scheme pallet) as carrier route packages of flat-size pieces in a carrier route rate mailing under the following conditions:

a. A carrier route mailing must be part of the mailing job.

b. The pieces in the carrier route rate mailing, the automation rate mailing, and the Presorted rate mailing must be part of the same mailing job and all three mailings must be reported on the same postage statement or same consolidated postage statement.

c. Pieces in the automation rate mailing must meet the criteria for a flat under C050.3.2 and C820. Pieces in the Presorted rate mailing and the carrier route mailing must meet the criteria for a flat under C050.3.1.

d. Automation rate 5-digit packages and Presorted rate 5-digit packages may be copalletized with carrier route packages only when the pieces in the 5-digit packages do not exceed the 5-percent limit described in 2.3. Pallets of mail sorted in this manner are called ''merged 5-digit'' pallets. Pallets of mail sorted in this manner for which scheme sortation is also performed are called ''merged 5-digit scheme'' pallets.

e. If sortation under this section is performed merged 5-digit pallets, and if sorting under 2.5, merged 5-digit scheme pallets, must be prepared whenever there is enough volume of carrier route and 5-digit packages under M041 and 2.3 to prepare such pallets. When mailers also choose to sort to L001, all possible merged 5-digit scheme and 5-digit scheme pallets must be prepared under 2.3 and 2.5.

f. The carrier route mailing must meet the eligibility criteria in E620, the automation rate mailing must meet the eligibility criteria in E640, and the Presorted rate mailing must meet the eligibility criteria in E620.

g. The rates are based on the level of package that the pieces are contained in under E620 and E640.

h. The packages from each separate mailing must be sorted together on pallets (copalletized) under 2.4 or 2.5 using presort software that is PAVE-certified or MAC-certified.

i. The pieces in each separate mailing must bear the applicable markings

required under M610, M620, or M820 and under M012.

j. A complete, signed, appropriate postage statement or consolidated postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing job prepared under these procedures.

k. In addition to the applicable postage statement(s), documentation prepared by PAVE-certified software must be submitted with each copalletized mailing job that describes for each pallet sortation level and pallet the number of pieces qualifying for each applicable carrier route rate, each applicable automation rate, and each applicable Presorted rate under P012. A separate 5% threshold summary also must be provided under P012 for each ''logical'' merged 5-digit scheme or ''logical'' merged 5-digit pallet presort destination. This 5% threshold summary must show for each 5-digit ZIP Code on the logical merged 5-digit scheme or logical merged 5-digit pallet (1) the total number of pieces on the pallet for the 5-digit ZIP Code (2) the total number of pieces sorted in carrier route packages for the 5-digit ZIP Code (3) the total number of pieces sorted in 5-digit packages for the 5-digit ZIP Code, and (4) of the total number of pieces for the 5-digit ZIP Code, the percentage of pieces sorted in 5-digit packages for that 5-digit ZIP Code. This additional 5% threshold summary must appear within the body of the documentation beneath the pallet rate listing for the last physical pallet for the logical pallet presort destination. Note: If there are two or more physical pallets for the same presort destination, for example, the same merged 5-digit pallet destination, these two or more physical pallets would be considered as one ''logical pallet''. The separate pallet summary must be for the mail on all of the physical pallets (the ''logical pallet'') for that presort destination.

l. Portions of the mailing job that cannot be palletized must be prepared in sacks under M610, M620, M820, M910 or M920.

2.2 Package Preparation

Packages placed on pallets must be prepared under the standards in M045.

2.3 5% Threshold Standard

Mailers may place 5-digit packages with carrier route packages on the same merged 5-digit pallet under 2.4 or on the same merged 5-digit scheme or merged 5-digit pallet under 2.5 if all of the following conditions are met:

a. The number of pieces prepared in 5-digit packages for any single 5-digit ZIP Code on a logical merged 5-digit or merged 5-digit scheme pallet does not exceed 5% of the total number of pieces for the 5-digit ZIP Code on the pallet(s) for the presort destination. That is, the total number of pieces for a 5-digit ZIP Code in 5-digit and carrier route packages must not be greater than the number of pieces in carrier route packages divided by 0.95.

b. The 5% threshold is calculated separately for each 5-digit ZIP Code. For example, if a scheme contains 4 different 5-digit ZIP Codes, a separate 5% threshold applies to each 5-digit ZIP Code for the scheme on a merged 5-digit scheme pallet.

c. All the mail in a logical 5-digit package must be able to be placed on the logical pallet under the 5% rule. A logical 5-digit package is all pieces for a mailing (rate level) prepared in a 5-digit package or packages for the same 5-digit destination. For each 5-digit ZIP Code, it is possible to have a logical 5-digit package of automation rate mail and a logical 5-digit package of Presorted rate mail. If the total number of pieces in a logical 5-digit package exceeds the 5% limit, none of the pieces for that 5-digit package level may be placed on a merged 5-digit or merged 5-digit scheme pallet. For some ZIP Codes, the total number of pieces prepared in logical 5-digit packages (both an automation rate 5-digit package and a Presorted rate 5-digit package) may exceed 5% of the total mail for that ZIP Code, but the number of pieces for an individual automation rate logical 5-digit package for that ZIP Code does not exceed the 5% limit nor does an individual Presorted rate logical 5-digit package for that ZIP Code exceed the 5% limit. In such instances, mailers may choose to place all of the pieces in a logical 5-digit package for a single rate category on the logical merged 5-digit or merged 5-digit scheme pallet so that the 5% threshold is not exceeded.

Example: If there are a total of 1100 pieces in carrier route and 5-digit packages for a 5-digit ZIP Code, a maximum of 55 pieces (5%) in 5-digit packages may be placed on a logical merged 5-digit or merged 5-digit scheme pallet with carrier route packages for that ZIP Code. If for this ZIP Code there are 30 pieces in a logical automation rate 5-digit package and 22 pieces in a logical Presorted rate package, the mailer could place all the pieces in both the logical automation rate and the logical Presorted rate packages on the merged 5-digit or merged 5-digit scheme pallet. If for this ZIP Code there are 45 pieces in a logical automation rate 5-digit package and 23 pieces in a logical Presorted rate 5-digit package, the mailer must choose to place either all of the automation rate pieces or all of the Presorted rate pieces on the merged 5-digit or merged 5-digit scheme pallet with carrier route packages for the 5-digit ZIP Code. However, if there were 60 pieces in a logical automation rate 5-digit package and 32 pieces in a logical Presorted rate package, the mailer could only choose to place the pieces in the logical Presorted rate package with pieces in carrier route packages on the merged 5-digit or merged 5-digit scheme pallet.

d. If the total number of pieces in both the logical 5-digit automation rate package and the logical 5-digit Presorted rate package each separately exceed 5% of the total number of pieces for the 5-digit ZIP Code, none of the pieces in 5-digit packages may be merged with carrier route packages on a merged 5-digit or merged 5-digit scheme pallet.

2.4 Pallet Preparation and Labeling Without Scheme (L001) Sort

Mailers must prepare pallets of packages in the manner and sequence listed below and under M041. When sortation under this option is performed, mailers must prepare all possible merged 5-digit pallets based on the volume of mail to the destination and the 5% threshold standards in 2.3. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. *Merged 5-Digit.* Required and permitted only when 5-digit packages may be merged with carrier route packages under the 5% threshold standard in 2.3. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages. The number of pieces in 5-digit packages is limited to 5% of the total number of pieces placed on the pallet under 2.3.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS CR/5D.''

b. *5-Digit Carrier Routes.* Required. May contain only carrier route rate packages for the same 5-digit ZIP Code when a merged 5-digit pallet could not be prepared.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS,'' followed by ''CARRIER ROUTES'' or ''CR–RTS.''

c. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for the same 5-digit ZIP Code that could not be placed on a merged 5-digit pallet.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

d. *3-Digit.* Optional. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

e. *SCF:* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column C.

(2) Line 2: ''STD FLTS SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

f. *Destination ASF.* Required, except than an ASF sort may not be required if using package reallocation under 6.0. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: ''STD FLTS ASF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *Destination BMC:* Required. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to BMC and ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: Use L601.

(2) Line 2: ''STD FLTS BMC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

2.5 Optional Pallet Preparation and Labeling With Scheme (L001) Sort

When mailers choose to prepare mail under this option, they must prepare pallets of packages in the manner and sequence listed below and under M041. When sortation under this option is performed, mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and the 5% threshold, as applicable. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. *Merged 5-Digit Scheme.* Required. Permitted only when 5-digit packages for at least one 5-digit ZIP Code in the scheme may be merged with carrier route packages under the 5% threshold standard in 2.3. May contain carrier route packages for any 5-digit ZIP Code in a single scheme listed in L001. May also contain automation rate 5-digit packages and Presorted rate 5-digit packages up to a maximum of 5% of the total number of pieces for each 5-digit ZIP Code in the scheme under 2.3. For 5-digit ZIP Codes not included in a scheme, begin preparing pallets under 2.5d (merged 5-digit pallet).

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR/5D SCHEME''.

b. *5-Digit Scheme Carrier Routes.* Required. May contain only carrier route packages for all carrier routes in an L001 scheme when a merged 5-digit scheme pallet could not be prepared under 2.5a.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR–RTS SCHEME''.

c. *5-Digit Scheme.* Required. May contain only 5-digit packages of automation rate and 5-digit Presorted rate mail for the same 5-digit scheme under L001 that could not be placed on a merged 5-digit scheme pallet.

(1) Line 1: use L001, Column B.

(2) Line 2: STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; and followed by ''SCHEME'' or ''SCH.''

d. *Merged 5-Digit.* Required. Permitted only when 5-digit packages may be merged with carrier route packages under the 5% threshold standard in 2.3 for a 5-digit ZIP Code that is not part of an L001 scheme. May contain carrier route rate packages, automation rate 5-digit packages, and Presorted rate 5-digit packages. The number of pieces in 5-digit packages is limited to 5% of the total number of pieces placed on the pallet under 2.3.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS CR/5D''.

e. *5-Digit Carrier Routes.* Required. May contain only carrier route rate packages for the same 5-digit ZIP Code that is not part of a scheme and for which a merged 5-digit pallet could not be prepared under 2.5d.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS'', followed by ''CARRIER ROUTES'' or ''CR-RTS.''

f. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for the same 5-digit ZIP Code that is not part of a scheme and that could not be placed on a merged 5-digit pallet.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *3-Digit.* Optional. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. *SCF:* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column C.

(2) Line 2: ''STD FLTS SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

i. *Destination ASF.* Required, except than an ASF sort may not be required if using package reallocation under 6.0. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: ''STD FLTS ASF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

j. *Destination BMC:* Required. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to BMC and ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: Use L601.

(2) Line 2: ''STD FLTS BMC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

M940 Merged Palletization of Periodicals and Standard Mail (A) Carrier Route and 5-Digit Packages on 5-Digit and 5-Digit Scheme Pallets Using Both the City State Product and the 5% Threshold

1.0 PERIODICALS MAIL

1.1 Basic Standards

Nonletter-size 5-digit packages from an automation rate mailing and nonletter-size 5-digit packages from a Presorted rate mailing may be placed on the same pallet (a merged 5-digit pallet or a merged 5-digit scheme pallet) as carrier route packages of nonletter-size pieces under the following conditions:

a. A carrier route mailing must be part of the mailing job.

b. The pieces in the carrier route mailing, the automation rate mailing, and the Presorted rate mailing must be part of the same mailing job.

c. Pieces in the automation rate mailing must meet the criteria for a flat under C050.3.2 and C820. Pieces in the Presorted rate mailing and the carrier route mailing must be nonletter-size.

d. Mailers must use the Carrier Route Indicators field in the City State Product and the 5% limit criteria in 1.4 to prepare the mailing. The mailing must be entered no later than 90 days after the release date of the City State Product used.

e. Automation rate 5-digit packages and Presorted rate 5-digit packages must be copalletized with carrier route packages on merged 5-digit or merged 5-digit scheme pallets as follows: (1) for 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product, carrier route and 5-digit packages may be merged with no limit on the number of pieces in 5-digit packages that are placed on the pallet, and (2) for 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the Carrier Route Indicators field in the City State Product, the pieces in the 5-digit packages must not exceed 5% of the total number of pieces for each individual 5-digit ZIP Code on the pallet as described in 1.4.

f. If sortation under this section is performed, merged 5-digit pallets and merged 5-digit scheme pallets, must be prepared whenever there is enough volume of carrier route and 5-digit packages under M041 to prepare such pallets using the criteria in 1.1e and the sortation criteria in 1.5. All possible merged 5-digit scheme, 5-digit scheme carrier routes, and 5-digit scheme pallets must be prepared under 1.4 and 1.5.

g. The carrier route mailing must meet the eligibility criteria in E230, the automation rate mailing must meet the eligibility criteria in E240, and the Presorted rate mailing must meet the eligibility criteria in E230.

h. The rates are based on the level of package and the number of pieces in the package under E230 and E240.

i. The packages from each separate mailing must be sorted together on pallets (copalletized) under 1.5 using presort software that is PAVE-certified.

j. A complete, signed, appropriate postage statement(s), using the correct USPS form or an approved facsimile, must accompany each mailing job prepared under these procedures.

k. In addition to the applicable postage statement(s), documentation prepared by PAVE-certified software must be submitted with each copalletized mailing job that describes for each pallet sortation level and pallet the number of pieces qualifying for each applicable carrier route rate, each applicable automation rate, and each applicable Presorted rate under P012. A separate 5% threshold summary also must be provided under P012 for each ''logical'' merged 5-digit scheme or ''logical'' merged 5-digit pallet presort destination that contains mail for one or more 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product. This 5% threshold summary must show for each 5-digit ZIP Code with a ''B'' or ''D'' indicator on the logical merged 5-digit scheme or logical merged 5-digit pallet (1) the total number of pieces on the pallet for the 5-digit ZIP Code (2) the total number of pieces sorted in carrier route packages for the 5-digit ZIP Code (including each firm package eligible for the carrier route rate and low-volume carrier route packages) (3) the total number of pieces sorted in 5-digit packages for the 5-digit ZIP Code (including each firm package eligible for the 5-digit or basic rate and low-volume 5-digit packages), and (4) of the total number of pieces for the 5-digit ZIP Code, the percentage of pieces sorted in 5-digit packages for that 5-digit ZIP Code. This additional 5% threshold summary must appear within the body of the documentation beneath the pallet rate listing for the last physical pallet for the logical pallet presort destination.

Note: If there are two or more physical pallets for the same presort destination, for example, the same merged 5-digit pallet destination, these two or more physical pallets would be considered as one ''logical pallet''. The separate pallet summary must be for the mail on all of the physical pallets (the ''logical pallet'') for that presort destination.

l. Portions of the mailing job that cannot be palletized must be prepared in sacks under M200, M820, M910 or M920.

1.2 Package Preparation

Packages placed on pallets must be prepared under the standards in M045.

1.3 Low-Volume Packages on Pallets

Carrier route and 5-digit packages prepared under M200, M820, and M045 that contain fewer than six pieces may be placed on pallets under 1.5a through 1.5h, when the publisher determines that such preparation improves service. Pieces in such low-volume packages must pay the applicable basic rate.

1.4 5% Threshold Standard

For 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product, mailers may place 5-digit packages with carrier route packages on the same merged 5-digit scheme or merged 5-digit pallet under 1.5 if all of the following conditions are met:

a. The number of pieces prepared in 5-digit packages for any single 5-digit ZIP Code with a ''B'' or ''D'' indicator on a logical merged 5-digit or merged 5-digit scheme pallet does not exceed 5% of the total number of pieces for the 5-digit ZIP Code on the logical pallet for the presort destination. That is, the total number of pieces for a 5-digit ZIP Code in 5-digit and carrier route packages must not be greater than the number of pieces in carrier route packages divided by 0.95. (Five-digit ZIP Codes with an ''A'' or ''C'' indicator are not subject to the 5% limit.)

b. The 5% threshold is calculated separately for each 5-digit ZIP Code with a ''B'' or ''D'' indicator. For example, if a scheme contains four different 5-digit ZIP Codes, a separate 5% threshold applies to each 5-digit ZIP Code with a ''B'' or ''D'' indicator for the scheme on a merged 5-digit scheme pallet. (Five-digit ZIP Codes with an ''A'' or ''C'' indicator are not subject to the 5% limit.)

c. All the mail in a logical 5-digit package for a 5-digit ZIP Code with a ''B'' or ''D'' indicator must be able to be placed on the logical pallet under the 5% rule. A logical 5-digit package is all pieces for a mailing (rate level) prepared in a 5-digit package or packages for the same 5-digit destination. For each 5-digit ZIP Code, it is possible to have a logical 5-digit package of automation rate mail and a logical 5-digit package of Presorted rate mail. If the total number of pieces in a logical 5-digit package exceeds the 5% limit, none of the pieces for that 5-digit package level may be placed on a merged 5-digit or merged 5-digit scheme pallet. For some ZIP Codes, the total number of pieces prepared in logical 5-digit packages (both an automation rate 5-digit package

and a Presorted rate 5-digit package) may exceed 5% of the total mail for that ZIP Code, but the number of pieces for an individual automation rate logical 5-digit package for that ZIP Code does not exceed the 5% limit nor does an individual Presorted rate logical 5-digit package for that ZIP Code exceed the 5% limit. In such instances, mailers may choose to place all of the pieces in a logical 5-digit package for a single rate category on the logical merged 5-digit or merged 5-digit scheme pallet so that the 5% threshold is not exceeded.

Example: If there are a total of 1,100 pieces in carrier route and 5-digit packages for a 5-digit ZIP Code with a ''B'' or ''D'' indicator in the City State Product, a maximum of 55 pieces (5%) in 5-digit packages may be placed on a logical merged 5-digit or merged 5-digit scheme pallet with carrier route packages for that ZIP Code. If for this ZIP Code there are 30 pieces in a logical automation rate 5-digit package and 22 pieces in a logical Presorted rate package, the mailer could place all the pieces in both the logical automation rate and the logical Presorted rate packages on the merged 5-digit or merged 5-digit scheme pallet. If for this ZIP Code there are 45 pieces in a logical automation rate 5-digit package and 23 pieces in a logical Presorted rate 5-digit package, the mailer will choose to place either all of the automation rate pieces or all of the Presorted rate pieces on the merged 5-digit or merged 5-digit scheme pallet with carrier route packages for the 5-digit ZIP Code. However, if there were 60 pieces in a logical automation rate 5-digit package and 32 pieces in a logical Presorted rate package, the mailer could only choose to place the pieces in the logical Presorted rate package with pieces in carrier route packages on the merged 5-digit or merged 5-digit scheme pallet.

d. If the total number of pieces in both the logical 5-digit automation rate package and the logical 5-digit Presorted rate package each separately exceed 5% of the total number of pieces for the 5-digit ZIP Code with a ''B'' or ''D'' indicator, none of the pieces in 5-digit packages may be merged with carrier route packages on a merged 5-digit or merged 5-digit scheme pallet.

e. Pieces in low-volume carrier route packages will count as carrier route sorted pieces for purposes of determining the 5% limit under 1.4a through 1.4d even though the basic rate is paid. Pieces in low-volume 5-digit packages will count as 5-digit sorted pieces for purposes of determining the 5% limit under 1.4a through 1.4d even though the basic rate is paid.

f. Copies in firm packages claimed as one piece for rate purposes will be considered a single piece when performing the 5% limit calculation under 1.4a through 1.4d. As provided in M200.1.4, some firm packages claimed as one piece may be eligible for carrier route rates, 5-digit rates, or basic rates. The sortation level of each firm piece (package) for purposes of applying the 5% limit will be considered to be carrier route if the firm piece (package) is eligible for the carrier route rate under M200.1.4. Otherwise the firm package will be considered to be a 5-digit sorted piece (even if the basic rate must be paid on that piece).

1.5 Pallet Preparation and Labeling With Scheme (L001) Sort

Mailers must prepare pallets of packages in the manner and sequence listed below and under M041. Mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination (M041) using L001, the City State Product, and the 5% threshold (1.4), as applicable. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031. If, due to the physical size of the mailpieces, the automation rate pieces are considered flat-size under C820 and the carrier route sorted pieces and Presorted rate pieces are considered irregular parcels under C050, ''FLTS'' must be shown as the processing category shown on the pallet label. If a mailing contains no automation rate pieces and the carrier route mailing and the Presorted rate mailing are irregular parcel shaped, use ''IRREG'' for the processing category on the contents line of the pallet label.

a. *Merged 5-Digit Scheme.* Required. For schemes that contain at least one 5-digit ZIP Code that has an ''A'' or ''C'' indicator in the City State Product, the pallet contains (1) Carrier route packages for all 5-digit ZIP Codes in the scheme, (2) 5-digit automation rate and 5-digit Presorted rate packages for those 5-digit ZIP Codes in the scheme with an ''A'' or ''C'' indicator in the City State Product, and (3) 5-digit automation rate and/or 5-digit Presorted rate packages for those 5-digit ZIP Codes in the scheme with a ''B'' or ''D'' indicator when the number of pieces in the 5-digit package(s) does not exceed 5% of the total number of pieces for that 5-digit ZIP Code under 1.4. For schemes in which all 5-digit ZIP Codes have ''B'' or ''D'' indicators and for which there is at least one 5-digit ZIP Code for which 5-digit packages may be placed on the pallet under the 5% limit in 1.4, place all carrier route packages plus the 5-digit packages within the 5% limit on the pallet. For schemes in which all 5-digit ZIP Codes have ''B'' or ''D'' indicators and for which there are no 5-digit ZIP Codes for which 5-digit packages may be placed on the pallet under the 5% limit, do not prepare a merged 5-digit scheme pallet (sort packages to pallets under 1.5b through 1.5i).

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR/5D SCHEME.''

b. *5-Digit Scheme Carrier Routes.* Required. May contain only carrier route packages for all carrier routes in an L001 scheme for which all 5-digit ZIP Codes in the scheme have a ''B'' or ''D'' indicator and for which no 5-digit packages could be placed on a merged 5-digit scheme pallet with the carrier route packages because the 5-digit packages exceeded the 5% threshold.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR-RTS SCHEME.''

c. *5-Digit Scheme.* Required. May contain only 5-digit packages of automation rate and Presorted rate mail for the same 5-digit scheme under L001 for which one or more 5-digit ZIP Codes in the scheme had a ''B'' or ''D'' indicator in the City State Product, and the 5-digit packages could not be placed on a merged 5-digit scheme pallet (the pieces exceeded the 5% threshold).

(1) Line 1: use L001, Column B.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; and followed by ''SCHEME'' or ''SCH''.

d. *Merged 5-Digit.* Required. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages for those 5-digit ZIP Codes that are not part of a scheme. For 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the City State Product, there is no limit on the number of pieces in 5-digit packages that may be placed on the pallet and a merged 5-digit pallet is prepared even if there are no 5-digit packages for that ZIP Code. For those 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product, the number of pieces in 5-digit packages is limited to 5% of the total number of pieces for the 5-digit pallet destination under 1.4. However, if no 5-digit packages for ZIP Codes with ''B'' or ''D'' indicators can be placed on this level pallet under the 5% limit, do not prepare this a merged 5-digit pallet (sort packages under 1.5e through 1.5i).

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR/5D.''

e. *5-Digit Carrier Routes.* Required. May contain only carrier route rate packages for the same 5-digit ZIP Code that is not part of a scheme and that could not be placed on a merged 5-digit pallet.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CARRIER ROUTES'' or ''CR–RTS.''

f. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for the same 5-digit ZIP Code that is not part of a scheme and that could not be placed on a merged 5-digit pallet.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *3-Digit.* Optional. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. *SCF.* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

i. *ADC.* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L004.

(2) Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''ADC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

2.0 STANDARD MAIL (A)

2.1 Basic Standards

Flat-size 5-digit packages from an automation rate mailing and flat-size 5-digit packages from a Presorted rate mailing may be placed on the same pallet (a merged 5-digit pallet or a merged 5-digit scheme pallet) as carrier route packages of flat-size pieces under the following conditions:

a. A carrier route mailing must be part of the mailing job.

b. The pieces in the carrier route rate mailing, the automation rate mailing, and the Presorted rate mailing must be part of the same mailing job, and all three mailings must be reported on the same postage statement or same consolidated postage statement.

c. Pieces in the automation rate mailing must meet the criteria for a flat under C050.3.2 and C820. Pieces in the Presorted rate mailing and the carrier route mailing must meet the criteria for a flat under C050.3.1.

d. Mailers must use the Carrier Route Indicators field in the City State Product and the 5% limit criteria in 2.3 to prepare the mailing. The mailing must be entered no later than 90 days after the release date of the City State Product used.

e. Automation rate 5-digit packages and Presorted rate 5-digit packages must be copalletized with carrier route packages on merged 5-digit or merged 5-digit scheme pallets as follows: (1) For 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product, carrier route and 5-digit packages may be merged with no limit on the number of pieces in 5-digit packages that are placed on the pallet, and (2) for 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the Carrier Route Indicators field in the City State Product, the pieces in the 5-digit packages must not exceed 5% of the total number of pieces for each individual 5-digit ZIP Code on the pallet as described in 2.3.

f. If sortation under this section is performed, merged 5-digit pallets and, if sorting under 2.5, merged 5-digit scheme pallets, must be prepared whenever there is enough volume of carrier route and 5-digit packages under M041 to prepare such pallets using the criteria in 2.1e and the sortation criteria in either 2.4 or 2.5. When mailers choose to sort to L001 under 2.5, all possible merged 5-digit scheme, 5-digit scheme carrier routes, and 5-digit scheme pallets must be prepared under 2.3 and 2.5.

g. The carrier route mailing must meet the eligibility criteria in E620, the automation rate mailing must meet the eligibility criteria in E640, and the Presorted rate mailing must meet the eligibility criteria in E620.

h. The rates are based on the level of package that the pieces are contained in under E620 and E640.

i. The pieces in each separate mailing must bear the applicable markings required under M610, M620, or M820 and under M012.

j. The packages from each separate mailing must be sorted together on pallets (copalletized) under 2.4 or 2.5 using presort software that is PAVE-certified or MAC-certified.

k. A complete, signed, appropriate postage statement or consolidated postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing job prepared under these procedures.

l. In addition to the applicable postage statement, documentation prepared by PAVE-certified or MAC-certified software must be submitted with each copalletized mailing job that describes for each pallet sortation level and pallet the number of pieces qualifying for each applicable carrier route rate, each applicable automation rate, and each applicable Presorted rate under P012. A separate 5% threshold summary also must be provided under P012 for each ''logical'' merged 5-digit scheme or ''logical'' merged 5-digit pallet presort destination that contains mail for one or more 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product. This 5% threshold summary must show for each 5-digit ZIP Code with a ''B'' or ''D'' indicator on the logical merged 5-digit scheme or logical merged 5-digit pallet (1) The total number of pieces on the pallet for the 5-digit ZIP Code (2) the total number of pieces sorted in carrier route packages for the 5-digit ZIP Code (3) the total number of pieces sorted in 5-digit packages for the 5-digit ZIP Code, and (4) of the total number of pieces for the 5-digit ZIP Code, the percentage of pieces sorted in 5-digit packages for that 5-digit ZIP Code. This additional 5% threshold summary must appear within the body of the documentation beneath the pallet rate listing for the last physical pallet for the logical pallet presort destination.

Note: If there are two or more physical pallets for the same presort destination, for example, the same merged 5-digit pallet destination, these two or more physical pallets would be considered as one ''logical pallet''. The separate pallet summary must be

for the mail on all of the physical pallets (the ''logical pallet'') for that presort destination.

m. Portions of the mailing job that cannot be palletized must be prepared in sacks under M610, M620, M820, M910 or M920.

2.2 Package Preparation

Packages placed on pallets must be prepared under the standards in M045.

2.3 5% Threshold Standard

For 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product, mailers may place 5-digit packages with carrier route packages on the same merged 5-digit pallet under 2.4 or on the same merged 5-digit scheme or merged 5-digit pallet under 2.5 if all of the following conditions are met:

a. The number of pieces prepared in 5-digit packages for any single 5-digit ZIP Code with a ''B'' or ''D'' indicator on a logical merged 5-digit or merged 5-digit scheme pallet does not exceed 5% of the total number of pieces for the 5-digit ZIP Code on the pallet(s) for the presort destination. That is, the total number of pieces for a 5-digit ZIP Code in 5-digit and carrier route packages must not be greater than the number of pieces in carrier route packages divided by 0.95. (Five-digit ZIP Codes with an ''A'' or ''C'' indicator are not subject to the 5% limit.)

b. The 5% threshold is calculated separately for each 5-digit ZIP Code with a ''B'' or ''D'' indicator. For example, if a scheme contains four different 5-digit ZIP Codes, a separate 5% threshold applies to each 5-digit ZIP Code with a ''B'' or ''D'' indicator for the scheme on a merged 5-digit scheme pallet. (Five-digit ZIP Codes with an ''A'' or ''C'' indicator are not subject to the 5% limit.)

c. All the mail in a logical 5-digit package for a 5-digit ZIP Code with a ''B'' or ''D'' indicator must be able to be placed on the logical pallet under the 5% rule. A logical 5-digit package is all pieces for a mailing (rate level) prepared in a 5-digit package or packages for the same 5-digit destination. For each 5-digit ZIP Code, it is possible to have a logical 5-digit package of automation rate mail and a logical 5-digit package of Presorted rate mail. If the total number of pieces in a logical 5-digit package exceeds the 5% limit, none of the pieces for that 5-digit package level may be placed on a merged 5-digit or merged 5-digit scheme pallet. For some ZIP Codes, the total number of pieces prepared in logical 5-digit packages (both an automation rate logical 5-digit package and a Presorted rate logical 5-digit package) may exceed 5% of the total mail for that ZIP Code, but the number of pieces for an individual automation rate logical 5-digit package for that ZIP Code does not exceed the 5% limit nor does an individual Presorted rate logical 5-digit package for that ZIP Code exceed the 5% limit. In such instances, mailers may choose to place all of the pieces in a logical 5-digit package for a single rate category on the logical merged 5-digit or merged 5-digit scheme pallet so that the 5% threshold is not exceeded.

Example: If there are a total of 1,100 pieces in carrier route and 5-digit packages for a 5-digit ZIP Code with a ''B'' or ''D'' indicator in the City State Product, a maximum of 55 pieces (5%) in 5-digit packages may be placed on a logical merged 5-digit or merged 5-digit scheme pallet with carrier route packages for that ZIP Code. If for this ZIP Code there are 30 pieces in a logical automation rate 5-digit package and 22 pieces in a logical Presorted rate package, the mailer could place all the pieces in both the logical automation rate and the logical Presorted rate packages on the merged 5-digit or merged 5-digit scheme pallet. If for this ZIP Code there are 45 pieces in a logical automation rate 5-digit package and 23 pieces in a logical Presorted rate 5-digit package, the mailer will choose to place either all of the automation rate pieces or all of the Presorted rate pieces on the merged 5-digit or merged 5-digit scheme pallet with carrier route packages for the 5-digit ZIP Code. However, if there are 60 pieces in a logical automation rate 5-digit package and 32 pieces in a logical Presorted rate package, the mailer could only choose to place the pieces in the logical Presorted rate package with pieces in carrier route packages on the merged 5-digit or merged 5-digit scheme pallet. If for this ZIP Code there are 30 pieces in a logical automation rate 5-digit package and 22 pieces in a logical Presorted rate package, the mailer could place all the pieces in both the logical automation rate and the logical Presorted rate packages on the merged 5-digit or merged 5-digit scheme pallet.

d. If the total number of pieces in both the logical 5-digit automation rate package and the logical 5-digit Presorted rate package each separately exceed 5% of the total number of pieces for the 5-digit ZIP Code with a ''B'' or ''D'' indicator, none of the pieces in 5-digit packages may be merged with carrier route packages on a merged 5-digit or merged 5-digit scheme pallet.

2.4 Pallet Preparation and Labeling Without Scheme (L001) Sort

Mailers must prepare pallets of packages in the manner and sequence listed below and under M041. When sortation under this option is performed, mailers must prepare all merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination under M041, the City State Product, and the 5% threshold. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. *Merged 5–Digit.* Required. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages. For those 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the City State Product, there is no limit on the number of pieces in 5-digit packages that may be placed on the pallet, and a merged 5-digit pallet is prepared even if there are no 5-digit packages for such a 5-digit ZIP Code. For those 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product, the number of pieces in 5-digit packages is limited to 5% of the total number of pieces for the 5-digit pallet destination under 2.3. For 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product, if there are either no 5-digit packages for that ZIP Code, or the number of pieces in 5-digit packages for that ZIP Code exceeds the 5% limit, do not prepare a merged 5-digit pallet (sort packages under 2.4b through 2.4f).

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS CR/5D.''

b. *5-Digit Carrier Routes.* Required. May contain only carrier route packages for the same 5-digit ZIP Code for ZIP Codes with a ''B'' or ''D'' indicator for which a merged 5-digit pallet could not be prepared.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS,'' followed by ''CARRIER ROUTES'' or ''CR–RTS.''

c. *5-Digit.* Required. May contain only automation rate and Presorted rate 5-digit packages for the same 5-digit ZIP Code for ZIP Codes with a ''B'' or ''D'' indicator for which a merged 5-digit pallet could not be prepared.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

d. *3-Digit.* Optional. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

e. *SCF:* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column C.

(2) Line 2: ''STD FLTS SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

f. *Destination ASF.* Required, except than an ASF sort may not be required if using package reallocation under 6.0. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: ''STD FLTS ASF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *Destination BMC:* Required. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to BMC and ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: Use L601.

(2) Line 2: ''STD FLTS BMC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

2.5 Optional Pallet Preparation and Labeling With Scheme (L001) Sort

When mailers choose to prepare mail under this option, they must prepare pallets of packages in the manner and sequence listed below and under M041. When sortation under this option is performed, mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination (M041) using L001, the City State Product, and the 5% threshold (2.3), as applicable. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. *Merged 5-Digit Scheme.* Required. For schemes that contain at least one 5-digit ZIP Code that has an ''A'' or ''C'' indicator in the City State Product, the pallet contains (1) carrier route packages for all 5-digit ZIP Codes in the scheme, (2) 5-digit automation rate and 5-digit Presorted rate packages for those 5-digit ZIP Codes in the scheme with an ''A'' or ''C'' indicator in the City State Product, and (3) 5-digit automation rate and/or 5-digit Presorted rate packages for those 5-digit ZIP Codes in the scheme with a ''B'' or ''D'' indicator when the number of pieces in the 5-digit package(s) does not exceed 5% of the total number of pieces for that 5-digit ZIP Code under 2.3. For schemes in which all 5-digit ZIP Codes have ''B'' or ''D'' indicators and for which there is at least one 5-digit ZIP Code for which 5-digit packages may be placed on the pallet under the 5% limit in 2.3, place all carrier route packages plus the 5-digit packages within the 5% limit on the pallet. For schemes in which all 5-digit ZIP Codes have ''B'' or ''D'' indicators and for which there are no 5-digit ZIP Codes for which 5-digit packages may be placed on the pallet under the 5% limit, do not prepare a merged 5-digit scheme pallet (sort packages to pallets under 2.5b through 2.5j).

(1) Line 1: labeling: use L001, Column B.

(2) Line 2: ''STD FLTS CR/5D SCHEME''.

b. *5-Digit Scheme Carrier Routes.* Required. May contain only carrier route packages for all carrier routes in an L001 scheme for which all 5-digit ZIP Codes in the scheme have a ''B'' or ''D'' indicator and for which no 5-digit packages could be placed on a merged 5-digit scheme pallet with the carrier route packages because the 5-digit packages exceeded the 5% threshold.

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS CR–RTS SCHEME''.

c. *5-Digit Scheme.* Required. May contain 5-digit packages of automation rate and 5-digit Presorted rate mail for the same 5-digit scheme under L001 for which one or more 5-digit ZIP Codes in the scheme had a ''B'' or ''D'' indicator in the City State Product, and the 5-digit packages could not be placed on a merged 5-digit scheme pallet (the pieces exceeded the 5% threshold).

(1) Line 1: use L001, Column B.

(2) Line 2: ''STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail; and followed by ''SCHEME'' or ''SCH''.

d. *Merged 5-Digit.* Required. May contain carrier route packages, automation rate 5-digit packages, and Presorted rate 5-digit packages for those 5-digit ZIP Codes that are not part of a scheme. For 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the City State Product, there is no limit on the number of pieces in 5-digit packages that may be placed on the pallet, and a merged 5-digit pallet is prepared even if there are no 5-digit packages for that ZIP Code. For those 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product, the number of pieces in 5-digit packages is limited to 5% of the total number of pieces for the 5-digit pallet destination under 2.3. However, if no 5-digit packages for ZIP Codes with ''B'' or ''D'' indicators can be placed on this level pallet under the 5% limit, do not prepare a merged 5-digit pallet (sort packages to pallets under 2.5e through 2.5j).

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS CR/5D''.

e. *5-Digit Carrier Routes.* Required. May contain only carrier route rate packages for the same 5-digit ZIP Code that is not part of a scheme and that could not be placed on a merged 5-digit pallet.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS'', followed by ''CARRIER ROUTES'' or ''CR–RTS''.

f. *5-Digit.* Required. May contain only automation rate 5-digit packages and Presorted rate 5-digit packages for the same 5-digit ZIP Code that is not part of a scheme and that could not be placed on a merged 5-digit pallet.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD FLTS 5D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

g. *3-Digit.* Optional. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD FLTS 3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

h. *SCF:* Required. May contain carrier route rate, automation rate, and Presorted rate packages.

(1) Line 1: use L002, Column C.

(2) Line 2: ''STD FLTS SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

i. *Destination ASF.* Required, except than an ASF sort may not be required if using package reallocation under 6.0. May contain carrier route rate,

automation rate, and/or Presorted rate packages. Sort ADC packages to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: ''STD FLTS ASF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

j. *Destination BMC:* Required. May contain carrier route rate, automation rate, and/or Presorted rate packages. Sort ADC packages to BMC and ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package in L004. See E651 for additional requirements for DBMC rate eligibility.

(1) Line 1: Use L601

(2) Line 2: ''STD FLTS BMC'', followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; and followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate mail.

P Postage and Payment Methods

P000 Basic Information

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P012 Documentation

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2.0 STANDARDIZED DOCUMENTATION—FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL (A)

* * * * *

2.2 Format and Content

[Amend 2.2d by adding the following as (5) to read as follows:]

For First-Class Mail, Periodicals, and Standard Mail (A), standardized documentation includes:

* * * * *

d. For packages on pallets, the body of the listing reporting these required elements:

* * * * *

(5) For mailings prepared as packages on pallets under M930 and M940 a separate 5% threshold summary must appear beneath the pallet rate summary for the last physical pallet of each logical merged 5-digit scheme pallet and logical merged 5-digit pallet as provided in M930.1.1, M930.2.1, M940.1.1, or M940.2.1, as applicable.

* * * * *

2.4 Sortation level

[Amend 2.4 by adding new indicator ''M5D'' to identify merged 5-digit sacks and pallets, by adding new indicator ''M5DS'' to identify merged 5-digit scheme sacks and pallets, and by adding ''and pallets'' to the description of the sortation level for 5-digit scheme carrier routes to read as follows:]

The actual sortation level (or corresponding abbreviation) is used for the package, tray, sack, or pallet levels required by 2.2 and shown below:

Sortation level	Abbreviation
* * * * *	
5-Digit Scheme Carrier Routes (sacks and pallets, Periodicals flats and irregular parcels, Standard Mail (A) flats).	CR5S
* * * * *	
Merged 5-Digit (sacks and pallets, Periodicals flats and irregular parcels, Standard Mail (A) flats).	M5D
Merged 5-Digit Scheme (sacks and pallets, Periodicals flats and irregular parcels, Standard Mail (A) flats).	M5DS
* * * * *	

[Amend the heading of 2.5 to read as follows:]

2.5 Combined, Copalletized, and Merged Mailings

[Amend the first sentence of 2.5 by changing ''M045'' to ''M045, M920, M930, or M940.'']

* * * * *

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

Neva Watson,

Attorney, Legislative.

[FR Doc. 00–20324 Filed 8–15–00; 8:45 am]

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Federal Register

Wednesday,
August 16, 2000

Part III

Department of Commerce

United States Patent and Trademark Office

37 CFR Part 1

Request for Continued Examination Practice and Changes to Provisional Application Practice; Final Rule

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

RIN 0651–AB13

Request for Continued Examination Practice and Changes to Provisional Application Practice

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice in patent cases to implement certain provisions of the American Inventors Protection Act of 1999. These provisions of the American Inventors Protection Act of 1999: Provide for continued examination of an application for a fee; extend the pendency of a provisional application if the date that is twelve months after the filing date of the provisional application falls on Saturday, Sunday, or a Federal holiday within the District of Columbia; eliminate the copendency requirement for a nonprovisional application to claim the benefit of a provisional application; provide for the conversion of a provisional application to a nonprovisional application; and provide a prior art exclusion for certain commonly assigned patents.

EFFECTIVE DATE: August 16, 2000.

FOR FURTHER INFORMATION CONTACT: Robert W. Bahr, Karin L. Tyson, or Robert A. Clarke by telephone at (703) 308–6906, or by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 872–9411, marked to the attention of Robert W. Bahr.

SUPPLEMENTARY INFORMATION: The American Inventors Protection Act of 1999 (Title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948) as introduced in the 106th Congress on November 17, 1999) was incorporated and enacted into law on November 29, 1999, by § 1000(a)(9), Division B, of Pub. L. 106–113, 113 Stat. 1501 (1999). The American Inventors Protection Act of 1999 contains a number of changes to title 35, United States Code. The United States Patent and Trademark Office (Office) published an interim rule revising the rules of practice to implement the provisions of §§ 4403, 4801, and 4807 of the American Inventors Protection Act of 1999. *See Changes to Application Examination and Provisional Application Practice,* Interim Rule, 65 FR 14865 (Mar. 20, 2000), 1233 *Off. Gaz. Pat. Office* 47 (Apr. 11, 2000). This notice adopts final changes to the rules of practice to implement these provisions of the American Inventors Protection Act of 1999.

Section 4403 of the American Inventors Protection Act of 1999 is effective on the date six months after the date of enactment of the American Inventors Protection Act of 1999 (May 29, 2000) and applies to applications (other than for a design patent) filed on or after June 8, 1995. Section 4801 of the American Inventors Protection Act of 1999 is effective on the date of enactment of the American Inventors Protection Act of 1999 (November 29, 1999) and applies to all provisional applications (with limited exception) filed on or after June 8, 1995. Section 4807 of the American Inventors Protection Act of 1999 is effective on the date of enactment of the American Inventors Protection Act of 1999 (November 29, 1999) and applies to all applications filed on or after November 29, 1999.

Section 4403 (Continued Examination of Patent Applications): Section 4403 of the American Inventors Protection Act of 1999 amends 35 U.S.C. 132 to state that the Office ''shall prescribe regulations to provide for the continued examination of applications for patent at the request of the applicant,'' and that the Office ''may establish appropriate fees for such continued examinations and shall provide a 50 percent reduction in such fees for small entities that qualify for reduced fees under [35 U.S.C. 41(h)(1)].'' Previously, an applicant had to file a continuing application (a continuing application under § 1.53(b) or a continued prosecution application under § 1.53(d)) to obtain continued examination of an application for a fee (the application filing fee). Section 4403 of the American Inventors Protection Act of 1999 will provide statutory authority for the continued examination of an application for a fee (to which the small entity reduction will be applicable) without requiring the applicant to file a continuing application.

Section 4801 (Provisional Applications): Section 4801(a) of the American Inventors Protection Act of 1999 amends 35 U.S.C. 111(b)(5) to provide that ''[n]otwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under [35 U.S.C. 111(a)]'' but that if ''no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival * * *.'' Thus, § 1.53(c) is amended to provide both for the conversion of a provisional application (35 U.S.C. 111(b) and § 1.53(c)) to a nonprovisional application (35 U.S.C. 111(a) and § 1.53(b)), and for the conversion of a nonprovisional application (35 U.S.C. 111(a) and § 1.53(b)) to a provisional application (35 U.S.C. 111(b) and § 1.53(c)).

Section 4801 of the American Inventors Protection Act of 1999 contains no provision for according the resulting nonprovisional application a filing date other than the original filing date of the provisional application. Thus, under the patent term provisions of 35 U.S.C. 154, the term of a nonprovisional application resulting from the conversion of a provisional application pursuant to 35 U.S.C. 111(b)(5) will be measured from the original filing date of the provisional application (which is the filing date accorded the nonprovisional application resulting from conversion under § 4801 of the American Inventors Protection Act of 1999). Applicants are strongly cautioned to consider the patent term implications of converting a provisional application into a nonprovisional application pursuant to 35 U.S.C. 111(b)(5), rather than simply filing a nonprovisional application within twelve months of the provisional application's filing date and claiming the benefit of the provisional application under 35 U.S.C. 119(e).

Section 4801(b) of the American Inventors Protection Act of 1999 also amends 35 U.S.C. 119(e) to provide that ''[i]f the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.''

Section 4801(c) of the American Inventors Protection Act of 1999 also amends 35 U.S.C. 119(e) to eliminate the requirement that a provisional application be pending on the filing date of the nonprovisional application for the nonprovisional application to claim the benefit of the provisional application.

Section 4807 (Prior Art Exclusion): 35 U.S.C. 103 was amended in 1984 to exclude subject matter developed by another person which qualifies as prior art only under 35 U.S.C. 102(f) or (g) as prior art under 35 U.S.C. 103 against a claimed invention, provided that the subject matter and the claimed invention were commonly owned by the

same person or organization or subject to an obligation of assignment to the same person or organization at the time the claimed invention was made. *See* Pub. L. 98–622, § 103, 98 Stat. 3384 (1984). Section 4807 of the American Inventors Protection Act of 1999 amends 35 U.S.C. 103(c) to exclude subject matter developed by another person which qualifies as prior art only under one or more of 35 U.S.C. 102(e), (f), or (g) as prior art under 35 U.S.C. 103 against a claimed invention, provided that the subject matter and the claimed invention were commonly owned by the same person or organization or subject to an obligation of assignment to the same person or organization at the time the claimed invention was made. The Office has published guidelines concerning the implementation of this change to 35 U.S.C. 103(c). *See Guidelines Concerning the Implementation of Changes to 35 U.S.C. 102(g) and 103(c) and the Interpretation of the Term ''Original Application'' in the American Inventors Protection Act of 1999,* 1233 *Off. Gaz. Pat. Office* 54 (Apr. 11, 2000).

Discussion of Specific Rules: The Office is adopting the changes set forth in the Interim Rule to §§ 1.7, 1.17(e) and (i), 1.53(d)(1), 1.78(a)(3), 1.97(b), 1.104(c)(4), 1.113, 1.116, 1.198, 1.312, and 1.313(a), (b), (c)(1), (c)(3), and (d) in this final rule. The Office is adopting revised §§ 1.53(c)(3), 1.103, 1.114, and 1.313(a) and (c)(2) in this final rule.

Title 37 of the Code of Federal Regulations, Part 1, is amended as follows:

Section 1.7 is amended by designating the current text as paragraph (a) and adding a new paragraph (b) to provide that if the day that is twelve months after the filing date of a provisional application under 35 U.S.C. 111(b) and § 1.53(c) falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the period of pendency shall be extended to the next succeeding secular or business day which is not a Saturday, Sunday, or a Federal holiday.

Section 1.17(e) sets forth the fee to request continued examination pursuant to new § 1.114, which is set at an amount equal to the basic filing fee for a utility application. Therefore, the fee for considering a submission pursuant to § 1.114 is currently $690.00 ($345.00 for a small entity).

Section 1.17(i) is amended to include a reference to the fee to convert a provisional application filed under § 1.53(c) to a nonprovisional application under § 1.53(b), and to eliminate the reference to § 1.312.

Section 1.53 is amended by redesignating paragraph (c)(3) as paragraph (c)(4) and adding a new paragraph (c)(3) to provide for the conversion of a provisional application to a nonprovisional application. Section 1.53(c)(3) provides that a request to convert a provisional application filed under § 1.53(c) to a nonprovisional application under § 1.53(b) must be accompanied by the fee set forth in § 1.17(i) and an amendment including at least one claim as prescribed by the second paragraph of 35 U.S.C. 112, unless the provisional application otherwise contains at least one claim. Section 1.53(c)(3) also provides that such a request must be filed prior to the earliest of: (1) abandonment of the provisional application; or (2) expiration of twelve months after the filing date of the provisional application.

Section 1.53(c)(3) also provides that the nonprovisional application resulting from conversion of a provisional application must also include the filing fee for a nonprovisional application, an oath or declaration by the applicant pursuant to §§ 1.63, 1.162, or 1.175, and the surcharge required by § 1.16(e) if either the basic filing fee for a nonprovisional application or the oath or declaration was not present on the filing date accorded the resulting nonprovisional application. While this language was not included in interim § 1.53(c)(3), it simply clarifies that once a provisional application is converted into a nonprovisional application, the resulting nonprovisional application must comply with the requirements applicable to nonprovisional applications (*e.g.,* the requirement for the basic filing fee for a nonprovisional application and an oath or declaration by the applicant pursuant to §§ 1.63, 1.162, or 1.175).

Section 1.53(c)(3) also provides that the conversion of a provisional application to a nonprovisional application will not result in either the refund of any fee properly paid in the provisional application or the application of any such fee to the filing fee, or any other fee, for the nonprovisional application.

Finally, § 1.53(c)(3) contains the admonitions that: (1) conversion of a provisional application to a nonprovisional application under § 1.53(c)(3) will result in the term of any patent to issue from the application being measured from at least the filing date of the provisional application for which conversion is requested; and (2) applicants should consider avoiding this adverse patent term impact by filing a nonprovisional application claiming the benefit of the provisional application under 35 U.S.C. 119(e) (rather than converting the provisional application into a nonprovisional application pursuant to § 1.53(c)(3)).

The conversion of a provisional application to a nonprovisional application will not result in any savings in filing fees over the filing of a nonprovisional application claiming the benefit under 35 U.S.C. 119(e) and § 1.78 of the earlier provisional application. Thus, an applicant may simply file a nonprovisional application claiming the benefit under 35 U.S.C. 119(e) and § 1.78 of the earlier provisional application and avoid the fee set forth in § 1.17(i) required to convert a provisional application to a nonprovisional application (as well as the adverse patent term effects discussed above).

Section 1.53(d)(1)(i) is amended to provide that continued prosecution application (CPA) practice under § 1.53(d) does not apply to applications (other than design) if the prior application has a filing date on or after May 29, 2000. Thus, an application (except for a design application) must have an actual filing date before May 29, 2000, for the applicant to be able to file a CPA of that application. While the Office uses the filing date (and application number) of the prior application of a CPA for identification purposes, the filing date of a CPA under § 1.53(d) is the date the request for a CPA is filed. *See* § 1.53(d)(2). Thus, if a CPA of an application (other than for a design patent) is filed on or after May 29, 2000, § 1.53(d)(1)(i) does not permit the filing of a further CPA, regardless of the filing date of the prior application as to the first CPA (*i.e.,* the filing date used for identification purposes for the CPA).

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new § 1.114 (unless the application has issued as a patent). If an applicant files a request for a CPA of an application to which CPA practice no longer applies and does not want the request for a CPA to be treated as a request for continued examination under § 1.114 (*e.g.,* the CPA is a divisional CPA), the applicant may file a petition under § 1.53(e) requesting that the improper CPA be converted to an application under § 1.53(b). The requirements for such a petition under § 1.53(e) are identical to those set forth in section 201.06(b) of the *Manual of Patent Examining Procedure* (7th ed.1998) (Rev. 1, Feb. 2000) (*MPEP*) for

converting an improper file wrapper continuing (FWC) application under former § 1.62 to an application under § 1.53(b). The Office will not grant such a petition unless it is before the appropriate deciding official before an Office action has been mailed in response to the request for continued examination under § 1.114 (as the improper CPA is being treated). If an Office action has been mailed in response to the request for continued examination under § 1.114, the applicant should simply file an application under § 1.53(b) within the period for reply to such Office action.

If, however, an applicant files a transmittal paper that is ambiguous as to whether it is a continued prosecution application under § 1.53(d) or a request for continued examination under § 1.114 (*e.g.,* contains references to both an RCE and a CPA), and the application is eligible for either a continued prosecution application under § 1.53(d) or a request for continued examination under § 1.114 (*i.e.,* a plant or utility application filed on or after June 8, 1995, but before May 29, 2000), that ambiguity will be resolved in favor of treating the transmittal papers as a request for a CPA under § 1.53(d). Other papers filed with the transmittal paper (*e.g.,* a preliminary amendment or information disclosure statement) will not be taken into account in determining whether a transmittal paper is a continued prosecution application under § 1.53(d), or a request for continued examination under § 1.114, or ambiguous as to whether it is a continued prosecution application under § 1.53(d) or a request for continued examination under § 1.114.

Section 1.53(d)(1)(ii)(A) is amended to refer to ''§ 1.313(c)'' rather than ''§ 1.313(b)(5)'' for consistency with the change to § 1.313.

Section 1.78 is amended to eliminate the requirement that a nonprovisional application be ''copending'' with a provisional application for the nonprovisional application to claim the benefit under 35 U.S.C. 119(e) of a provisional application. Section 1.78 is also amended to require that, for a nonprovisional application to claim the benefit of a provisional application, the provisional application must be entitled to a filing date as set forth in § 1.53(c), and have paid the basic filing fee set forth in § 1.16(k) within the time period set forth in § 1.53(g), and have any required English language translation filed within the time period set under § 1.52(d).

Section 1.97(b) is amended to indicate that an information disclosure statement will also be considered if it is filed before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.

Section 1.103 is amended to provide for a limited suspension of action after a request for continued examination under § 1.114. Section 1.103 is also amended based upon previously proposed changes to that section. *See Changes to Implement the Patent Business Goals,* Notice of Proposed Rulemaking, 64 FR 53772, 53799–00, 53833–34, (Oct. 4, 1999), 1228 *Off. Gaz. Pat. Office* 15, 39–40, 72 (Nov. 2, 1999) (Patent Business Goals Notice of Proposed Rulemaking). These changes are being adopted in this final rule because of the overlap between the provisions for a limited suspension of action after a request for continued examination under § 1.114 and the previously proposed limited suspension of action in a CPA under § 1.53(d).

The heading of § 1.103 is amended to add the phrase ''by the Office'' to clarify that § 1.103 applies only to suspension of action by the Office (by applicant request or at the initiative of the Office) and does not apply to a suspension of action (or reply) by the applicant.

Section 1.103(a) provides for suspension of action for cause. Specifically, § 1.103(a) provides that on request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. Section 1.103(a) also provides that: (1) The Office will not suspend action if reply by applicant to an Office action is outstanding; and (2) any petition for suspension of action under § 1.103(a) must specify a period of suspension not exceeding six months. Section 1.103(a) specifically provides that any petition for suspension of action under § 1.103(a) must also include: (1) A showing of good and sufficient cause for suspension of action; and (2) the fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Section 1.103(b) provides for a limited suspension of action in a CPA filed under § 1.53(d). Section 1.103(b) specifically provides that on request of the applicant, the Office may grant a suspension of action by the Office under § 1.103(b) in a CPA for a period not exceeding three months. Section 1.103(b) also provides that any request for suspension of action under § 1.103(b) must be filed with the request for a CPA and include the processing fee set forth in § 1.17(i).

Section 1.103(c) provides for a limited suspension of action after a request for continued examination under § 1.114. Section 1.103(c) specifically provides that on request of the applicant, the Office may grant a suspension of action by the Office under § 1.103(c) after the filing of a request for continued examination in compliance with § 1.114 for a period not exceeding three months. Since § 1.103(c) requires a request for continued examination in ''compliance with § 1.114,'' a request for suspension of action under § 1.103(c) does not substitute for the submission (or fee) required by § 1.114. The period of suspension, however, may be used to prepare and file a supplement (*e.g.,* affidavit or declaration containing test data) to the previously filed submission. Section 1.103(c) also provides that any request for suspension of action under § 1.103 must be filed with the request for continued examination under § 1.114, specify the period of suspension, and include the processing fee set forth in § 1.17(i). The ability to submit a request for suspension when a request for continued examination under § 1.114 is filed is particularly useful in that its fee (unlike the CPA filing fee) must be paid when the request for continued examination under § 1.114 is filed.

Section 1.103(d) provides that the Office will notify applicant if the Office, on its own initiative, suspends action on an application.

Section 1.103(e) provides for suspension of action for public safety or defense. Section 1.103(e) specifically provides that the Office may suspend action by the Office by order of the Commissioner if the following conditions are met: (1) The application is owned by the United States; (2) publication of the invention may be detrimental to the public safety or defense; and (3) the appropriate department or agency requests such suspension.

Section 1.103(f) provides that the Office will suspend action by the Office for the entire pendency of an application if the Office has accepted a request to publish a statutory invention registration in the application, except for purposes relating to patent interference proceedings under Subpart E.

Section 1.104(c)(4) is revised to replace ''35 U.S.C. 102(f) or (g)'' with ''35 U.S.C. 102(e), (f) or (g)'' for consistency with 35 U.S.C. 103(c) as amended by § 4807 of the American Inventors Protection Act of 1999.

Section 1.113 is amended to take into account that an applicant's after final reply options include filing a request for continued examination under § 1.114. Section 1.113 is also amended to locate the last two sentences of paragraph (a) in a new paragraph (c).

Section 1.114 is added to implement § 4403 of the American Inventors Protection Act of 1999. The Office is providing a procedure under which an applicant may obtain continued examination of an application in which prosecution is closed (*e.g.*, the application is under a final rejection or a notice of allowance) by filing a submission and paying a specified fee. If a subsequent rejection or action is made final (or if the application is subsequently allowed), the applicant may again obtain continued examination of an application (consideration of a submission) upon the filing of a submission and an additional payment of the specified fee prior to abandonment of the application.

Since the relevant portion of § 4405(b)(1) of the American Inventors Protection Act of 1999 (the effective date provision for 35 U.S.C. 132(b)) states that continued examination provisions of 35 U.S.C. 132(b) apply to ''all applications'' filed under 35 U.S.C. 111(a) on or after June 8, 1995, the continued examination provisions of 35 U.S.C. 132(b) and § 1.114 apply to any nonprovisional (35 U.S.C. 111(a)) application filed on or after June 8, 1995, regardless of whether the application is a reissue application or a non-reissue (original) application. The continued examination provisions of 35 U.S.C. 132(b) and § 1.114, however, will not be available for: (1) A provisional application (which is not examined under 35 U.S.C. chapter 12); (2) an application for a utility or plant patent (whether reissue or non-reissue) filed under 35 U.S.C. 111(a) before June 8, 1995; (3) an international application filed under 35 U.S.C. 363 before June 8, 1995; (4) an application for a design patent; or (5) a patent under reexamination.

Under this procedure, the filing of a request for continued examination after the filing of a Notice of Appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal, will be considered a request to withdraw the appeal and to reopen prosecution of the application before the examiner. The filing of a request for continued examination (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action, will also result in the finality of the rejection or action being withdrawn and the submission being considered.

In addition to the *res judicata* effect of a Board of Patent Appeals and Interferences decision in an application (*see MPEP* 706.03(w)), a Board of Patent Appeals and Interferences decision in an application is the ''law of the case,'' and is thus controlling in that application and any subsequent related application. *See MPEP* 1214.01 (where a new ground of rejection is entered by the Board of Patent Appeals and Interferences pursuant to § 1.196(b), argument without either amendment of the claims so rejected or the submission of a showing of facts can only result in a final rejection of the claims, since the examiner is without authority to allow the claims unless amended or unless the rejection is overcome by a showing of facts not before the Board of Patent Appeals and Interferences). As such, a submission containing arguments without either amendment of the rejected claims or the submission of a showing of facts will not be effective to remove such rejection.

The procedure set forth in § 1.114 will not be available in an application after the filing of a Notice of Appeal to the Federal Circuit or the commencement of a civil action, unless the appeal or civil action is terminated and the application is still pending. Unless an application contains allowed claims (or the court's mandate clearly indicates that further action is to be taken in the Office), the termination of an unsuccessful court appeal or civil action results in the abandonment of the application. *See MPEP* 1216.01.

If the application is under final rejection, the fee for a request for continued examination acts only to withdraw the finality of an Office action. If reply to an Office action is outstanding, a submission meeting the reply requirements of § 1.111 must be timely received to continue prosecution of an application. Put simply, the mere payment of the fee for a request for continued examination will not operate to toll the running of any time period set in the previous Office action for reply to avoid abandonment of the application. Likewise, filing a request for continued examination (with the fee and a submission) in an allowed application after the issue fee has been paid without a petition under § 1.313 to withdraw the application from issue will not operate to avoid issuance of the application as a patent. Nevertheless, if a request for continued examination (with the fee and a submission) is filed in an allowed application prior to payment of the issue fee, a petition under § 1.313 to withdraw the application from issue is not required.

To avoid confusion as to whether an applicant desires to amend the application prior to receiving continued examination of the application, an appeal brief under § 1.192 or a reply brief under § 1.193(b), or related submissions, are expressly excluded as a submission for the purposes of § 1.114. The submission, however, may consist of the arguments in a previously filed appeal brief or reply brief submitted as a reply to the final rejection, or may simply consist of a submission that incorporates by reference the arguments in a previously filed appeal brief or reply brief.

35 U.S.C. 132(a) provides that ''[n]o amendment shall introduce new matter into the disclosure of the invention.'' Any amendment entered pursuant to § 1.114 that is determined to contain new matter will be treated in the same manner that a reply under § 1.111 that is determined to contain new matter is currently treated. In those instances in which an applicant seeks to add new matter to the disclosure of an application, the procedure in § 1.114 is not available, and the applicant must file a continuation-in-part application under § 1.53(b) containing such new matter. In addition, as 35 U.S.C. 132(b) and § 1.114 provide continued examination of an application (and not examination of a continuing application), the Office will not permit an applicant to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (*see* § 1.145).

The request for continued examination procedure in § 1.114 should not be confused with the transitional procedure for the further limited examination of patent applications set forth in § 1.129(a) (*see Changes to Implement 20–Year Patent Term and Provisional Applications*, Final Rule Notice, 60 FR 20195 (April 25, 1995), 1174 *Off. Gaz. Pat. Office* 15 (May 2, 1995)) or the CPA procedure set forth in § 1.53(d) (*see Changes to Patent Practice and Procedure*, Final Rule Notice, 62 FR 53131 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* 63 (October 21, 1997)).

Comparison of the request for continued examination procedure in § 1.114 with the transitional procedure for the further limited examination of patent application set forth in § 1.129(a): The procedure set forth in this notice does not apply to any application that was filed prior to June 8, 1995. The transitional procedure set forth in § 1.129(a) applies only to applications, other than for a reissue or design patent, that have been pending for at least two years as of June 8, 1995, taking into account any references in such applications to any earlier filed

application under 35 U.S.C. 120, 121, or 365(c), and is not applicable to any application filed after June 8, 1995. Therefore, an application eligible for the transitional procedure set forth in § 1.129(a) (unless filed on June 8, 1995), or any application filed before June 8, 1995, is not eligible for the procedure for continued examination set forth in this notice.

In addition, an applicant in an application eligible for the procedure for continued examination set forth in this notice is not limited in the number of times the fee for continued examination may be submitted. An applicant in an application eligible for the transitional procedure set forth in § 1.129(a), however, is limited to two opportunities to pay the fee for further examination of the application.

Moreover, under the transitional procedure set forth in § 1.129(a), a submission after final rejection or action will be considered if the submission and the requisite fee are filed prior to abandonment of the application and prior to the filing of an appeal brief. Under the request for continued examination procedure set forth in this notice, a submission will be considered if the submission and the requisite fee is filed prior to abandonment of the application. That is, under the request for continued examination procedure, a submission (and requisite fee) need not be filed prior to the filing of an appeal brief. In addition, under the request for continued examination procedure, a submission will be considered in an allowed application if the submission and the requisite fee are filed prior to payment of the issue fee (or later if a petition under § 1.313(c) to withdraw the application from issue is granted).

Comparison of the request for continued examination procedure in § 1.114 with the CPA procedure set forth in § 1.53(d): Section 1.53(d) is amended to make CPA practice inapplicable to applications (other than for a design patent) filed under 35 U.S.C. 111(a) on or after May 29, 2000, or resulting from international applications filed under 35 U.S.C. 363 on or after May 29, 2000. Continued prosecution application (CPA) practice was adopted to permit applicants to obtain continued examination of an application (for a fee) via the filing of a continuing application. 35 U.S.C. 132(b), however, provides statutory authority for the Office to prescribe regulations to permit applicants to obtain continued examination of an application (for a fee) without the need for a continuing application. The Office is not completely abolishing CPA practice in favor of the request for continued examination practice in § 1.114 because the request for continued examination practice in § 1.114 is not applicable to applications filed before June 8, 1995 (or design applications), and the patent term adjustment provisions of Pub. L. 106–113 do not apply to applications filed before May 29, 2000. The Office, however, is restricting CPA practice to utility and plant applications filed before May 29, 2000, and design applications because maintaining two practices (as to applications eligible for the continued examination procedure of § 1.114) designed for the same purpose (obtaining continued examination of an application) is unnecessary and will result in confusion.

Since the request for continued examination practice in § 1.114 is applicable to utility and plant applications filed on or after June 8, 1995, and CPA practice in § 1.53(d) is applicable to utility and plant applications filed before May 29, 2000, and design applications, an applicant in a utility or plant application filed on or after June 8, 1995, but before May 29, 2000, may obtain further examination either by filing a request for continued examination under § 1.114 or by filing a CPA under § 1.53(d). Since the patent term adjustment provisions of Pub. L. 106–113 do not apply to applications filed before May 29, 2000, and a request for continued examination practice under § 1.114 (unlike a CPA under § 1.53(d)) is not the filing of a new application, whether further examination of such an application is sought by a request for continued examination under § 1.114 or a CPA under § 1.53(d) has an impact on whether any resulting patent is entitled to the patent term adjustment provisions of Pub. L. 106–113. Specifically, if an applicant in a utility or plant application filed before May 29, 2000, files a CPA under § 1.53(d) after May 29, 2000, the application being prosecuted (now a CPA) is an application filed on or after May 29, 2000, and is entitled to the patent term adjustment provisions of Pub. L. 106–113. If, however, an applicant in a utility or plant application filed before May 29, 2000 (but on or after June 8, 1995) files a request for continued examination under § 1.114, the application being prosecuted is not an application filed on or after May 29, 2000, and is not entitled to the patent term adjustment provisions of Pub. L. 106–113.

In addition, there are a number of additional differences between request for continued examination procedure set forth in this notice with the CPA procedure set forth in § 1.53(d) resulting from the fact that a CPA is the filing of a new application, whereas continued examination under § 1.114 merely continues the examination of the same application: (1) A request for continued examination under § 1.114 is not permitted unless prosecution in the application is closed (*cf.* § 1.53(d)(1)); (2) the fee for continued examination under § 1.114 (§ 1.17(e)) does not have an additional claims fee component (*cf.* 1.53(d)(3)(ii)); (3) the fee for continued examination under § 1.114 may not be deferred (*cf.* § 1.53(f)); (4) a request for continued examination under § 1.114 is entitled to the benefit of a certificate of mailing under § 1.8 (*cf.* 1.8(a)(2)(i)(A)); (5) an applicant may not obtain examination of a different or non-elected invention (*e.g.,* a divisional) in a request for continued examination under § 1.114; and (6) any change of inventors must be via the procedure set forth in § 1.48 (*cf.* 1.53(d)(4)).

Discussion of the specific provisions of new § 1.114: Section 1.114 is added to provide for continued examination of an application under 35 U.S.C. 132(b).

Section 1.114(a) provides that if prosecution in an application is closed, an applicant may obtain continued examination of an application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of: (1) Payment of the issue fee, unless a petition under § 1.313 is granted; (2) abandonment of the application; or (3) the filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated. The action immediately subsequent to the filing of a submission and fee under § 1.114 may be made final only if the conditions set forth in *MPEP* 706.07(b) for making a first action final in a continuing application are met.

Interim § 1.114 did not require that prosecution in an application be closed for an applicant to obtain continued examination under that section, but only that the Office had mailed at least one of an Office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. There is, however, no benefit (from applicant's perspective) to requesting continued examination under § 1.114 if prosecution in the application is not closed. Thus, any request for continued examination under § 1.114 in an application in which prosecution is not closed would probably have been filed in error. In addition, the legislative history of 35 U.S.C. 132(b) reveals that its continued examination provisions were designed for applications in which prosecution was closed. *See* 145 Cong. Rec. S.14708,

S.14718 (daily ed. November 17, 1999) (statement of Sen. Lott); *see also* H.R. Rep. No. 106–464 at 128 (1999). Therefore, the Office considers it inappropriate to permit (or encourage) applicants to request and pay the fee for continued examination under 35 U.S.C. 132(b) and § 1.114 unless prosecution in the application is closed.

Section 1.114(b) provides that prosecution in an application is closed as used in § 1.114 means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application (*e.g.,* an Office action under *Ex parte Quayle,* 1935 Comm'r Dec. 11 (1935)).

Section 1.114(c) provides that a submission as used in § 1.114 includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. This definition in § 1.114 for ''submission'' is taken from § 1.129(a). Section 1.114(c) also provides that if reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111. This provision will permit applicants to file a submission under § 1.114 containing only an information disclosure statement (§§ 1.97 and 1.98) in an application subject to a notice of allowance under 35 U.S.C. 151.

Section 1.114(d) provides that if an applicant timely files the fee set forth in § 1.17(e) and a submission, the Office will withdraw the finality of any Office action to which a reply is outstanding and the submission will be entered and considered. The phrase ''withdraw the finality of any Office action'' includes the withdrawal of the finality of a final rejection, as well as the withdrawal of the closing of prosecution by an Office action under *Ex parte Quayle,* 1935 Comm'r Dec. 11 (1935), or notice of allowance under 35 U.S.C. 151 (or notice of allowability). Section 1.114(d) also provides that if an applicant files a request for continued examination under § 1.114 after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. Thus, the filing of a request for continued examination under § 1.114 in an application containing an appeal awaiting decision after appeal will be treated as a withdrawal of the appeal by the applicant, regardless of whether the request for continued examination under § 1.114 includes the appropriate fee (§ 1.17(e)) or a submission (§ 1.114(c)). Applicants should advise the Board of Patent Appeals and Interferences when a request for continued examination under § 1.114 is filed in an application containing an appeal awaiting decision. Otherwise, the Board of Patent Appeals and Interferences may refuse to vacate a decision rendered after the filing (but before recognition by the Office) of a request for continued examination under § 1.114. Section 1.114(d) also provides that an appeal brief or a reply brief (or related papers) will not be considered a submission under § 1.114 (discussed above).

Section 1.114(e) provides that the request for continued examination provisions of § 1.114 do not apply to: (1) A provisional application; (2) an application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995; (3) an international application filed under 35 U.S.C. 363 before June 8, 1995; (4) an application for a design patent; or (5) a patent under reexamination.

Section 1.116 is amended to add a paragraph (a) that takes into account that an applicant's after final amendment options include filing a request for continued examination under § 1.114, and to redesignate existing paragraphs (a), (b), and (c) as paragraphs (b), (c), and (d), respectively.

Section 1.198 is amended to take into account that an application in which an appeal has been decided by the Board of Patent Appeals and Interferences may also be reopened under the request for continued examination provisions of § 1.114.

Section 1.312 is amended by clarifying that an amendment under § 1.312 (after allowance) must be filed prior to or with payment of the issue fee.

Section 1.313(a) is being amended to provide that it is not necessary to file a petition to withdraw an application from issue if a request for continued examination under § 1.114 is filed prior to payment of the issue fee. If an applicant files a request for continued examination under § 1.114 (with the fee and a submission) prior to the date the issue fee is due, the applicant need not pay the issue fee to avoid abandonment of the application. Applicants are cautioned against filing a request for continued examination under § 1.114 prior to payment of the issue fee and subsequently paying the issue fee (before the Office acts on the request for continued examination under § 1.114) because doing so may result in issuance of a patent without consideration of the request for continued examination under § 1.114 (if the request for continued examination under § 1.114 is not matched with the application before the application is processed into a patent).

Section 1.313(c) is amended to provide that an application may also be withdrawn from issue after payment of the issue fee on petition by the applicant for consideration of a request for continued examination in compliance with § 1.114. This language differs from the language of interim § 1.313(c)(2), but the change simply clarifies the requirements for an application to be withdrawn from issue under § 1.313(c)(2).

The Office cannot ensure that any petition under § 1.313(c) will be acted upon prior to the date of patent grant. *See Filing of Continuing Applications, Amendments, or Petitions after Payment of Issue Fee,* Notice, 1221 *Off. Gaz. Pat. Office* 14 (April 6, 1999). Since a request for continued examination under § 1.114 (unlike a CPA under § 1.53(d)) is not any type of new application filing, the Office cannot grant a petition to convert an untimely request for continued examination under § 1.114 to a continuing application under § 1.53(b). Therefore, applicants are strongly cautioned to file any desired request for continued examination under § 1.114 prior to payment of the issue fee. In addition, applicants considering filing a request for continued examination under § 1.114 after payment of the issue fee are strongly cautioned to call the Office of Petitions to determine whether sufficient time remains before the patent issue date to consider (and grant) a petition under § 1.313(c) and what steps are needed to ensure that a grantable petition under § 1.313(c) is before an appropriate official in the Office of Petitions in sufficient time to grant the petition before the patent is issued. Finally, applicants filing a request for continued examination under § 1.114 after allowance but prior to payment of the issue fee are cautioned against subsequently paying the issue fee because doing so may result in the prompt issuance of a patent.

Response to comments: The Office received fifteen written comments (from Intellectual Property Organizations, Law Firms, Patent Practitioners, and others) in response to the Interim Rule. Comments generally in support of a change are not discussed. The comments and the Office's responses to those comments (as well as the comments on the proposed change to § 1.103 in the Patent Business Goals Notice of Proposed Rulemaking) follow:

Comment 1: One comment suggested that simply applying the basic filing fee

as the fee for continued examination under 35 U.S.C. 132(b) and § 1.114 was inappropriate, as the Office does not need to conduct any pre-examination processing when an applicant requests continued examination under 35 U.S.C. 132(b) and § 1.114.

Response: The basic filing fee does not recover the Office's costs of pre-examination processing and examination of an application; rather, this cost is recovered in part by the issue fee and maintenance fees. The actual cost to the Office (in the aggregate) of providing the examination required by 35 U.S.C. 131 and 132(a) exceeds the basic filing fee. Thus, the basic filing fee for a utility application is considered an ''appropriate'' fee within the meaning of 35 U.S.C. 132(b).

Comment 2: One comment (while acknowledging that the issue was not a rulemaking issue) requested that the Office clarify the impact of the changes to 35 U.S.C. 119(e) to: (1) Remove the copendency requirement for a nonprovisional application to claim the benefit of a provisional application; and (2) extend the period of pendency of a provisional application if the date that is twelve months after the filing date of a provisional application falls on Saturday, Sunday, or a Federal holiday within the District of Columbia.

Response: Prior to enactment of the American Inventors Protection Act of 1999, a nonprovisional application claiming the benefit of a provisional application under 35 U.S.C. 119(e) must have been: (1) Filed not later than within twelve months after the filing date of the provisional application; and (2) filed during the pendency of the provisional application. Section 4801 of the American Inventors Protection Act of 1999 amended 35 U.S.C. 119(e) to eliminate the requirement that a nonprovisional application claiming the benefit of a provisional application must have been filed during the pendency of the provisional application, but did not change the requirement that a nonprovisional application claiming the benefit of a provisional application be filed not later than within twelve months after the filing date of the provisional application.

The provisions of 35 U.S.C. 21(b) extend the twelve-month period in 35 U.S.C. 119(e)(1) to the next succeeding secular or business day if the last day of that twelve-month period falls on a Saturday, Sunday, or Federal holiday. *See Dubost* v. *U.S. Patent and Trademark Office,* 777 F.2d 1561, 1562, 227 USPQ 977, 977 (Fed. Cir. 1985), and *Ex parte Olah,* 131 USPQ 41, 42–43 (Bd. Pat. App. 1961). The reason for the caveat in former § 1.78(a)(3) is that: (1) 35 U.S.C. 119(e)(2) formerly required that a nonprovisional application claiming the benefit of a provisional application must have been filed during the pendency of the provisional application; and (2) 35 U.S.C. 111(b)(5) provides that a provisional application will become abandoned twelve months after its filing date regardless of what action is taken or fee is paid in such provisional application. Thus, the provisions of 35 U.S.C. 21(b) do not appear to extend the twelve-month period in 35 U.S.C. 111(b)(5) to the next succeeding secular or business day if the last day of that twelve-month period falls on a Saturday, Sunday, or Federal holiday. The American Inventors Protection Act of 1999 amended 35 U.S.C. 119 to: (1) Eliminate the requirement that a nonprovisional application claiming the benefit of a provisional application must have been filed during the pendency of the provisional application (35 U.S.C. 119(e)(2)); and (2) extend the twelve-month period in 35 U.S.C. 111(b)(5) to the next succeeding secular or business day if the last day of that twelve-month period falls on a Saturday, Sunday, or Federal holiday (35 U.S.C. 119(e)(3)).

The provision extending the period of pendency of a provisional application if the date that is twelve months after the filing date of a provisional application falls on Saturday, Sunday, or a Federal holiday within the District of Columbia is still relevant (notwithstanding the elimination of the requirement that a nonprovisional application claiming the benefit of a provisional application has been filed during the pendency of the provisional application) as § 1.53(c)(3) requires that any request to convert a provisional application into a nonprovisional application be filed prior to abandonment of the provisional application.

Comment 3: One comment suggested that the Office provide (as a default) that a provisional application is abandoned as of its filing date.

Response: The rules of practice (§ 1.138) allow an applicant to file a letter of express abandonment in any application (including a provisional application). The applicant is in the best position to determine whether a provisional application should remain pending until twelve months from its filing date or whether it should be abandoned (expressly or otherwise) prior to that date. For example, an applicant may wish to maintain the pendency of the provisional application so that it can be converted under 35 U.S.C. 111(b)(5) and § 1.53(c)(3) into a nonprovisional application (§ 1.53(c)(3)(i)). Therefore, the Office considers it inappropriate to provide for abandonment of a provisional application as of its filing date as a default.

Comment 4: One comment suggested that the Office not require a translation of a non-English language provisional application. The comment argued that: (1) The patent statute does not permit the Office to deny a filing date to a non-English language provisional application if a translation is not provided; (2) provisional applications do not need to be in English since they are never examined; (3) requiring a translation for every non-English language provisional application requires more paper handling by the Office; (4) requiring a translation in every non-English language provisional application discriminates against foreign applicants and discourages foreign applicants from filing provisional applications in the United States; and (5) requiring a translation in every non-English language provisional application is not necessary for national security screening. Another comment suggested that the Office not require a translation of a non-English language provisional application if the provisional application discloses an invention made outside the United States.

Response: The rules of practice do not require an English language translation of a non-English language provisional (or nonprovisional) application as a condition of according a filing date to the application. The Office has proposed to revise the rules of practice to require an English language translation of a non-English language provisional application when the benefit of the filing date of the provisional application is claimed in a later-filed nonprovisional application, and then the English language translation of the provisional application will be required to be filed only in the nonprovisional application. *See Changes to Implement Eighteen-Month Publication of Patent Applications,* Notice of Proposed Rulemaking, 65 FR 17946, 17953, 17965 (Apr. 5, 2000), 1233 *Off. Gaz. Pat. Office* 121, 127, 137 (Apr. 25, 2000). Since the effective prior art (35 U.S.C. 102(e)) date of a patent takes claims under 35 U.S.C. 119(e) for the benefit of a provisional application's filing date into account, but does not take claims under 35 U.S.C. 119(a)–(d) for the benefit of a foreign application's filing date into account, the Office has a reasonable basis for having different requirements for provisional application claims under 35 U.S.C. 119(e) than for foreign application claims under 35 U.S.C.

119(a)–(d). Obviously, if a non-English-language provisional application is converted under 35 U.S.C. 111(b)(5) and § 1.53(c)(3) into a nonprovisional application, an English language translation will be required in the resulting nonprovisional application.

Comment 5: One comment suggested that § 1.53(c)(3) contain a sentence that advises applicants that conversion of a provisional application under § 1.53(c)(3) results in a forfeiture of rights under 35 U.S.C. 119, and that the term of any patent which issues from the application will be measured from the initial filing date of the provisional application.

Response: Section 1.53(c)(3) as adopted will caution applicants that conversion of a provisional application to a nonprovisional application under § 1.53(c)(3) will result in the term of any patent to issue from the application being measured from at least the filing date of the provisional application for which conversion is requested. Section 1.53(c)(3) will also provide that applicants should consider avoiding this adverse patent term impact by filing a nonprovisional application claiming the benefit of the provisional application under 35 U.S.C. 119(e) (rather than converting the provisional application into a nonprovisional application pursuant to § 1.53(c)(3)).

Comment 6: One comment suggested that § 1.53(c)(3) provide that upon conversion of a provisional application to a nonprovisional application, the nonprovisional application should be accorded a filing date as of the date on which a request for conversion of provisional application to a nonprovisional application was filed, but that the original filing date of the provisional application should be preserved. The comment also requested clarification on the order in which a nonprovisional application resulting from conversion of a provisional application will be taken up for examination.

Response: If an applicant files a provisional application and subsequently requests that the provisional application be converted into (or treated as) a nonprovisional application (and that request is granted), there remains only a single (now nonprovisional) application. For the Office to accord the resulting nonprovisional application a filing date as of the date on which a request for conversion of provisional application to a nonprovisional application was filed, but somehow preserve the original filing date of the provisional application, would require the Office to accord two filing dates to a single application. There is nothing in the legislative history of § 4801 of the American Inventors Protection Act of 1999 indicating that Congress intended an application filing scheme under which a single application would be both a provisional application with one filing date and a nonprovisional application with a different filing date. Rather, it appears that § 4801 of the American Inventors Protection Act of 1999 simply permits an applicant who previously filed a provisional application to have a ''change of heart'' and subsequently have the application treated as (or converted to) a nonprovisional application. This change also lays to rest the argument that a provisional application is not a proper priority application under Article 4 of the Paris Convention for the Protection of Industrial Property because a provisional application cannot result in a U.S. patent (since a provisional application can now be converted into a nonprovisional application, which can result in a U.S. patent). *See* 1180 *Off. Gaz. Pat. Office* 131 (Nov. 28, 1995).

The Office plans to take up a nonprovisional application resulting from conversion of a provisional application for examination based upon the filing date of the request for conversion under § 1.53(c)(3) (rather than the filing date of the resulting nonprovisional application). This will preserve parity among applicants filing a nonprovisional application claiming the benefit of an earlier provisional application and applicants requesting conversion of a provisional application into a nonprovisional application pursuant to § 1.53(c)(3).

Comment 7: One comment suggested that § 1.53(c)(3) be amended to provide that if a provisional application does not contain a claim, and a claim was not filed with a request to convert the application into a nonprovisional application, the Office will notify the applicant and set a time period for submitting a claim for examination.

Response: The Office does not consider it appropriate to convert a provisional application into a nonprovisional application until at least one claim is present. Thus, § 1.53(c)(3) requires the presence of at least one claim before the Office will grant a request to convert a provisional application into a nonprovisional application. If a provisional application does not contain a claim, and a claim is not filed with a request to convert the application into a nonprovisional application, the Office will set a time period within which a claim must be submitted for the Office to grant the request to convert the provisional application into a nonprovisional application.

Comment 8: Several comments stated that the twelve-month period specified in § 1.53(c)(3)(ii) does not take into account the pendency extension provided in § 1.7(b).

Response: The twelve-month period set forth in § 1.53(c)(3)(ii) concerning when a request to convert a provisional application into a nonprovisional application must be filed does not relate to the pendency of the provisional application, but the twelve-month period within which any nonprovisional application claiming the benefit of that provisional application must be filed. *See* 35 U.S.C. 119(e)(1). As discussed above, if the last day of the twelve-month period set forth in § 1.53(c)(3)(ii) falls on a Saturday, Sunday, or Federal holiday, that period is extended to the next succeeding secular or business day by 35 U.S.C. 21(a) (and § 1.7(a)).

Comment 9: One comment indicated that if an applicant fails to timely reply to a Notice to File Missing Parts of Application in a provisional application, the Office should permit an applicant to revive the provisional application to file the filing fee, surcharge, translation, or whatever else is missing from the provisional application such that a nonprovisional application may claim the benefit of the provisional application under 35 U.S.C. 119(e) and § 1.78.

Response: Section 1.78(a)(3) requires, for a nonprovisional application to claim the benefit of a provisional application, that the provisional application filing fee be paid within the period specified in § 1.53(g), and that any English language translation be filed within the period specified in § 1.52(d). Thus, the grant of a petition to revive the provisional application will still not result in compliance with § 1.78(a)(3). Rather, the applicant would be required to file a petition under § 1.183 showing that circumstances of applicant's failure to pay the provisional application filing fee within the period specified in § 1.53(g), or failure to file any English language translation within the period specified in § 1.52(d), constitutes an ''extraordinary situation'' in which ''justice requires'' a waiver of this requirement of § 1.78(a)(3). The Office has proposed revising the rules of practice as to when an English language translation of a non-English language provisional is required, as well as the condition under which an untimely English language translation will be accepted. *See Changes to Implement Eighteen-Month Publication of Patent*

Applications, 65 FR at 17953, 17965, 1233 *Off. Gaz. Pat. Office* at 127, 137.

Comment 10: Several comments argued that the Office should retain CPA practice under § 1.53(d) as to divisional applications, since an applicant is not permitted to switch inventions under the request for continued examination practice set forth in § 1.114.

Response: CPA practice under § 1.53(d) was adopted in December of 1997 (during fiscal year 1998). *See Changes to Patent Practice and Procedure,* 62 FR at 53186–87, 1203 *Off. Gaz. Pat. Office* at 111–12. The purpose of CPA practice was to provide a mechanism (via the filing of a continuing application) for applicants to obtain further examination of an application for a fee (to which the small entity reduction in 35 U.S.C. 41(h) applies) in the absence of express statutory authority for the Office to provide further or continued examination of an application for a fee (to which the small entity reduction applies). *See Changes to Patent Practice and Procedure,* 62 FR at 53142, 1203 *Off. Gaz. Pat. Office* at 72. 35 U.S.C. 132(b) now provides express statutory authority for the Office to provide further or continued examination of an application for a fee (to which the small entity reduction applies). Therefore, CPA practice may now be considered a ''transitional practice'' relative to the request for continued examination practice set forth in 35 U.S.C. 132(b), and the Office is retaining CPA practice only as to applications filed before the effective date of request for continued examination practice set forth in 35 U.S.C. 132(b) (May 29, 2000) and design applications.

Divisional CPAs make up only a small percentage of divisional applications or CPAs. In fiscal year 1998, the Office received about 12,000 divisional applications and about 18,000 CPAs, about 400 of which were divisional CPAs. In fiscal year 1999, the Office received about 14,000 divisional applications and about 26,000 CPAs, about 300 of which were divisional CPAs. Thus, divisional CPAs made up about three percent of all divisional applications and about two percent of all CPAs filed in fiscal year 1998, and made up about two percent of all divisional applications and about one percent of all CPAs filed in fiscal year 1999.

Divisional CPAs, however, have a much higher than average frequency of filing date petitions (over ten times higher) than other types of applications. Almost always, the filing error resulting in the need for a filing date petition is that the applicant has filed a divisional application as a CPA (usually with a copy of the specification, drawings, and oath or declaration from the prior application) when the applicant meant to file a divisional application under § 1.53(b). The petition to convert the divisional CPA into a divisional application under § 1.53(b) usually cannot be granted because it is relatively rare that the petition is filed (much less brought before an appropriate deciding official) before the prior application is abandoned as a result of being processed into a CPA. *See Continued Prosecution Application (CPA) Practice*, Notice, 1214 *Off. Gaz. Pat. Office* 32, 32 (Sept. 8, 1998). In view of the relatively low number of divisional CPAs and the frequency of filing errors involving divisional CPAs, the divisional CPA has proven itself to be the bane of CPA practice. Thus, the elimination of divisional CPA practice appears to be a benefit (rather than a drawback) to eliminating CPA practice for applications (other than designs) filed on or after May 29, 2000.

In any event, retaining CPA practice as to ''divisional'' CPAs and eliminating it as to ''continuation'' CPAs is not practical. The expressions ''continuation,'' ''divisional,'' and ''continuation-in-part'' are merely terms used for administrative convenience. *See Transco Products, Inc.* v. *Performance Contracting, Inc.*, 38 F.3d 551, 556, 32 USPQ2d 1077 (Fed. Cir. 1994). Thus, providing that a CPA must be a ''divisional'' CPA rather than a ''continuation'' CPA would be meaningless, as it would only require that an applicant filing a CPA label the CPA as a ''divisional'' CPA.

Section 1.53(d)(1) restricts CPA practice to ''continuation'' and ''divisional'' CPAs (*i.e.*, does not permit continuation-in-part CPAs) through the requirement that a CPA disclose and claim only subject matter disclosed in the prior application. *See* § 1.53(d)(2)(ii). While § 1.53(d) could be amended to further restrict CPA practice to ''divisional'' applications that claim only subject matter disclosed but not elected for examination in the prior application, such a provision would require a restriction-type analysis to determine whether a CPA is proper under this revised CPA practice. Retaining CPA practice for the few divisional CPAs filed each year does not justify the complexity that such a provision would introduce into application filing procedures.

Finally, any utility or plant CPA filed on or after November 29, 2000, is subject to the eighteen-month publication provisions of the American Inventors Protection Act of 1999. The Office's planning approach to eighteen-month publication involves obtaining application papers (a specification), drawings, an oath or declaration, and any sequence listing (if required) necessary for the eighteen-month publication process during the pre-examination processing of the application in the Office of Initial Patent Examination (OIPE). *See Changes to Implement Eighteen-Month Publication of Patent Applications*, Notice of Proposed Rulemaking, 65 FR 17046, 17948–49 (Apr. 5, 2000), 1233 *Off. Gaz. Pat. Office* 121, 122–23 (Apr. 25, 2000). Since the Office does not conduct any pre-examination processing of a CPA in OIPE, the Office's Patent Application Capture and Review (PACR) database will probably not have the application papers (a specification), drawings, an oath or declaration, and any sequence listing (if required) necessary for the eighteen-month publication process. Restricting CPA practice to the situation in which the prior utility or plant application was filed before May 29, 2000, will limit the number of utility or plant CPAs filed on or after November 29, 2000, each of which will require special handling to obtain the application papers (a specification), drawings, an oath or declaration, and any sequence listing (if required) necessary for the eighteen-month publication process.

Comment 11: One comment suggested that § 1.97(b) be revised to provide that an information disclosure statement will be considered if it is filed within three months after the date of a request for continued examination under § 1.114.

Response: Since a request for continued examination is a reply under 35 U.S.C. 132, the applicant may be entitled to patent term adjustment if the Office does not act on an application containing a request for continued examination under § 1.114 within four months. *See* 35 U.S.C. 154(b)(1)(A)(ii). Thus, the Office cannot delay the acting on all applications in which a request for continued examination under § 1.114 is filed for three months to determine whether an information disclosure statement will be filed. The Office, however, is adopting provisions (under § 1.103(c)) for a limited suspension of action after the filing of a request for continued examination under § 1.114, under which an applicant may obtain additional time (prior to the issuance of the next Office action) to provide an information disclosure statement (or amendments, or an affidavit or declaration) after the filing of the request for continued examination.

Comment 12: One comment suggested that the Office clarify its statement that § 1.103 does not apply to requests for suspension of action by the applicant in an application.

Response: The Office is distinguishing a request from applicant for the Office to suspend action by the Office from a request from applicant to suspend action by applicant to an outstanding Office requirement. Section 1.103 applies only to a request by applicant for the Office to suspend action by the Office in an application. Section 1.103 does not apply to a request by applicant to suspend action (reply) by the applicant in an application.

Comment 13: One comment suggested that the three-month suspension period for CPAs should be available simply upon request without any associated fee, or a lower CPA filing fee is justified as an offset. The comment argued that there is no rational basis for payment of an additional fee simply to have the CPA obtain the same benefit of filing a preliminary amendment or information disclosure statement (IDS) as an application under § 1.53(b) (non-CPA), since the filing fees for both are the same.

Response: The comment is not adopted. Section 1.53(d) (CPA practice) was established to provide applicants with a means for promptly receiving continued examination of an application under final rejection via the filing of a continuing application. The normal expectation for a CPA is that a first Office action will issue before any preliminary amendment or IDS can be submitted if the preliminary amendment or IDS is not already prepared when the CPA is filed. In these situations, applicants have relied upon not paying the filing fee for the CPA and thereby requiring the Office to mail a Notice to File Missing Parts of Application (requiring a payment of a surcharge). Section 1.103(b) now permits applicants to avoid the practice of not paying the filing fee, and to alert the Office that submission of a preliminary amendment or IDS is being contemplated (§ 1.103(b) does not require a statement of reason for the suspension request or actual submission of anything). The processing fee required for a request for suspension of action under § 1.103(b) is to recover the costs for: (1) Treating the application and the preliminary amendment or IDS separately rather than being able to treat them together when the application is filed; and (2) for redocketing of the application so that a first Office action is delayed.

Comment 14: One comment questioned the applicability of the exclusion in 35 U.S.C. 103(c) if the subject matter and claimed invention were jointly owned by two or more companies and subject to assignment to both (*i.e.*, whether ''person'' and ''organization'' are interpreted as including joint ownership by multiple persons or organizations).

Response: The terms ''person'' and ''organization'' in 35 U.S.C. 103(c) and § 1.104(a)(5) include the situation in which ownership resides in more than one person or organization, provided that the applications are owned jointly by the same owners. *See MPEP* 706.02(l)(2).

Comment 15: One comment asked whether the amendment to § 1.104(c)(4) applied to applications filed on or after November 29, 1999.

Response: The amendment to 35 U.S.C. 103(c) in § 4807 of the American Inventors Protection Act of 1999 applies to any application for patent filed on or after November 29, 1999. Therefore, the corresponding amendment to § 1.104(c)(4) applies to any application for patent filed on or after November 29, 1999.

Comment 16: One comment asked whether a CPA under § 1.53(d) filed on or after November 29, 1999, is an application for patent filed on or after November 29, 1999, such that the amendment to 35 U.S.C. 103(c) in § 4807 of the American Inventors Protection Act of 1999 applies to the CPA.

Response: A CPA under § 1.53(d) filed on or after November 29, 1999, is an application for patent filed on or after November 29, 1999 (regardless of the filing date of the prior application), such that the amendment to 35 U.S.C. 103(c) in § 4807 of the American Inventors Protection Act of 1999 applies to the CPA.

Comment 17: One comment suggested that design applications not be excluded from the request for continued examination practice set forth in § 1.114, which would permit continued prosecution application practice (under § 1.53(d)) to be completely phased out within a few years.

Response: Section 4405(b)(2) of the American Inventors Protection Act of 1999 excludes design applications from the request for continued examination practice set forth in 35 U.S.C. 132(b) and § 1.114.

Comment 18: Several comments suggested that § 1.114 should indicate that the first action after filing a request for continued examination may not be a final rejection.

Response: The first action after the filing of a request for continued examination under § 1.114 may be made final, but only if the conditions set forth in *MPEP* 706.07(b) for making a first action final in a continuing application are met. This practice (first action final practice) denies an applicant the delay inherent in an additional Office action in a continuation application, thus compelling the applicant to draft claims in a continuation application in view of the prosecution history of the parent application (*i.e.*, the rejections and prior art of record in the parent application), and thus make a *bona fide* effort to define the issues for appeal or allowance. *In re Bogese*, 22 USPQ2d 1821, 1824–25 Comm'r Pat. 1992). The Office's need for applicants to make a bona fide effort to define the issues for appeal or allowance when filing a request for continued examination under § 1.114 remains, notwithstanding the changes to the patent term provisions of 35 U.S.C. 154 contained in the Uruguay Round Agreements Act (URAA), Pub. L. 103–465, 108 Stat. 4809 (1994).

Comment 19: One comment stated that under 35 U.S.C. 132(a) an applicant is entitled to persist in his or her claim to a patent, with or without amendment, and that an applicant is likewise entitled to request continued examination under 35 U.S.C. 132(b) ''with or without amendment.'' The comment argues that § 1.113 is inconsistent with 35 U.S.C. 132 in that it requires an applicant to appeal or amend to obtain further consideration of the application.

Response: The second examination (or ''reexamination'') provision of 35 U.S.C. 132(a) is implemented in § 1.112, which does not require the applicant to amend the application. The continued examination provision of 35 U.S.C. 132(b) is implemented in § 1.114, which again does not require the applicant to amend the application to obtain continued examination (a submission ''includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability'').

Section 1.113 applies to applications under a final rejection or action, which occurs after the Office has satisfied its obligation to examine (35 U.S.C. 131) and reexamine (35 U.S.C. 132(a)) the application. Former and current § 1.113 limits the applicant's after final options to appeal from or cancellation of the rejected claims. Since the Office is not required by 35 U.S.C. 132 to provide continued examination of an application under final rejection or action (regardless of whether the applicant amends) unless the applicant

requests (and pays the fee for) continued examination under 35 U.S.C. 132(b) and § 1.114, the Office is not required by 35 U.S.C. 132 to give applicants after final options other than appeal, cancellation of the rejected claims, or continued examination under § 1.114.

Comment 20: Several comments suggested that § 1.114 provide that if a request for continued examination under § 1.114 is accompanied by the fee but not a submission, the Office will notify the applicant and set a time period within which the deficiency must be corrected. One comment also suggested that § 1.114 provide that if a request for continued examination under § 1.114 is filed after an application is allowed, and is accompanied by the fee but not a submission, the Office will notify the applicant and set a time period within which the deficiency must be corrected.

Response: The Office will not suspend action in an application when a reply by the applicant is outstanding. 35 U.S.C. 133 requires an applicant to ''prosecute the application'' within six months of an Office action (or a shorter period as set in the Office action) to avoid abandonment of the application. If an applicant files a request for continued examination but does not also provide any submission (in reply to the prior Office action) within the period for reply to the prior Office action, the application is abandoned by operation of law (35 U.S.C. 133). Providing a different practice for the relatively few applications in which a request for continued examination under § 1.114 is filed after a notice of allowance has been issued would be a trap for the unwary if relied upon in an application subject to an Office action under 35 U.S.C. 132.

The Office will treat a request for continued examination under § 1.114 containing a *bona fide* submission that is not fully responsive to the prior Office action under the practice set forth in § 1.135(c). In addition, under the limited suspension of action provisions of § 1.103(c), an applicant must still file a request for continued examination practice in compliance with § 1.114, but may obtain additional time (prior to the issuance of the next Office action) to provide an information disclosure statement, amendments, or an affidavit or declaration after the filing of the request for continued examination.

Comment 21: Several comments suggest that the Office permit applicants to submit an amendment canceling previously examined claims and presenting claims to a previously non-elected invention (*i.e.,* ''switch inventions'') when filing a request for continued examination under § 1.114.

Response: The Office does not consider it appropriate to permit an applicant to accumulate patent term adjustment under 35 U.S.C. 154(b) on the basis of the examination of a first elected invention and to apply that patent term adjustment to a patent on a subsequently elected (previously non-elected) invention. If the Office permits applicants to submit an amendment canceling previously examined claims and presenting claims to a previously non-elected invention when filing a request for continued examination under § 1.114, the applicant will be able to accumulate patent term adjustment under 35 U.S.C. 154(b) on the basis of the examination of a first elected invention and to apply that patent term adjustment to a patent on a subsequently elected (previously non-elected) invention. Thus, an applicant may not obtain examination of a different or non-elected invention (*e.g.,* a divisional) in a request for continued examination under § 1.114.

Comment 22: Several comments suggested that § 1.116 should continue to permit entry of an amendment after final rejection upon a showing of good and sufficient reasons why the amendment is necessary and was not presented earlier.

Response: Section 1.116(c) permits entry of an amendment after final rejection upon a showing of good and sufficient reasons why the amendment is necessary and was not presented earlier.

Comment 23: One comment noted that § 1.85(c) permitted applicants to file corrected drawings after payment of the issue fee, and questioned how minor amendments to the specification (for consistency with the corrected drawings) may be filed after payment of the issue fee in view of the changes to §§ 1.312 and 1.313.

Response: Section 1.85 will be amended to provide that the three-month period set in notice of allowability for submission of any outstanding corrected or formal drawings is not extendable under § 1.136(a) or (b). Thus, any corrected or formal drawings (and conforming amendments to the specification) should be submitted on or before the date the issue fee is paid.

Comment 24: One comment suggested that the Office must allow for amendments after payment of the issue fee because the Office often does not rule on an amendment under § 1.312 submitted prior to payment of the issue fee until after the period for payment of the issue fee has expired.

Response: Section 1.312 is not intended to be used for continued examination of an application. *See MPEP* 714.16. Any amendments considered necessary by the applicant should be completed before a notice of allowance is issued in the application. Applicants should not be submitting a series of amendments after issuance of a notice of allowance to determine what changes the examiner will permit under § 1.312.

Comment 25: One comment suggested that § 1.313(a) be amended to state that an application may be withdrawn from issue prior to payment of the issue fee for consideration of a request for continued examination under § 1.114. The comment argued that an applicant should not be forced to pay the issue fee while waiting to see whether an application will be withdrawn from issue to consider a request for continued examination under § 1.114.

Response: Section 1.313(a) is being amended to provide that it is not necessary to file a petition to withdraw an application from issue if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

Comment 26: One comment suggested that a grantable petition under § 1.313(c) to withdraw an application from issue be considered effective on the filing date of the petition, rather than on the date an Office official acts on the petition.

Response: The withdrawal of an application from issue after payment of the issue fee is not considered a ministerial act; rather, the Office will withdraw an application from issue only when the Office determines that the conditions specified in §§ 1.313(b) or 1.313(c) are satisfied. See *Harley* v. *Lehman*, 981 F. Supp. 9, 44 USPQ2d 1699 (D.D.C. 1997). Therefore, the Office does not consider it appropriate to consider a petition to withdraw an application from issue after payment of the issue fee to be effective on the filing date of the petition.

Classification

Administrative Procedure Act: The changes in this final rule concern only the manner by which an applicant obtains continued examination of a nonprovisional application, requests conversion of a provisional application into a nonprovisional application, or claims the benefit of a provisional application, as provided for in §§ 4403 and 4801 of the American Inventors Protection Act of 1999 (Title IV of S. 1948, incorporated into Pub. L. 106–113). Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A) (or any other law), and thirty-day

advance publication is not required pursuant to 5 U.S.C. 553(d) (or any other law).

Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

Executive Order 13132: This final rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

Executive Order 12866: This final rule has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

Paperwork Reduction Act: This final rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this final rule have been reviewed and previously approved by OMB under the following control numbers: 0651–0031, 0651–0032, and 0651–0033. The United States Patent and Trademark Office is not resubmitting information collection packages to OMB for its review and approval because the changes in this final rule do not affect the information collection requirements associated with the information collections under these OMB control numbers.

The title, description, and respondent description of each of the information collections are shown below with an estimate of each of the annual reporting burdens. Included in each estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The principal impact of the changes in this final rule is to implement the changes to Office practice necessitated by §§ 4403, 4801, and 4807 of the American Inventors Protection Act of 1999.

OMB Number: 0651–0031.

Title: Patent Processing (Updating).

Form Numbers: PTO/SB/08/21–27/30/31/42/43/61/62/63/64/67/68/91/92/96/97.

Type of Review: Approved through October of 2002.

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 2,231,365.

Estimated Time Per Response: 0.46 hours.

Estimated Total Annual Burden Hours: 1,018,736 hours.

Needs and Uses: During the processing of an application for a patent, the applicant/agent may be required or desire to submit additional information to the United States Patent and Trademark Office concerning the examination of a specific application. The specific information required or which may be submitted includes: Information Disclosure Statements; Terminal Disclaimers; Petitions to Revive; Express Abandonments; Appeal Notices; Petitions for Access; Powers to Inspect; Certificates of Mailing or Transmission; Statements under § 3.73(b); Amendments, Petitions and their Transmittal Letters; and Deposit Account Order Forms.

OMB Number: 0651–0032.

Title: Initial Patent Application.

Form Number: PTO/SB/01–07/13PCT/17–19/29/101–110.

Type of Review: Approved through October of 2002.

Affected Public: Individuals or Households, Business or Other For-Profit, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 334,100.

Estimated Time Per Response: 8.95 hours.

Estimated Total Annual Burden Hours: 2,990,260 hours.

Needs and Uses: The purpose of this information collection is to permit the United States Patent and Trademark Office to determine whether an application meets the criteria set forth in the patent statute and regulations. The standard Fee Transmittal form, New Utility Patent Application Transmittal form, New Design Patent Application Transmittal form, New Plant Patent Application Transmittal form, Declaration, and Plant Patent Application Declaration will assist applicants in complying with the requirements of the patent statute and regulations, and will further assist the United States Patent and Trademark Office in processing and examination of the application.

OMB Number: 0651–0033.

Title: Post Allowance and Refiling.

Form Numbers: PTO/SB/13/14/44/50–57; PTOL–85b.

Type of Review: Approved through September of 2000.

Affected Public: Individuals or Households, Business or Other For-Profit, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 135,250.

Estimated Time Per Response: 0.325 hour.

Estimated Total Annual Burden Hours: 43,893 hours.

Needs and Uses: This collection of information is required to administer the patent laws pursuant to title 35, U.S.C., concerning the issuance of patents and related actions including correcting errors in printed patents, refiling of patent applications, requesting reexamination of a patent, and requesting a reissue patent to correct an error in a patent. The affected public includes any individual or institution whose application for a patent has been allowed or who takes action as covered by the applicable rules.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (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 to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, DC 20231, or to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503, (Attn: Desk Officer for the United States Patent and Trademark Office).

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

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, the interim rule amending 37 CFR Part 1 which was published at 65 FR 14865–14873 on March 20, 2000, is adopted as final with the following changes:

PART 1—RULES OF PRACTICE IN PATENT CASES

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

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.53 is amended by revising paragraph (c)(3) to read as follows:

§ 1.53 Application number, filing date, and completion of application.

* * * * *

(c) * * *

(3) A provisional application filed under paragraph (c) of this section may be converted to a nonprovisional application filed under paragraph (b) of this section and accorded the original filing date of the provisional application. The conversion of a provisional application to a nonprovisional application will not result in either the refund of any fee properly paid in the provisional application or the application of any such fee to the filing fee, or any other fee, for the nonprovisional application. Conversion of a provisional application to a nonprovisional application under this paragraph will result in the term of any patent to issue from the application being measured from at least the filing date of the provisional application for which conversion is requested. Thus, applicants should consider avoiding this adverse patent term impact by filing a nonprovisional application claiming the benefit of the provisional application under 35 U.S.C. 119(e) (rather than converting the provisional application into a nonprovisional application pursuant to this paragraph). A request to convert a provisional application to a nonprovisional application must be accompanied by the fee set forth in § 1.17(i) and an amendment including at least one claim as prescribed by the second paragraph of 35 U.S.C. 112, unless the provisional application under paragraph (c) of this section otherwise contains at least one claim as prescribed by the second paragraph of 35 U.S.C. 112. The nonprovisional application resulting from conversion of a provisional application must also include the filing fee for a nonprovisional application, an oath or declaration by the applicant pursuant to §§ 1.63, 1.162, or 1.175, and the surcharge required by § 1.16(e) if either the basic filing fee for a nonprovisional application or the oath or declaration was not present on the filing date accorded the resulting nonprovisional application (*i.e.,* the filing date of the original provisional application). A request to convert a provisional application to a nonprovisional application must also be filed prior to the earliest of:

(i) Abandonment of the provisional application filed under paragraph (c) of this section; or

(ii) Expiration of twelve months after the filing date of the provisional application filed under this paragraph (c).

* * * * *

3. Section 1.103 is revised to read as follows:

§ 1.103 Suspension of action by the Office.

(a) *Suspension for cause.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

(b) *Limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d).* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph in a continued prosecution application filed under § 1.53(d) for a period not exceeding three months. Any request for suspension of action under this paragraph must be filed with the request for an application filed under § 1.53(d), specify the period of suspension, and include the processing fee set forth in § 1.17(i).

(c) *Limited suspension of action after a request for continued examination (RCE) under § 1.114.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph after the filing of a request for continued examination in compliance with § 1.114 for a period not exceeding three months. Any request for suspension of action under this paragraph must be filed with the request for continued examination under § 1.114, specify the period of suspension, and include the processing fee set forth in § 1.17(i).

(d) *Notice of suspension on initiative of the Office.* The Office will notify applicant if the Office suspends action by the Office on an application on its own initiative.

(e) *Suspension of action for public safety or defense.* The Office may suspend action by the Office by order of the Commissioner if the following conditions are met:

(1) The application is owned by the United States;

(2) Publication of the invention may be detrimental to the public safety or defense; and

(3) The appropriate department or agency requests such suspension.

(f) *Statutory invention registration.* The Office will suspend action by the Office for the entire pendency of an application if the Office has accepted a request to publish a statutory invention registration in the application, except for purposes relating to patent interference proceedings under Subpart E of this part.

4. Section 1.114 is revised to read as follows:

§ 1.114 Request for continued examination.

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

(c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.

(d) If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination under this section after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. An appeal brief under § 1.192 or a reply brief under § 1.193(b), or

related papers, will not be considered a submission under this section.

(e) The provisions of this section do not apply to:

(1) A provisional application;

(2) An application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995;

(3) An international application filed under 35 U.S.C. 363 before June 8, 1995;

(4) An application for a design patent; or

(5) A patent under reexamination.

5. Section 1.313 is amended by revising paragraphs (a) and (c)(2) to read as follows:

§ 1.313 Withdrawal from issue.

(a) Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary. A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee. If the Office withdraws the application from issue, the Office will issue a new notice of allowance if the Office again allows the application.

* * * * *

(c) * * *

(2) Consideration of a request for continued examination in compliance with § 1.114; or

* * * * *

Dated: August 9, 2000.

Q. Todd Dickinson,

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

[FR Doc. 00–20744 Filed 8–15–00; 8:45 am]

BILLING CODE 3510–16–P

Federal Register

Wednesday,
August 16, 2000

Part IV

Department of Defense

Department of the Army, Corps of Engineers
33 CFR Part 323

Environmental Protection Agency

40 CFR Part 232
Further Revisions to the Clean Water Act Regulatory Definition of "Discharge of Dredged Material"; Proposed Rule

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 323

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 232

[FRL–6852–1]

Further Revisions to the Clean Water Act Regulatory Definition of ''Discharge of Dredged Material''

AGENCIES: U.S. Army Corps of Engineers, Department of the Army, DOD; and Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) are publishing a proposed rule that would amend our Clean Water Act (CWA) section 404 regulations defining the term ''discharge of dredged material.'' Today's proposal is intended to identify types of activities that are likely to result in a discharge of dredged material subject to CWA section 404. The proposal would enhance protection of the Nation's aquatic resources, including wetlands, by amending the regulations to establish a rebuttable presumption that mechanized landclearing, ditching, channelization, in-stream mining, or other mechanized excavation activity in waters of the United States result in more than incidental fallback, and thus involve a regulable discharge of dredged material.

DATES: Written comments must be submitted by October 16, 2000.

ADDRESSES: Written comments and enclosures should be mailed or hand-delivered to: Office of the Chief of Engineers, ATTN CECW–OR (3 F73), Further Revisions to Definition of Discharge of Dredged Material, 441 G Street, NW., Washington, DC 20314–1000. Comments may also be submitted electronically to: CECWOR@HQ02.USACE.Army.Mil. Electronic comments must be submitted as a Word Perfect, Word, or ASCII file, and avoid the use of special characters or any form of encryption.

We request that commenters submit any references cited in their comments. We also request that commenters submit an original and 2 copies of their written comments and enclosures. Commenters that want receipt of their comments acknowledged should include a self-addressed, stamped envelope. All comments must be postmarked, delivered by hand, or provided by e-mail. No facsimiles (faxes) will be accepted.

A copy of the supporting documents for this proposed rule is available for review at the U.S. Army Corps of Engineers, located at 441 G Street, NW., Room 3F73, Washington, DC 20314–1000. For access to docket materials, call (202) 761–4598 between 9 a.m. and 3:30 p.m. for an appointment.

FOR FURTHER INFORMATION CONTACT: For information on the proposed rule, contact either Mr. Mike Smith, U.S. Army Corps of Engineers, ATTN CECW–OR (3F73), 441 G Street, NW., Washington, DC 20314–1000, phone: (202) 761–4598, or Mr. John Lishman, U.S. Environmental Protection Agency, Office of Wetlands, Oceans and Watersheds (4502F), 1200 Pennsylvania Avenue N.W., Washington, DC 20460, phone: (202) 260–9180.

SUPPLEMENTARY INFORMATION:

I. Potentially Regulated Entities

Persons or entities that discharge material dredged or excavated from waters of the U.S. could be regulated by today's proposed rule. The CWA generally prohibits the discharge of pollutants into waters of the U.S. without a permit issued by EPA or a State approved by EPA under section 402 of the Act, or, in the case of dredged or fill material, by the Corps or an approved State under section 404 of the Act. Today's proposal addresses the CWA section 404 program's definition of ''discharge of dredged material,'' which is important for determining whether a particular discharge is subject to regulation under CWA section 404. Today's proposal identifies types of activities that are likely to result in a discharge of dredged material subject to CWA section 404. Examples of entities potentially regulated include:

Category	Examples of potentially regulated entities
State/Tribal governments or instrumentalities	State/Tribal agencies or instrumentalities that discharge dredged material into waters of the U.S.
Local governments or instrumentalities	Local governments or instrumentalities that discharge dredged material into waters of the U.S.
Federal government agencies or instrumentalities	Federal government agencies or instrumentalities that discharge dredged material into waters of the U.S.
Industrial, commercial, or agricultural entities	Industrial, commercial, or agricultural entities that discharge dredged material into waters of the U.S.
Land developers and landowners	Land developers and landowners that discharge dredged material into waters of the U.S.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that are likely to be regulated by this action. This table lists the types of entities that we are now aware of that could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your organization or its activities are regulated by this action, you should carefully examine EPA's applicability criteria in section 230.2 of Title 40 of the Code of Federal Regulations, the Corps regulations at part 323 of Title 33 of the Code of Federal Regulations, and the preamble discussion in Section III of today's proposal. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

A. Plain Language

In compliance with President Clinton's June 1, 1998, Executive Memorandum on Plain Language in government writing, this preamble is written using plain language. Thus, the use of ''we'' in this action refers to EPA and the U.S. Army Corps of Engineers (Corps), and the use of ''you'' refers to the reader.

B. Litigation Involving Previous Rulemaking

Section 404 of the CWA authorizes the Corps (or a State with an approved section 404 permitting program) to issue permits for the discharge of dredged or fill material into waters of the U.S. Two

States (New Jersey and Michigan) have assumed the CWA section 404 permitting program. On August 25, 1993 (58 FR 45008), we issued a regulation (the ''Tulloch rule'') that defined the term ''discharge of dredged material'' as including ''any addition, including any redeposit, of dredged material, including excavated material, into waters of the United States which is incidental to any activity, including mechanized landclearing, ditching, channelization, or other excavation that destroys or degrades waters of the United States.'' The American Mining Congress and several other trade associations challenged the revised definition of the term ''discharge of dredged material,'' and on January 23, 1997, the U.S. District Court for the District of Columbia ruled that the regulation exceeded our authority under the CWA because it impermissibly regulated ''incidental fallback'' of dredged material and enjoined us from applying or enforcing the regulation. That ruling was affirmed on June 19, 1998, by the U.S. Court of Appeals for the District of Columbia Circuit. *American Mining Congress* v. *United States Army Corps of Engineers*, 951 F.Supp. 267 (D.D.C. 1997) (''*AMC*''); aff'd sub nom, *National Mining Association* v. *United States Army Corps of Engineers,* 145 F.3d 1339 (D.C.Cir. 1998) (''*NMA*''). Because that decision addresses the definition of the ''discharge of dredged material,'' it does not affect, nor would today's proposal alter, the requirements governing discharges of fill material.

The *NMA* court described incidental fallback as returning ''* * * dredged material virtually to the spot from which it came'' (145 F.3d at 1403), as well as occurring ''when redeposit takes place in substantially the same spot as the initial removal.'' 145 F.3d at 1401. The court concluded that incidental fallback is not an ''addition'' of a pollutant, and that, therefore, our assertion of authority to regulate *any* redeposit of dredged material exceeded our authority under the CWA: ''We hold only that by asserting jurisdiction over '*any* redeposit,' including incidental fallback, the Tulloch rule outruns the Corps's statutory authority.'' 145 F.3d at 1405 (emphasis in original).

Information from our District and Regional offices and the States, included in the administrative record, indicates that since the District Court decision, upwards of 20,000 acres of wetlands were subject to ditching and more than 150 miles of streams channelized without undergoing section 404 environmental review or mitigation. Losses on this scale carry the potential for increased flooding or runoff and harm to downstream property, pollution of streams and rivers, degradation of water quality, and loss of aquatic habitat. In comparison, wetlands activities taking place under section 404 permitting are subject to careful review in order to avoid and minimize impacts, and unavoidable losses are subject to mitigation in order to compensate for the loss of wetlands functions and values. In fiscal year 1999, approximately 21,500 acres of permitted wetlands losses took place, but these were offset by approximately 46,000 acres of compensatory mitigation.

The losses due to ditching and stream channelization reflect best available estimates using information from EPA Regional offices, Corps District Offices, and the States. Given that the activities causing such losses take place without review under the CWA section 404 permit program and are not systematically reported or tracked, we believe that these numbers are likely to be under-estimates. We invite the public to submit further relevant information, which should be sent to the address specified in the **ADDRESSES** section of this preamble.

C. Rulemaking To Respond to NMA Decision

On May 10, 1999, we issued a final rule modifying our definition of ''discharge of dredged material'' in order to respond to the Court of Appeals'' holding in *NMA*, and to ensure compliance with the District Court's injunction (64 FR 25120). That rule made those changes necessary to conform the regulations to the Court's decision, primarily by modifying the definition of ''discharge of dredged material'' to expressly exclude regulation of ''incidental fallback.'' As explained in the preamble to that rulemaking, our determination of whether a particular redeposit of dredged material in waters of the U.S. requires a section 404 permit would be done on a case-by-case basis, consistent with our CWA authorities and governing case law.

The preamble to our May 10, 1999, rulemaking stated that we would be undertaking additional notice and comment rulemaking in furtherance of the CWA's objective to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' The *NMA* Court did not find that all redeposits are unregulable, and recognized that redeposits at various distances from the point of removal are properly the subject of regulation under the CWA. The Court also noted that the CWA ''sets out no bright line between incidental fallback on the one hand and regulable redeposits on the other'' and that ''a reasoned attempt to draw such a line would merit considerable deference.'' (145 F.3d at 1405).

Since the *NMA* decision, there has been confusion around the country as to what activities are likely to result in regulable discharges of dredged material. Today's proposal would establish a rebuttable presumption that mechanized landclearing, ditching, channelization, in-stream mining, or other mechanized excavation activity in waters of the U.S. will result in regulable discharges of dredged material. Based on our experience with dredging and excavation activities, including the administrative record underlying the Tulloch rule, and as explained further in section III.B. of today's preamble, the nature of these activities and the types of equipment used will by their very nature produce discharges of dredged material unless specialized and sophisticated techniques and equipment are used to ensure that only incidental fallback will result.

The agencies are concerned that without this additional rulemaking, unregulated discharges consisting of more than incidental fallback may continue to occur and result in large-scale destruction of wetlands and degradation of many miles of streams and other waters of the U.S. Such wetlands loss and water body degradation have the potential to result in increased flooding or runoff, harm to downstream people and property, pollution of lakes, rivers and streams, destruction of commercial fisheries, closures of shellfish beds, diminution and degradation of drinking water supplies, and loss of wildlife habitat. This proposed rulemaking will assist in implementing the CWA's express mandate to regulate the discharge of dredged material and to serve Congress's intent to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' This proposal also will help in achieving greater consistency in the application of section 404 of the CWA.

D. Overview of Relevant Case Law

As the *NMA* Court and other judicial decisions recognize, the redeposit of dredged material ''some distance'' from the point of removal—including the distance from a ditch to the edge of a ditch—constitutes a regulable redeposit. *NMA,* 145 F.3d at 1407 (redeposit at ''some distance'' from the point of removal is within the ''pre-Tulloch core''); *United States* v. *Deaton*, No. 98–2256 (4th Cir. 2000) slip op. at 6–10

(upholding regulation of sidecasting); *United States* v. *M.C.C. of Florida*, 722 F.2d 1501 (11th Cir. 1985), vacated on other grounds, 481 U.S. 1034 (1987), readopted in relevant part on remand, 848 F.2d 1133 (11th Cir. 1988) (redeposit of river bottom sediments on adjacent sea grass beds is an ''addition'').

Indeed, because dredged material by definition is material that is dredged or excavated from waters of the U.S. (see, 33 CFR 323.2(c); 40 CFR 232.2), the discharge of dredged material is by its very nature a redeposit of such material. As the Fifth Circuit observed in *Avoyelles*: ''No one has argued here that the materials must come from an external source in order to constitute a discharge necessitating a Section 404 permit, nor would we expect them to, since Section 404 refers to 'dredged' or 'fill' material. * * * '[D]redged' material is by definition material that comes from the water itself. A requirement that all pollutants must come from outside sources would effectively remove the dredge-and-fill provision from the statute.'' 715 F.2d at 924 n. 43. See also, *Deaton*, at 12. Likewise, *Avoyelles* recognized with respect to mechanized landclearing that ''the term 'discharge' covers the redepositing of materials taken from the wetlands'' *Avoyelles Sportsmen's League* v. *Marsh*, 715 F.2d 897 at 923 (5th Cir. 1983); and for backfilling of trenches with the excavated material (*United States* v. *Mango*, 997 F. Supp. 264, 285 (N.D.N.Y. 1998), affirmed in part, reversed in part on other grounds, 199 F.3d 85 (2d Cir. 1999); *Iroquois Gas Transmission System* v. *FERC*, 145 F.3d 398, 402 (2nd Cir. 1998); *see, Slinger Drainage Inc.*, CWA Appeal No. 98–10 (EPA Environmental Appeals Board (EAB) decision holding that backfilling by a Hoes trenching machine is a regulable discharge of dredged material, not incidental fallback)); see also, *Rybachek* v. *EPA*, 904 F.2d 1276 (9th Cir. 1990) (removal of dirt and gravel from a streambed and its subsequent redeposit in the waterway after segregation of minerals is an ''addition of a pollutant'' under the CWA subject to EPA's section 402 regulatory authority).

Courts have similarly recognized that sidecasting (the piling of excavated dirt on the edge of a ditch or elsewhere in a wetland or other water of the U.S.) has long been a discharge regulated under CWA section 404. *NMA,* 145 F.3d at 1407 (D.C. Cir. 1998) (noting that the Corps has always regulated ''sidecasting''); see also, 58 FR 45,008, 45,013 (Aug. 25, 1993) (noting that sidecasting has ''always been regulated under Section 404.'').

The most recent judicial decision reaffirming that sidecasting is a regulable discharge of a pollutant subject to CWA section 404 is *United States* v. *Deaton*, No. 98–2256 (4th Cir. 2000). That case involved use of a backhoe, a front-end track loader, and a bulldozer to dig a 1,240 foot ditch that intersected non-tidal wetlands in an effort to drain them, with the contractor piling the excavated dirt on either side of the ditch. The government filed a civil complaint alleging that the Deatons had violated the CWA by discharging the material excavated from the ditch into a wetland without a CWA section 404 permit.

Subsequent to the filing of that complaint, however, the Fourth Circuit issued a decision in another case, *United States* v. *Wilson*, 133 F.3d 251 (4th Cir. 1997), in which a divided panel considered, among other issues, whether sidecasting was a regulable discharge. One judge concluded that sidecasting did not constitute the discharge of a pollutant under the CWA, one judge concluded that it did, and one judge concurred in the judgment without reaching the sidecasting question. After the *Wilson* decision was issued, the District Court in the *Deaton* case entered an order on June 23, 1998, noting that although it agreed with the judge in *Wilson* who concluded that sidecasting is a regulable discharge (see *Wilson*, 133 F.3d at 266–75 (op. of Payne, J.)), the Court predicted that the Fourth Circuit would adopt the reasoning of the judge who concluded that it is not (see *Wilson*, 133 F.3d at 258–60 (op. of Niemeyer, J.)). Following an order granting summary judgment for the Deatons, the government appealed to the Fourth Circuit.

On appeal, a unanimous panel of the Fourth Circuit reversed the District Court decision, holding that sidecasting is the discharge of a pollutant that violates the CWA when conducted without a permit. In the *Deaton* case, the defendants sought to use the *NMA* decision to argue that ''[b]ecause sidecasting results in no net increase in the amount of material present in the wetland * * * it does not involve the 'addition' (or discharge) of a pollutant.'' *Deaton* at 12. The Fourth Circuit, however, specifically rejected this argument, determining that:

> Contrary to what the Deatons suggest, the statute does not prohibit the addition of material; it prohibits ''the addition of any pollutant.'' The idea that there could be an addition of a pollutant without an addition of material seems to us entirely unremarkable, at least when an activity transforms some material from a nonpollutant into a pollutant, as occurred here. In the course of digging a ditch across the Deaton property, the contractor removed earth and vegetable matter from the wetland. Once it was removed, that material became ''dredged spoil,'' a statutory pollutant and a type of material that up until then was not present on the Deaton property. It is of no consequence that what is now dredged spoil was previously present on the same property in the less threatening form of dirt and vegetation in an undisturbed state. What is important is that once that material was excavated from the wetland, its redeposit in that same wetland added a pollutant where none had been before. See 33 U.S.C. sections 1362 (6), (12). Thus, * * * sidecasting adds a pollutant that was not present before. *Deaton* at 12-13.

In reaching this conclusion, the Fourth Circuit also found that the adverse effects of redeposits:

> [a]re no less harmful when the dredged spoil is redeposited in the same wetland from which it was excavated. The effects on hydrology and the environment are the same. Surely Congress would not have used the word ''addition'' (in ''addition of any pollutant'') to prohibit the discharge of dredged spoil in a wetland, while intending to prohibit such pollution only when the dredged material comes from outside the wetland. In reaching this conclusion, our understanding of the word ''addition'' is the same as that of nearly every other circuit to consider the question. *Deaton* at 16 (citations omitted).

Backfilling, which involves the placement of a substantial amount of excavated material back into the trench, ditch or hole from which it was excavated, has also been found to be a regulable discharge by the courts. For example, backfilling occurs when a trench is dug in a wetland and the dredged material is then pushed back into the trench from which it came. Such substantial redeposits of dredged material into the removal site have been found to constitute regulable discharges under CWA section 404. *United States* v. *Mango*, 997 F. Supp. 264, 285 (N.D.N.Y. 1998), affirmed in part, reversed in part on other grounds, 199 F.3d 85 (2d Cir. 1999) (backfilling into ditch is properly subject to section 404); see, *Iroquois Gas Transmission System* v. *FERC*, 145 F.3d 398 at 402 (2nd Cir. 1998); see also, *Slinger Drainage Inc.*, CWA Appeal No. 98–10 (EPA EAB decision holding that near simultaneous cutting of trench and backfilling by a Hoes trenching machine is a regulable discharge of dredged material, and not incidental fallback). Similarly, when a bulldozer blade pushes wetland soils and vegetation and redeposits these materials into piles in a water of the U.S., a regulable discharge occurs. *Avoyelles*, supra. Such a discharge may

result even when material is temporarily stockpiled. *United States* v. *Bay-Houston Towing Company*, No. 98–73252 (E.D. Mich. 2000) at 8 -9 (peat harvesting that involves spreading of sidecast bog material for future harvest for a period of time varying from a few hours to a few days or more is more than mere ''incidental fallback''); see also, *United States* v. *Bay-Houston Towing Company*, 33 F.Supp.2d 596, 606—607 (E.D. Mich. 1999) (denial of motion for summary judgment).

III. Today's Proposed Rule

A. Summary

In order to enhance environmental protection and help ensure that regulable discharges are subject to section 404 in a manner consistent with the *NMA* and other judicial decisions, we have undertaken today's proposed rulemaking. Today's proposed rule would modify our definition of ''discharge of dredged material'' by establishing a rebuttable presumption that regulable discharges result from certain types of activities in waters of the U.S. In particular, the proposal would apply the rebuttable presumption to mechanized landclearing, ditching, channelization, in-stream mining, or other mechanized excavation activity in waters of the U.S., including wetlands. This would be done by adding a new paragraph (2) to the definition of ''discharge of dredged material'' in the Corps'' regulations at 33 CFR 323.2(d) and in the EPA regulations at 40 CFR 232.2.

In addition, today's proposal would remove existing paragraph 3(iii) from the Corps' regulations at 33 CFR 323.2(d) and the counterpart EPA regulation at 40 CFR 232.2. That paragraph contains a ''grandfather'' provision for certain activities to be completed by August 24, 1995, and further provides the grandfather provision may not extend beyond August 25, 1996. Because the provision is now outdated, it would be deleted by today's proposal.

B. Rebuttable Presumption of Discharge

We believe the proposed approach is reasonable because it recognizes that, as a general matter, the activities in question typically are conducted in a manner that results in the redeposit of dredged material that constitutes the addition of pollutants to waters of the U.S.. The CWA broadly prohibits the discharge, without a permit, of any pollutant into ''navigable waters.'' See 33 U.S.C. 1311(a). The Act defines ''discharge of a pollutant'' to mean ''any addition of any pollutant to navigable waters from any point source.'' 33 U.S.C. 1362(12). The definition of pollutant specifically includes ''dredge spoil'' that has been ''discharged into water.'' 33 U.S.C. 1362(6). As the court in *Deaton* noted, ''It is of no consequence that what is now dredged spoil was previously present on the same property in the less threatening form of dirt and vegetation in an undisturbed state. What is important is that once that material was excavated from the wetland, its redeposit in that same wetland added a pollutant where none had been before. See 33 U.S.C. 1362(6), (12).'' *Deaton*, at 12. ''In deciding to classify dredged spoil as a pollutant, Congress determined that plain dirt, once excavated from waters of the U.S., could not be redeposited into those waters without causing harm to the environment.'' *Deaton*, at 13.

Activities that would be subject to the rebuttable presumption typically use mechanized equipment that redeposits dredged material in a manner and amount that is different from, or greater than, incidental fallback. For example, during mechanized landclearing, implements are scraped along the surface or pushed into the ground and then moved through the soil, usually by bulldozers or loaders. The machinery used in mechanized landclearing normally scrapes, picks up, moves, or otherwise displaces debris and soil. Brushrakes, rootrakes, chunkrakes, disc harrows, root plows, rippers, bulldozer plows, and many types of shearing blades are examples of the type of equipment used in mechanized landclearing. Brushrake tines scrape below the ground level to gather and stockpile slash and loose rock. Chunkrakes have bowl shaped blades frequently up to two feet or more in diameter, which cut into the ground and fluff the soil. Disc harrows knock down, chop and partially bury weeds, brush, and small saplings by using concave discs, two feet or more in diameter with sharp scalloped edges. Rootrakes remove roots and stumps by use of a fork-like blade pushed through the soil. Tractor-mounted shearing blades, which can weigh up to several thousand pounds, move large amounts of debris, soil, and roots when dragged along the surface of the ground. Rippers and deep plows are pulled along below the soil surface to break up hard pans or other stiff subsoil. The arm which attaches them to the bulldozer or loader also drags through the ground, moving soil aside. Where the disc, tine, or rake scrapes or penetrates the ground, soil is displaced in front of the machine and come to rest in a new location.

Use of equipment such as bulldozers and graders in mechanized landclearing typically moves substantial amounts of soil beyond the spot of removal and within waters of the U.S. For example, when a bulldozer is operated in a wetland, wetland soils are pushed along by the blade of the bulldozer and are redeposited at various points beyond the spot of removal. When mechanized equipment, such as graders or bulldozers, are used to level or grade a wetland, wetland soils are pushed by the blades and redeposited elsewhere in the wetland. These are regulable discharges of dredged material. *Avoyelles*, supra.

Other types of mechanized landclearing equipment can substantially disturb and relocate soil and sediments. Tree pushers and tree splitters, for instance, normally uproot trees and redistribute soil. A tree pusher uses a bar mounted to the front of a bulldozer or loader while a tree splitter uses a V-shaped blade which is usually about 18 to 20 feet in length. A tree pusher or tree splitter knocks the tree down and in so doing rips the roots out of the ground. Any roots remaining are then typically removed from the ground by the bulldozer's blade.

We also recognize that not all equipment used to remove trees disturbs root systems, or otherwise causes a discharge of dredged material. Some tree shears or tree pinchers, for example, cut vegetation above the ground while leaving the soils and roots intact, and, as recognized by the existing regulations (33 CFR 323.2(d)(2)(ii) and 40 CFR 232.2), this does not result in a discharge of dredged material.

During excavation, material in either a solid or semi-solid form is removed from the waters of the U.S., and, unless highly specialized techniques are used, is typically redeposited in areas of waters of the U.S. beyond the excavation site. Most ditching and channelization activities use mechanized equipment of some type such as backhoes, bulldozers, dippers, or bucket dredges. A backhoe, a hoe-type or pull-type shovel attached to the back of a front loader, shovels and then lifts soil or sediments from waters of the U.S. It is often used during the construction of ditches or for stream channelization projects. A dipper and bucket dredge operate at the end of a boom attached to a crane or other vehicle. Buckets are suspended from a cable and dippers are fixed directly to the boom. Typically a crane drops the bucket into the soil or through the water column to the bottom. The bucket is filled with soil or sediments and lifted from the water or off the ground and

dropped or sidecast on adjacent mounds or placed directly into vehicles and moved to another disposal site.

Bucket dredging for ditching and channelization projects typically is done with a deadline or other equipment of this kind. They operate by dropping the bucket into the soil or sediment and then dragging it through the soil or sediment until it is filled. In many stream channelization projects, bulldozers push sediments, including cobble, gravel, and sand, from a particular place in the stream to another location. The bulldozer blade is lowered into the bottom of the stream and moved forward, which pushes sediment to another location in the stream or to an upland area. Because of the soil movement and relocation of material, the use of bulldozers, deadlines, and backhoes, or other equipment of this kind will almost always result in discharges to waters of the U.S. For example, when a deadline or backhoe gathers dredged material, it displaces and redeposits soils and sediments to various distances from the initial excavation point. This type of displacement and redeposition also occurs as a bulldozer pushes sediments during a stream channelization project.

The mechanized equipment used for excavation and channelization activities typically results in suspension and distribution of material into the water column where it raises turbidity levels and may release contaminants into the water column. The result is that toxics, metals and other pollutants that were buried in sediment, held by anaerobic soils, or taken up by submerged aquatic vegetation, can be released and distributed in the water column and become available to fish and other aquatic life and degrade water quality. In addition, the dredged material suspended in the water column can be carried far downstream from the excavation point by river, stream, ditch, or wetland current before it settles out.

Wetlands perform a vital role in the hydrologic cycle by trapping sediment and toxic and nontoxic pollutants before discharging the water to rivers, streams or other water bodies. *Deaton* at 13; *U.S.* v. *Riverside Bayview Homes,* 474 U.S. 121 (1985) at 133–135; Office of Technology Assessment, U.S. Congress. 1984. *Wetlands: Their Use and Regulation,* at 48–50 (hereafter referred to as ''OTA''). Over time, many of these pollutants decompose, degrade or are absorbed by wetland vegetation. *Deaton* at 13; OTA Report at 48–49. A number of conditions allow wetland soils to immobilize trace and toxic metals, including an anaerobic reducing environment, neutral pH levels, and the presence of organic matter. W.J. Mitsch and J.G. Gosselink. 1986. *Wetlands,* at chapter 5. Gambrel, R.P. 1994. ''Trace and Toxic Metals in Wetlands: A Review.'' Journal of Environmental Quality 23: 883–891, 883. Anaerobic conditions occur when wetland soils are saturated by water. This is also true of lake, river, and stream bottoms. As available dissolved oxygen is consumed by microbial respiration in the soil, microbes use oxidized materials that offer alternate electron acceptors, such as nitrate, ferric iron, manganic manganese, and sulfate sulfur. This helps immobilize metals in wetland soils. Anaerobic bacterial action can also treat some toxics. For example, mercury can, under anaerobic conditions, be mediated in a wetland by sulfate reducing bacteria. C.H. Driscoll, J. Holsapple, C.L. Schofield and R Munson. 1998. ''The Chemistry and Transport of Mercury in a Small Wetland in the Adirondack Region of New York, USA.'' Biogeochemistry 40: 137–146. (For an additional discussion of factors affecting bioavailability of contaminants in sediment, see, U.S. Army Corps of Engineers, Waterways Experiment Station. 1991. Miscellaneous Paper D–91–2, Assessing Bioaccumulation in Aquatic Organisms Exposed to Contaminated Sediments).

Wetland plants help attenuate the flow of surface waters and cause metal-contaminated particles to settle into sediment. The rhizomes and roots of the plants stabilize the wetland bottom, helping to transform it into a sink for toxics and contaminated sediment. A.S. Mungur, R.B.E. Shutes, D.M. Revitt and M.A. House. 1995. ''An Assessment of Metal Removal from Highway Runoff by a Natural Wetland.'' Water Science Technology Vol. 32, No. 3, 169–175. Water soluble metals, in particular, are easily dissolved into water and are readily taken up by wetland vegetation. Gambrel at 884–885.

When a wetland system is disrupted by activities such as excavation and the dredged material is redeposited, the bonds that held toxics, heavy metals, and other pollutants can be broken, and pollutants can become mobile. ''When a wetland is dredged, however, and the dredged spoil is redeposited in the water or wetland, pollutants that had been trapped may be suddenly released.'' *Deaton* at 13–14; OTA Report at 49 (''Natural or manmade alterations of the wetland caused by * * * dredging and the like, could mobilize large quantities of toxic materials.'') Using a backhoe to dig a ditch and redeposit dredged material in a wetland, for example, can resuspend pollutants, such as toxics and heavy metals, that were held by the wetland soils in anaerobic conditions. Resuspending sediment creates turbidity, and suspended particles can settle out in new sites in the wetland or in downstream receiving waters. When sediment is resuspended it becomes biologically available again—fish and other organisms can ingest the sediment and heavy metals, toxics, pesticides, and other pollutants that were formerly trapped by the wetland. Pollutants that were formerly immobilized in wetland soils will be circulating in the food chain. Moreover, pollutants in sediment can become quite mobile when resuspended in water and break off from the sediment once the sediment is resuspended in water. U.S. Army Corps of Engineers, Waterways Experiment Station at 24–25.

The longer the sediment is resuspended in water, the greater the opportunity for formerly trapped pollutants, such as PCBs, to break away from the sediment and enter into the water column. F.A. DiGiano, C.T. Miller and J.Yoon. 1993. ''Predicting Release of PCBs at Point of Dredging.'' Journal of Environmental Engineering Vol. 119, No. 1 72–87, 86. The finer particles stay suspended in water much longer than heavier particles of sediment. In addition, such finer particles have a particular affinity for contaminants (*e.g.,* toxics). U.S. Army Corps of Engineers, Waterways Experiment Station, supra, at 23. Ingestion of metals, toxics, pesticides, and other such pollutants can be extremely harmful to wildlife and humans, sometimes even in small concentrations. U.S. Environmental Protection Agency. 1998. National Sediment Quality Survey (EPA 823–R–97–006).

When excavation and redeposit of dredged material suspends toxics, metals, dirt and other pollutants in the water column, suspended pollutants can be carried downstream by river, stream, ditch, or wetland current. When dredged material is excavated and redeposited in a wetland, pollutants that were previously buried or covered over can become exposed. When exposed to waterflow from the wetland, the newly exposed pollutants may be carried down the ditch and transported to new receiving waters or to other parts of the wetland. Similarly, when lakes, rivers, or streams are excavated and dredged material redeposited, toxics, metals and other pollutants that were buried in sediment and held by anaerobic soils are released to the water column and become available to fish and other aquatic life. The suspension and distribution of toxics and other pollutants in the water column degrades

water quality. Increased turbidity can also harm aquatic life, smothering fish nurseries, mussels and benthic life and killing submerged aquatic vegetation. The current can carry suspended sediment and dissolved pollutants downstream. This is particularly true for smaller particles of sediment and dissolved chemicals and other pollutants.

Furthermore, when dredged material is sidecast, stockpiled, backfilled, or otherwise redeposited, the chemical bonds, that held pollutants in anaerobic wetland soils or lake, river, or stream bottoms, may be broken, releasing these pollutants. See, *Wilson,* 133 F.3d at 273–74 (op. of Payne, J.) (describing how sidecasting dredged material threatens to release pollutants contained in sub-surface soil). See also, Gambrel at 883–884. When soils become oxidized, pH levels become acidic, and many metals, particularly inorganic compounds, change to more mobile forms and may become bioavailable to aquatic organisms. In addition, sediment containing metal complexes with large molecular-weight organic material will also become more mobile as organic matter is lost over time while sitting in the sidecast or other redeposited pile of dredged material. See, Gambrel at 888. Furthermore, discharging dredged spoil into a wetland during excavation ''can degrade water quality by obstructing circulation patterns that flush large expanses of wetland systems, by interfering with the filtration function of wetlands, or by changing the aquifer recharge capability of a wetland.'' 40 CFR 230.41(b).

When dredged material is redeposited, it is exposed to aerobic conditions, pH levels become acidic, microbial action changes, and, over time, its organic matter decomposes. In other words, the conditions which optimize the retention of trace and toxic metals by wetland soils—an anaerobic reducing environment, neutral pH levels, microbial action, and organic matter—are destroyed and toxics, heavy metals and other pollutants become available for transport. Thus, toxics, heavy metals, pesticides and other pollutants that were formerly trapped by wetland soils can become available to the aquatic environment.

Finally, the impacts resulting from redeposit of dredged material are not limited to contaminated material alone. ''Indeed, several seemingly benign substances like rock, sand, cellar dirt, and biological materials are specifically designated as pollutants under the Clean Water Act. Congress had good reason to be concerned about the reintroduction of these materials into the waters of the United States, including the wetlands that are a part of those waters.'' *Deaton* at 13 (citation omitted). ''Even in a pristine wetland or body of water, the discharge of dredged spoil, rock, sand, and biological materials threatens to increase the amount of suspended sediment, harming aquatic life.'' *Deaton* at 15. Such suspension and distribution of even clean material in the water column can adversely affect water quality and aquatic life due to increases in turbidity. U.S. Environmental Protection Agency. 1999. Protocol for Developing Sediment TMDLs, First Edition (EPA 841–B–99–004) at 2–1. Where currents are flowing, such as in streams and rivers, redeposited material can be transported downstream away from the point of excavation before settling on the bottom. Excavation and redeposit of material can also result in vertical redistribution of sediment layers by relocating underlying soil or sediments upwards to the top layer. This can produce polluting effects due to physical alteration of aquatic habitat, such as changes to the waterbody's substrate or its grain size distribution.

Persons proposing to conduct activities subject to today's proposal may rebut the presumption that a regulable discharge of dredged material would occur by showing that the activity is planned and conducted so as to result only in incidental fallback. As we discussed in the May 10, 1999, rulemaking, incidental fallback ''returns dredged material virtually to the spot from which it came.'' *NMA,* 145 F.3d at 1403; see also, *NMA,* 145 F.3d at 1401 (incidental fallback occurs ''when redeposit takes place in substantially the same spot as the initial removal);'' see also, *AMC,* 951 F. Supp. at 270 (incidental fallback is ''the incidental soil movement from excavation, such as the soil that is disturbed when dirt is shoveled, or the back-spill that comes off a bucket and falls back into the same place from which it was removed.'')

However, as we discussed in section II of today's preamble, the exclusion for incidental fallback does not alter the well-settled doctrine, recognized in *NMA,* that many redeposits of dredged material in waters of the U.S. constitute a discharge of dredged material and therefore require a section 404 permit. See, 145 F.3d at 1405, n. 6 (recognizing that ''a redeposit could be an addition to [a] new location and thus a discharge''). Deciding whether the presumption of discharge is rebutted will involve an evaluation based on the particular facts of each case. Persons planning to engage in mechanized landclearing, ditching, channelization, in-stream mining, or other mechanized excavation activity in waters of the U.S. who believe they can rebut the presumption that a regulable redeposit would occur should be prepared to show, if requested by the permitting authority, that any redeposits of dredged material in waters of the U.S. consist only of incidental fallback, and that no regulable discharges of dredged material have occurred. In evaluating such a claim, the permitting authority will consider the nature of the equipment and its method of operation and whether redeposited material is suspended in the water column so as to release contaminants or increase turbidity, as well as whether downstream transportation and relocation of redeposited dredged material results.

Section 404(f)(1) of the Act, added in 1977, exempts certain specified discharges from the section 404 permit requirement, even though they would typically be in the form of small volume redeposits. However, section 404(f)(2) further provides for their regulation when ''incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced.'' The language of section 404(f)(2) and its legislative history show a Congressional concern that discharges incidental to the types of activities specified in section 404(f)(2) should not escape regulation under section 404. As a result, when a redeposit is incidental to the types of activities specified in section 404(f)(2), it will be subject to particularly careful scrutiny by the agencies.

Today's proposal would state our expectation that, absent a demonstration to the contrary, the activities addressed in the proposed rule typically will result in more than incidental fallback and thus result in regulable redeposits of dredged material. It would not, however, establish a new formal process or new record keeping requirements, and section 404 permitting and application requirements would continue to apply only to regulable discharges and not to incidental fallback. Current practice is to respond to requests for initial determinations regarding how or whether certain activities in waters of the U.S. are regulated. For example, interested parties may provide information to the Corps regarding the potential applicability of a nationwide permit in order to determine whether they should file an individual permit application. Parties also may provide the Corps

information regarding the potential applicability of the section 404(f) exemptions in order to determine whether they should file a permit application. Similarly, under today's proposal, project proponents could provide available information in advance to show the project is designed to result in only incidental fallback in order to determine if the presumption of a regulable discharge is rebutted. Such information might include field notes and still or video photography showing that the project as executed results only in incidental fallback.

In response to the *NMA* decision, we amended our regulations on May 10, 1999, to make clear that the term ''discharge of dredged material'' does not include ''incidental fallback.'' This would continue to be the case under the proposal. Under the current regulations, the determination of whether an activity results in a regulable discharge of dredged material or non-regulable ''incidental fallback'' is made on a case-by-case basis. This also would continue to be the case under today's proposal. We expect the economic effects of today's proposal to be small. It would not alter or enlarge section 404 program jurisdiction and therefore would not affect a discharger's obligation to obtain a section 404 permit for any discharge of dredged material into waters of the U.S. Rather, the proposed rule would identify what types of activities are likely to give rise to an obligation to obtain such a permit under the definition of ''discharge of dredged material'' contained in our existing regulations. Under the proposal, project proponents may rebut the presumption of discharge, if requested by the permitting authority, by demonstrating the activity was designed and conducted to avoid regulable discharges. They also may ask the permitting authority for an advance determination on whether the presumption of a regulable discharge is rebutted for their project. Because the proposal would not change program jurisdiction, continues to provide that incidental fallback is not subject to regulation, and does not establish new procedures or record keeping requirements, we believe that the economic effects of today's proposal would be small.

IV. Other Federal Statutory and Regulatory Authorities

Other relevant Federal statutory and regulatory authorities include section 10 of the Rivers and Harbors Act of 1899, as well as section 402 of the CWA. Those authorities are unaffected by the *NMA* decision, and nothing in today's proposal is intended to alter their potential applicability to activities addressed by today's proposal.

Section 10 of the Rivers and Harbors Act generally requires a permit from the Corps ''for structures and/or work in or affecting navigable waters of the United States.'' 33 CFR 322.3(a). ''Navigable waters of the United States'' generally consist of the territorial sea, tidal waters, other waters used (now or in the past), or reasonably susceptible to use, in carrying goods in interstate commerce (see 33 CFR part 329 for a complete definition of ''navigable waters of the United States.''). In contrast, the CWA's geographic reach extends to the maximum extent allowable under the Commerce Clause, reflecting a Congressional intent that it ''be given the broadest possible constitutional interpretation.'' S. Rept. 1236, 92d Cong., 2d Sess. 144 (1972) (see 33 CFR 328.3 and 40 CFR 230.3(s) for a complete definition of waters of the U.S. which are subject to the CWA). However, because section 10 applies to structures or work in or affecting ''navigable waters of the United States,'' activities such as ditching or channelization work in ''navigable waters of the United States,'' or affecting their navigable capacity, is subject to regulation under section 10 of the Rivers and Harbors Act regardless of whether they result in a ''discharge of dredged material.'' For further information on potential applicability of section 10 of the Rivers and Harbor Act, project proponents should contact their local Corps District office. Addresses and telephone numbers for Corps District offices can be obtained from the Corps Regulatory Homepage at http://www.usace.army.mil/inet/functions/cw/cecwo/reg/district.htm. If you do not have access to the Internet, telephone numbers for Corps District offices can be obtained by calling the National Wetlands helpline at 800–832–7828.

Storm water discharges resulting from construction activities are subject to regulation under the CWA section 402 (National Pollutant Discharge Elimination System or ''NPDES'') permitting program. On November 16, 1990, EPA promulgated ''Phase I'' storm water regulations (55 FR 47990) which require, among other things, NPDES permits for storm water discharges into a municipal separate storm water sewer system (MS4) or waters of the U.S. when associated with construction activity disturbing at least five acres of land. This requirement also applies to discharges from construction sites that are less than five acres if they are part of a larger common plan of development or sale disturbing a total of five acres or greater. These Phase I requirements are currently in effect.

On December 8, 1999, EPA promulgated additional (''Phase II'') revisions to the storm water permitting regulations (64 FR 68721) that, among other things, require an NPDES permit for storm water discharges into a MS4 or waters of the U.S. when associated with construction site activities disturbing land equal to or greater than one acre and less than five acres, unless waived by the NPDES permitting authority. Construction activity disturbing less than one acre would also require a permit if part of a larger common plan of development or sale disturbing a total of one acre or greater, or if individually designated for permit coverage by the NPDES permitting authority. NPDES permitting authorities may waive the Phase II construction activity requirements where little or no rainfall is expected during the period of construction or when analysis indicates that controls on construction site discharges are not needed to protect water quality. Waivers are not available for construction activity subject to the phase I requirements (*e.g.,* disturbing five acres or greater). EPA expects the storm water permitting requirements for Phase II construction activity to be implemented through general permits similar to those in place for Phase I. NPDES permitting authorities will issue these general permits on or before December 9, 2002. Regulated construction operators must apply for permit coverage within 90 days of general permit issuance. Further information regarding the storm water permitting regulations may be obtained from EPA's website at http://www.epa.gov/owm/sw/about/index.htm.

V. Administrative Requirements

A. Paperwork Reduction Act

This action does not impose any new information collection burden or alter or establish new record keeping or reporting requirements. Thus, this action is not subject to the Paperwork Reduction Act.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or

adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action.'' As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

C. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires us 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, we 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 we consult with State and local officials early in the process of developing the proposed regulation. We 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 proposed rule does not have federalism implications. As explained in section III, the proposal would not alter or enlarge section 404 program jurisdiction and therefore would not affect a discharger's (including State dischargers) obligation to obtain a section 404 permit for any discharge of dredged material into waters of the U.S. Rather, the proposed rule would identify what types of activities are likely to give rise to an obligation to obtain such a permit under the definition of ''discharge of dredged material'' contained in our existing regulations. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. 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 rule on small entities, a small entity is defined as: (1) A small business based on SBA size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, we certify that this action will not have a signficant economic impact on a substantial number of small entities. As explained in section III, the proposal would not alter or enlarge section 404 program jurisdiction and therefore would not change any discharger's obligation to obtain a section 404 permit for any discharge of dredged material into waters of the U.S. Rather, the proposed rule would identify what types of activities are likely to give rise to an obligation to obtain such a permit under the existing regulatory program. Moreover, we also do not anticipate that the information-sharing contemplated for seeking to rebut the presumption under today's proposal would result in significant costs.

We continue to be interested in the potential impacts of the rule on small entities and welcome comments on issues related to such impacts.

E. 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.

We have determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. As explained in section III, the proposal would not alter or enlarge section 404 program jurisdiction and therefore would not affect a discharger's obligation to obtain a section 404 permit for any discharge of dredged material into waters of the U.S. Rather, the proposed rule would identify what

types of activities are likely to give rise to an obligation to obtain such a permit under the definition of ''discharge of dredged material'' contained in our existing regulations. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. For the same reasons, we have determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's rule is not subject to the requirements of section 203 of UMRA.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (the NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs us to use voluntary consensus standards in our 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 us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, we are not considering the use of any voluntary consensus standards. We welcome comments on this aspect of the proposed rulemaking and specifically, invite the public to identify potential applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

G. Executive Order 13045

Executive Order 13045, entitled Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we 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 that we considered.

This regulation is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866. As explained in section III, the proposal would not alter or enlarge section 404 program jurisdiction and therefore would not affect a discharger's obligation to obtain a section 404 permit for any discharge of dredged material into waters of the U.S. Rather, the proposed rule would identify what types of activities are likely to give rise to an obligation to obtain such a permit under the definition of ''discharge of dredged material'' contained in our existing regulations. Furthermore, it does not concern an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children.

H. Executive Order 13084

Under Executive Order 13084, we 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 cost incurred by the Tribal governments, or we consult with those governments. If we comply by consulting, Executive Order 13084 requires us to provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of our 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 us 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.''

Today's rule does not significantly or uniquely affect the communities of Indian Tribal governments, nor does it impose significant compliance costs on them. As explained in section III, the proposal would not alter or enlarge section 404 program jurisdiction and therefore would not affect a discharger's obligation to obtain a section 404 permit for any discharge of dredged material into waters of the U.S. Rather, the proposed rule would identify what types of activities are likely to give rise to an obligation to obtain such a permit under the definition of ''discharge of dredged material'' contained in our existing regulations. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require Federal government agencies to write all rules in plain language. We invite your comments on ways to make this proposed rule easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rule clearly stated?
- Does the rule/preamble language contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule/preamble easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

J. Environmental Documentation

As required by the National Environmental Policy Act (NEPA), the Corps prepares appropriate environmental documentation for its activities affecting the quality of the human environment. The Corps has made a preliminary determination that today's proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment, and thus does not require the preparation of an Environmental Impact Statement (EIS). Among the reasons for this conclusion is the fact that the Corps prepares appropriate NEPA documents, when required, covering specific permit situations. The implementation of the procedures prescribed in this proposed regulation would not authorize anyone (e.g., any landowner or permit applicant) to perform any work involving regulated activities in waters of the U.S. without first seeking and obtaining an appropriate permit authorization from the Corps. Accordingly, the Corps expects to prepare an environmental assessment (EA) for the rule.

List of Subjects

33 CFR Part 323

Water pollution control, Waterways.

40 CFR Part 232

Environmental protection, Intergovernmental relations, Water pollution control.

Corps of Engineers

33 CFR Chapter II

Accordingly, as set forth in the preamble 33 CFR part 323 is proposed to be amended as set forth below:

PART 323—[AMENDED]

1. The authority citation for part 323 continues to read as follows:

Authority: 33 U.S.C. 1344.

2. Amend § 323.2 as follows:

a. In paragraph (d)(1) introductory text, remove the words ''paragraph (d)(2)'' and add, in their place, the words ''paragraph (d)(3)''.

b. Redesignate paragraphs (d)(2) through (d)(5) as paragraphs (d)(3) through (d)(6), respectively.

c. Add new paragraph (d)(2).

d. In newly redesignated paragraph (d)(4), in the first sentence of paragraph (d)(4)(i) remove each time they appear the words ''paragraphs (d)(4) and (d)(5)'' and add, in their place, the words ''paragraph (d)(5) and (d)(6)'', remove paragraph (d)(4)(iii), and redesignate paragraph (d)(4)(iv) as new paragraph (d)(4)(iii).

The addition reads as follows:

§ 323.2 Definitions.

* * * * *

(d) * * *

(2) A discharge of dredged material shall be presumed to result from mechanized landclearing, ditching, channelization, instream mining, or other mechanized excavation activity in waters of the United States. This presumption is rebutted if the party proposing such an activity demonstrates that only incidental fallback will result from its activity.

* * * * *

Dated: August 9, 2000.

Joseph W. Westphal,

Assistant Secretary of the Army (Civil Works), Department of the Army.

Environmental Protection Agency

40 CFR Chapter I

Accordingly, as set forth in the preamble 40 CFR part 232 is proposed to be amended as set forth below:

PART 232—[AMENDED]

1. The authority citation for part 232 continues to read as follows:

Authority: 33 U.S.C. 1344.

2. Amend § 232.2 as follows:

a. In paragraph (1) introductory text of the definition of ''Discharge of dredged material'', remove the words ''paragraph (2)'' and add, in their place, the words ''paragraph (3)''.

b. In the definition of ''Discharge of dredged material'', redesignate paragraphs (2) through (5) as paragraphs (3) through (6), respectively.

c. In the definition of ''Discharge of dredged material'', add new paragraph (2).

d. In the first sentence of newly redesignated paragraph (4)(i) remove each time they appear the words ''paragraphs (4) and (5)'' and add, in their place, the words ''paragraph (5) and (6)'', remove paragraph (4)(iii), and redesignate paragraph (4)(iv) as new paragraph (4)(iii).

The addition reads as follows:

§ 232.2 Definitions.

* * * * *

Discharge of dredged material * * *

(2) A discharge of dredged material shall be presumed to result from mechanized landclearing, ditching, channelization, in-stream mining, or other mechanized excavation activity in waters of the United States. This presumption is rebutted if the party proposing such an activity demonstrates that only incidental fallback will result from its activity.

* * * * *

Dated: August 8, 2000.

Carol M. Browner,

Administrator, Environmental Protection Agency.

[FR Doc. 00–20792 Filed 8–15–00; 8:45 am]

BILLING CODE 6560–50–U

Federal Register

Wednesday,
August 16, 2000

Part V

The President

Executive Order 13166—Improving Access to Services for Persons With Limited English Proficiency

Department of Justice

Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency; Notice

Federal Register
Vol. 65, No. 159
Wednesday, August 16, 2000

Presidential Documents

Title 3—

The President

Executive Order 13166 of August 11, 2000

Improving Access to Services for Persons With Limited English Proficiency

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. *Goals.*

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. *Federally Conducted Programs and Activities.*

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. *Federally Assisted Programs and Activities.*

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order,

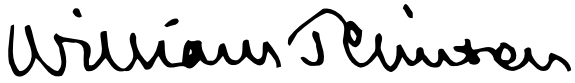
each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the **Federal Register** for public comment.

Sec. 4. *Consultations.*

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. *Judicial Review.*

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.



THE WHITE HOUSE,
August 11, 2000.

[FR Doc. 00–20938
Filed 8–15–00; 8:45 am]
Billing code 3195–01–P

DEPARTMENT OF JUSTICE

Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency; Policy Guidance

AGENCY: Civil Rights Division, Department of Justice.

ACTION: Policy guidance document.

SUMMARY: This Policy Guidance Document entitled ''Enforcement of Title VI of the Civil Rights Act of 1964 '' National Origin Discrimination Against Persons with Limited English Proficiency (LEP Guidance)'' is being issued pursuant to authority granted by Executive Order 12250 and Department of Justice Regulations. It addresses the application of Title VI's prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency. This policy guidance does not create new obligations, but rather, clarifies existing Title VI responsibilities. The purpose of this document is to set forth general principles for agencies to apply in developing guidelines for services to individuals with limited English proficiency. The Policy Guidance Document appears below.

DATES: Effective August 11, 2000.

ADDRESSES: Coordination and Review Section, Civil Rights Division, P.O. Box 66560, Washington, D.C. 20035–6560.

FOR FURTHER INFORMATION CONTACT: Merrily Friedlander, Chief, Coordination and Review Section, Civil Rights Division, (202) 307–2222.

Helen L. Norton,

Counsel to the Assistant Attorney General, Civil Rights Division.

Office of the Assistant Attorney General

Washington, D.C. 20530

August 11, 2000.

TO: Executive Agency Civil Rights Officers

FROM: Bill Lann Lee, Assistant Attorney General, Civil Rights Division

SUBJECT: Policy Guidance Document: *Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency* (''LEP Guidance'')

This policy directive concerning the enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et seq., as amended*, is being issued pursuant to the authority granted by Executive Order No. 12250 [1] and Department of Justice regulations.[2] It addresses the application to recipients of federal financial assistance of Title VI's prohibition on national origin discrimination when information is provided only in English to persons who do not understand English. This policy guidance does not create new obligations but, rather, clarifies existing Title VI responsibilities.

Department of Justice Regulations for the Coordination of Enforcement of Non-discrimination in Federally Assisted Programs (Coordination Regulations), 28 C.F.R. 42.401 *et seq.*, direct agencies to ''publish title VI guidelines for each type of program to which they extend financial assistance, where such guidelines would be appropriate to provide detailed information on the requirements of Title VI.'' 28 CFR § 42.404(a). The purpose of this document is to set forth general principles for agencies to apply in developing such guidelines for services to individuals with limited English proficiency (LEP). It is expected that, in developing this guidance for their federally assisted programs, agencies will apply these general principles, taking into account the unique nature of the programs to which they provide federal financial assistance.

A federal aid recipient's failure to assure that people who are not proficient in English can effectively participate in and benefit from programs and activities may constitute national origin discrimination prohibited by Title VI. In order to assist agencies that grant federal financial assistance in ensuring that recipients of federal financial assistance are complying with their responsibilities, this policy directive addresses the appropriate compliance standards. Agencies should utilize the standards set forth in this Policy Guidance Document to develop specific criteria applicable to review the programs and activities for which they offer financial assistance. The Department of Education [3] already has established policies, and the Department of Health and Human Services (HHS) [4] has been developing guidance in a manner consistent with Title VI and this Document, that applies to their specific programs receiving federal financial assistance.

Background

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating against or otherwise excluding individuals on the basis of race, color, or national origin in any of their activities. Section 601 of Title VI, 42 U.S.C. § 2000d, provides:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The term ''program or activity'' is broadly defined. 42 U.S.C. § 2000d–4a.

Consistent with the model Title VI regulations drafted by a Presidential task force in 1964, virtually every executive agency that grants federal financial assistance has promulgated regulations to implement Title VI. These regulations prohibit recipients from ''restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program'' and ''utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination'' or have ''the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.''

In *Lau* v. *Nichols*, 414 U.S. 563 (1974), the Supreme Court interpreted these provisions as requiring that a federal financial recipient take steps to ensure that language barriers did not exclude LEP persons from effective participation in its benefits and services. *Lau* involved a group of students of Chinese origin who did not speak English to whom the recipient provided the same services—an education provided solely in English—that it provided students who did speak English. The Court held that, under these circumstances, the school's practice violated the Title VI prohibition against discrimination on

[1] 42 U.S.C. § 2000d–1 note.

[2] 28 C.F.R. § 0.51.

[3] Department of Education policies regarding the Title VI responsibilities of public school districts with respect to LEP children and their parents are reflected in three Office for Civil Rights policy documents: (1) the May 1970 memorandum to school districts, ''Identification of Discrimination and Denial of Services on the Basis of National Origin,'' (2) the December 3, 1985, guidance document, ''The Office for Civil Rights' Title VI Language Minority Compliance Procedures,'' and (3) the September 1991 memorandum, ''Policy Update on Schools Obligations Toward National Origin Minority Students with Limited English Proficiency.'' These documents can be found at the Department of Education website at www.ed.gov/office/OCR.

[4] The Department of Health and Human Services is issuing policy guidance titled: ''Title VI Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency.'' This policy addresses the Title VI responsibilities of HHS recipients to individuals with limited English proficiency.

the basis of national origin. The Court observed that ''[i]t seems obvious that the Chinese-speaking minority receive fewer benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program—all earmarks of the discrimination banned by'' the Title VI regulations.[5] Courts have applied the doctrine enunciated in *Lau* both inside and outside the education context. It has been considered in contexts as varied as what languages drivers' license tests must be given in or whether material relating to unemployment benefits must be given in a language other than English.[6]

Link Between National Origin And Language

For the majority of people living in the United States, English is their native language or they have acquired proficiency in English. They are able to participate fully in federally assisted programs and activities even if written and oral communications are exclusively in the English language.

The same cannot be said for the remaining minority who have limited English proficiency. This group includes persons born in other countries, some children of immigrants born in the United States, and other non-English or limited English proficient persons born in the United States, including some Native Americans. Despite efforts to learn and master English, their English language proficiency may be limited for some time.[7] Unless grant recipients take steps to respond to this difficulty, recipients effectively may deny those who do not speak, read, or understand English access to the benefits and services for which they qualify.

Many recipients of federal financial assistance recognize that the failure to provide language assistance to such persons may deny them vital access to services and benefits. In some instances, a recipient's failure to remove language barriers is attributable to ignorance of the fact that some members of the community are unable to communicate in English, to a general resistance to change, or to a lack of awareness of the obligation to address this obstacle.

In some cases, however, the failure to address language barriers may not be simply an oversight, but rather may be attributable, at least in part, to invidious discrimination on the basis of national origin and race. While there is not always a direct relationship between an individual's language and national origin, often language does serve as an identifier of national origin.[8] The same sort of prejudice and xenophobia that may be at the root of discrimination against persons from other nations may be triggered when a person speaks a language other than English.

> Language elicits a response from others, ranging from admiration and respect, to distance and alienation, to ridicule and scorn. Reactions of the latter type all too often result from or initiate racial hostility * * *. It may well be, for certain ethnic groups and in some communities, that proficiency in a particular language, like skin color, should be treated as a surrogate for race under an equal protection analysis.[9]

While Title VI itself prohibits only intentional discrimination on the basis of national origin,[10] the Supreme Court has consistently upheld agency regulations prohibiting unjustified discriminatory effects.[11] The Department of Justice has consistently adhered to the view that the significant discriminatory effects that the failure to provide language assistance has on the basis of national origin, places the treatment of LEP individuals comfortably within the ambit of Title VI and agencies' implementing regulations.[12] Also, existing language barriers potentially may be rooted in invidious discrimination. The Supreme Court in *Lau* concluded that a recipient's failure to take affirmative steps to provide ''meaningful opportunity'' for LEP individuals to participate in its programs and activities violates the recipient's obligations under Title VI and its regulations.

All Recipients Must Take Reasonable Steps To Provide Meaningful Access

Recipients who fail to provide services to LEP applicants and beneficiaries in their federally assisted programs and activities may be discriminating on the basis of national origin in violation of Title VI and its implementing regulations. Title VI and its regulations require recipients to take reasonable steps to ensure ''meaningful'' access to the information and services they provide. What constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. Among the factors to be considered are the number or proportion of LEP persons in the eligible service population, the frequency with which LEP individuals come in contact with the program, the importance of the service provided by the program, and the resources available to the recipient.

(1) Number or Proportion of LEP Individuals

Programs that serve a few or even one LEP person are still subject to the Title VI obligation to take reasonable steps to provide meaningful opportunities for access. However, a factor in determining the reasonableness of a recipient's efforts is the number or proportion of people who will be excluded from the benefits or services absent efforts to remove language barriers. The steps that are reasonable for a recipient who serves one LEP person a year may be different than those expected from a recipient that serves several LEP persons each day. But even those who serve very few LEP persons on an infrequent basis should utilize this balancing analysis to determine whether reasonable steps are

[5] 414 U.S. at 568. Congress manifested its approval of the *Lau* decision requirements concerning the provision of meaningful education services by enacting provisions in the Education Amendments of 1974, Pub. L. No. 93–380, §§ 105, 204, 88 Stat. 503–512, 515 codified at 20 U.S.C. 1703(f), and the Bilingual Education Act, 20 U.S.C. 7401 *et seq*., which provided federal financial assistance to school districts in providing language services.

[6] For cases outside the educational context, *see, e.g.*, *Sandoval* v. *Hagan*, 7 F. Supp. 2d 1234 (M.D. Ala. 1998), *affirmed*, 197 F.3d 484, (11th Cir. 1999), *rehearing and suggestion for rehearing en banc denied*, 211 F.3d 133 (11th Cir. Feb. 29, 2000) (Table, No. 98–6598–II), *petition for certiorari filed* May 30, 2000 (No. 99–1908) (giving drivers' license tests only in English violates Title VI); and *Pabon* v. *Levine*, 70 F.R.D. 674 (S.D.N.Y. 1976) (summary judgment for defendants denied in case alleging failure to provide unemployment insurance information in Spanish violated Title VI).

[7] Certainly it is important to achieve English language proficiency in order to fully participate at every level in American society. As we understand the Supreme Court's interpretation of Title VI's prohibition of national origin discrimination, it does not in any way disparage use of the English language.

[8] As the Supreme Court observed, ''[l]anguage permits an individual to express both a personal identity and membership in a community, and those who share a common language may interact in ways more intimate than those without this bond.'' *Hernandez* v. *New York,* 500 U.S. 352, 370 (1991) (plurality opinion).

[9] *Id*. at 371 (plurality opinion).

[10] *Alexander* v. *Choate,* 469 U.S. 287, 293 (1985).

[11] Id. at 293–294; *Guardians Ass'n* v. *Civil Serv. Comm'n,* 463 U.S. 582, 584 n.2 (1983) (White, J.), 623 n.15 (Marshall, J.), 642–645 (Stevens, Brennan, Blackmun, JJ.); *Lau* v. *Nichols,* 414 U.S. at 568; *id.* at 571 (Stewart, J., concurring in result). In a July 24, 1994, memorandum to Heads of Departments and Agencies that Provide Federal Financial Assistance concerning ''Use of the Disparate Impact Standard in Administrative Regulations Under Title VI of the Civil Rights Act of 1964,'' the Attorney General stated that each agency ''should ensure that the disparate impact provisions of your regulations are fully utilized so that all persons may enjoy equally the benefits of federally financed programs.''

[12] The Department's position with regard to written language assistance is articulated in 28 CFR § 42.405(d)(1), which is contained in the Coordination Regulations, 28 CFR Subpt. F, issued in 1976. These Regulations ''govern the respective obligations of Federal agencies regarding enforcement of title VI.'' 28 CFR § 42.405. Section 42.405(d)(1) addresses the prohibitions cited by the Supreme Court in *Lau*.

possible and if so, have a plan of what to do if a LEP individual seeks service under the program in question. This plan need not be intricate; it may be as simple as being prepared to use one of the commercially available language lines to obtain immediate interpreter services.

(2) Frequency of Contact with the Program

Frequency of contacts between the program or activity and LEP individuals is another factor to be weighed. For example, if LEP individuals must access the recipient's program or activity on a daily basis, *e.g.*, as they must in attending elementary or secondary school, a recipient has greater duties than if such contact is unpredictable or infrequent. Recipients should take into account local or regional conditions when determining frequency of contact with the program, and should have the flexibility to tailor their services to those needs.

(3) Nature and Importance of the Program

The importance of the recipient's program to beneficiaries will affect the determination of what reasonable steps are required. More affirmative steps must be taken in programs where the denial or delay of access may have life or death implications than in programs that are not as crucial to one's day-to-day existence. For example, the obligations of a federally assisted school or hospital differ from those of a federally assisted zoo or theater. In assessing the effect on individuals of failure to provide language services, recipients must consider the importance of the benefit to individuals both immediately and in the long-term. A decision by a federal, state, or local entity to make an activity compulsory, such as elementary and secondary school attendance or medical inoculations, serves as strong evidence of the program's importance.

(4) Resources Available

The resources available to a recipient of federal assistance may have an impact on the nature of the steps that recipients must take. For example, a small recipient with limited resources may not have to take the same steps as a larger recipient to provide LEP assistance in programs that have a limited number of eligible LEP individuals, where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not crucial to an individual's day-to-day existence. Claims of limited resources from large entities will need to be well-substantiated.[13]

Written vs. Oral Language Services

In balancing the factors discussed above to determine what reasonable steps must be taken by recipients to provide meaningful access to each LEP individual, agencies should particularly address the appropriate mix of written and oral language assistance. Which documents must be translated, when oral translation is necessary, and whether such services must be immediately available will depend upon the factors previously mentioned.[14] Recipients often communicate with the public in writing, either on paper or over the Internet, and written translations are a highly effective way of communicating with large numbers of people who do not speak, read or understand English. While the Department of Justice's Coordination Regulation, 28 CFR § 42.405(d)(1), expressly addresses requirements for provision of written language assistance, a recipient's obligation to provide meaningful opportunity is not limited to written translations. Oral communication between recipients and beneficiaries often is a necessary part of the exchange of information. Thus, a recipient that limits its language assistance to the provision of written materials may not be allowing LEP persons ''effectively to be informed of or to participate in the program'' in the same manner as persons who speak English.

In some cases, ''meaningful opportunity'' to benefit from the program requires the recipient to take steps to assure that translation services are promptly available. In some circumstances, instead of translating all of its written materials, a recipient may meet its obligation by making available oral assistance, or by commissioning written translations on reasonable request. It is the responsibility of federal assistance-granting agencies, in conducting their Title VI compliance activities, to make more specific judgments by applying their program expertise to concrete cases.

Conclusion

This document provides a general framework by which agencies can determine when LEP assistance is required in their federally assisted programs and activities and what the nature of that assistance should be. We expect agencies to implement this document by issuing guidance documents specific to their own recipients as contemplated by the Department of Justice Coordination Regulations and as HHS and the Department of Education already have done. The Coordination and Review Section is available to assist you in preparing your agency-specific guidance. In addition, agencies should provide technical assistance to their recipients concerning the provision of appropriate LEP services.

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BILLING CODE 4410–13–P

[13] Title VI does not require recipients to remove language barriers when English is an essential aspect of the program (such as providing civil service examinations in English when the job requires person to communicate in English, *see Frontera* v. *Sindell,* 522 F.2d 1215 (6th Cir. 1975)), or there is another ''substantial legitimate justification for the challenged practice.'' *Elston* v. *Talladega County Bd. of Educ.,* 997 F.2d 1394, 1407 (11th Cir. 1993). Similar balancing tests are used in other nondiscrimination provisions that are concerned with effects of an entity's actions. For example, under Title VII of the Civil Rights Act of 1964, employers need not cease practices that have a discriminatory effect if they are ''consistent with business necessity'' and there is no ''alternative employment practice'' that is equally effective. 42 U.S.C. § 2000e–2(k). Under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, recipients do not need to provide access to persons with disabilities if such steps impose an undue burden on the recipient. *Alexander* v. *Choate,* 469 U.S. at 300. Thus, in situations where all of the factors identified in the text are at their nadir, it may be ''reasonable'' to take no affirmative steps to provide further access.

[14] Under the four-part analysis, for instance, Title VI would not require recipients to translate documents requested under a state equivalent of the Freedom of Information Act or Privacy Act, or to translate all state statutes or notices of rulemaking made generally available to the public. The focus of the analysis is the nature of the information being communicated, the intended or expected audience, and the cost of providing translations. In virtually all instances, one or more of these criteria would lead to the conclusion that recipients need not translate these types of documents.

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Vol. 65, No. 159

Wednesday, August 16, 2000

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FEDERAL REGISTER PAGES AND DATE, AUGUST

CFR PARTS AFFECTED DURING AUGUST

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:
7332 47825

Executive Orders:
12722 (See Notice of July 28, 2000) 47241
12724 (See Notice of July 28, 2000) 47241
12924 (See Notice of August 3, 2000) 48347
13165 49469
13166 50121

Administrative Orders:

Notices:
July 28, 2000 47241
August 3, 2000 48347

Presidential Determinations:
No. 00-27 of July 21, 2000 47827

5 CFR

330 47829
550 48135
595 48135
610 48135
1201 48885
1203 48885
1204 48885
1205 48886
1206 48886
1207 48886
1208 49895
2640 47830

Proposed Rules:
531 49948
532 48641
1800 49949

7 CFR

2 49471
97 47243
253 47831
272 49719
274 49719
371 49471
457 47834
920 49472
927 48136
929 48349
930 48139
945 48142
982 47245
1240 48318
1479 47840
3015 49474
3016 49474
3019 49474

Proposed Rules:
46 48185
47 48185
205 48642
305 47908
319 47908
905 46879
1240 48324
1940 47695

8 CFR

Proposed Rules:
212 46882
236 46882
241 46882

9 CFR

78 47653
93 46859

Proposed Rules:
1 47908
2 47908
79 49770

10 CFR

Ch.1 47654

Proposed Rules:
30 49207
61 49207
431 ..... 48828, 48838, 48852

12 CFR

360 49189
1805 49642

Proposed Rules:
225 47696

13 CFR

120 49481
121 ..... 48601, 49726

Proposed Rules:
107 49511

14 CFR

11 47247
21 47247
25 ..... 47247, 47841
33 48887
39 ..... 46862, 47248, 47252, 47255, 47660, 48144, 48351, 48353, 48355, 48358, 48360, 48362, 48364, 48368, 48371, 48373, 48605, 48607, 49481, 49727, 49728, 49730, 49732, 49734, 49735, 49897, 49899, 49901, 49903, 49905
71 ..... 47258, 47259, 47260, 47261, 47843, 48146, 48147, 48608, 48609, 48888, 49192
73 49483
97 ..... 48889, 48891, 48893
1204 47663

Proposed Rules:
23 49513
39 ..... 47356, 47701, 48399, 48401, 48402, 48404, 48643, 48645, 48646, 48648, 48931,

47 CFR

0.....47678
1 .....47348, 47678, 49742
2.....48174,
22.....49199, 49202
54.....47882, 49941
64.....47678, 48393
73.....48183, 48639
74.....48174
78.....48174
101.....48174

Proposed Rules:

Ch. I.....49530
1.....47366, 48658
54.....47940, 49216
73.....47370, 48210
76.....48211
78.....48211

48 CFR

Ch. 15.....47323
1807.....46875
1819.....46875
1830.....49205

49 CFR

1.....49763
10.....48184
544.....49505

Proposed Rules:

37.....48444
172.....49777
175.....49777
222.....46884
229.....46884
350.....49780
390.....49780
393.....48660
394.....49780
395.....49780
398.....49780
571.....47945
575.....46884

50 CFR

21.....49508
230.....49509
635.....47214, 49941
648 .....46877, 47648, 49942
679 .....47693, 47906, 47907, 49766, 49946

Proposed Rules:

17 .....49530, 49531, 49781, 49958
216.....48669
224.....49782
635.....46885, 48671
648.....49959

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 AUGUST 16, 2000

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Blueberry promotion, research, and information order; published 7-17-00

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Horses from contagious equine meritis (CEM)-affected countries—

Spain; Spanish Pure Breed horses; published 8-1-00

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent cases:

Application examination and provisional application practice; changes; published 8-16-00

ENVIRONMENTAL PROTECTION AGENCY

Acquisition regulations:

Contract disputes; award fee; published 5-18-00

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

Texas; published 7-17-00

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Coumaphos; published 8-16-00

Propiconazole; published 8-16-00

Zinc phosphide; published 8-16-00

MERIT SYSTEMS PROTECTION BOARD

Practice and procedure:

Uniformed Services Employment and Reemployment Rights Act; implementation—

Appeals; published 8-16-00

PERSONNEL MANAGEMENT OFFICE

Allowances and differentials:

Cost-of-living allowances (nonforeign areas)—

Honolulu, HI; published 7-17-00

POSTAL SERVICE

Domestic Mail Manual:

Commercial mail receiving agency; mail delivery; published 8-16-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 8-1-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Export certification:

Laboratory seed health testing and seed crop field inspection; accreditation standards; comments due by 8-21-00; published 6-20-00

Irradiation phytosanitary treatment of imported fruits and vegetables; comments due by 8-21-00; published 8-4-00

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Inspection services—

Fee increases; comments due by 8-23-00; published 7-24-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Western Alaska Community Development Quota Program; comments due by 8-23-00; published 7-24-00

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange Act:

Bilateral transactions exemption; clearing organizations, regulatory framework; etc.; comments due by 8-21-00; published 8-11-00

DEFENSE DEPARTMENT

Freedom of Information Act; implementation:

National Imagery and Mapping Agency; comments due by 8-21-00; published 6-20-00

EDUCATION DEPARTMENT

Special education and rehabilitative services:

State Vocational Rehabilitation Services Program; comments due by 8-25-00; published 6-26-00

ENVIRONMENTAL PROTECTION AGENCY

Acquisition regulations:

Business ownership representation; comments due by 8-22-00; published 6-23-00

Air pollutants, hazardous; national emission standards:

Primary copper smelters; comments due by 8-25-00; published 6-26-00

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

Arizona; comments due by 8-23-00; published 7-24-00

California; comments due by 8-21-00; published 7-21-00

District of Columbia; comments due by 8-21-00; published 7-20-00

Maryland; comments due by 8-24-00; published 7-25-00

Nevada; comments due by 8-21-00; published 7-20-00

Pennsylvania; comments due by 8-25-00; published 7-26-00

Texas; comments due by 8-25-00; published 7-26-00

Hazardous waste program authorizations:

Indiana; comments due by 8-25-00; published 7-26-00

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Inert ingredients; processing fees; comments due by 8-23-00; published 7-24-00

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 8-21-00; published 7-20-00

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Cable Landing License Act—

International submarine cable systems; licensing streamlining; comments due by 8-21-00; published 7-6-00

Digital television stations; table of assignments:

California; comments due by 8-21-00; published 7-3-00

Kentucky; comments due by 8-21-00; published 7-6-00

Missouri; comments due by 8-21-00; published 7-3-00

Montana; comments due by 8-21-00; published 7-3-00

New York; comments due by 8-21-00; published 7-6-00

Oregon; comments due by 8-21-00; published 7-6-00

Pennsylvania; comments due by 8-21-00; published 7-6-00

Radio services, special:

Maritime communications; rules consolidation, revision, and streamlining; comments due by 8-23-00; published 8-17-00

Radio stations; table of assignments:

Colorado; comments due by 8-21-00; published 7-20-00

Television broadcasting:

Multipoint Distribution Service and Instructional Television Fixed Service—

Non-video services; two-way transmissions; comments due by 8-21-00; published 7-31-00

FEDERAL DEPOSIT INSURANCE CORPORATION

Federal Deposit Insurance Act:

Customer information safeguard standards establishment; and safety and soundness standards Year 2000 guidelines rescission; comments due by 8-25-00; published 6-26-00

FEDERAL RESERVE SYSTEM

Federal Deposit Insurance Act:

Customer information safeguard standards establishment; and safety and soundness standards Year 2000 guidelines rescission; comments due by 8-25-00; published 6-26-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Food labeling—
Foods processed with alternative nonthermal technologies; use of term ''fresh''; meeting; comments due by 8-21-00; published 7-3-00

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Multifamily properties; civil money penalties; comments due by 8-25-00; published 6-26-00

INTERIOR DEPARTMENT
Fish and Wildlife Service
Migratory bird hunting:
Tungsten-matrix shot; final approval as nontoxic for waterfowl and coots hunting; comments due by 8-25-00; published 7-26-00

LABOR DEPARTMENT
Employment and Training Administration
Aliens:
Permanent employment in U.S.; labor certification process—
Applications refiling; comments due by 8-25-00; published 7-26-00

LABOR DEPARTMENT
Service Contract Act; Federal service contracts; labor standards; comments due by 8-25-00; published 7-26-00

NUCLEAR REGULATORY COMMISSION
Plants and materials, physical protection:
Power reactor physical protection regulations re-evaluation; radiological sabotage definition; comments due by 8-25-00; published 6-9-00
Rulemaking petitions:
Nuclear Energy Institute; comments due by 8-23-00; published 6-9-00

PERSONNEL MANAGEMENT OFFICE
Senior Executive Service:
Performance appraisal regulations; comments due by 8-21-00; published 6-21-00
Student loans; repayment by Federal agencies; comments due by 8-21-00; published 6-22-00

SOCIAL SECURITY ADMINISTRATION
Social security benefits and supplemental security income:
Aged, blind, and disabled and Federal old aged, blind, and disability insurance—
Prehearing and posthearing conferences; comments due by 8-21-00; published 6-22-00

TRANSPORTATION DEPARTMENT
Coast Guard
Anchorage regulations:
Texas; comments due by 8-21-00; published 6-21-00
Regattas and marine parades:
Sharpstown Outboard Regatta; comments due by 8-21-00; published 7-21-00

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 8-21-00; published 7-20-00
BFGoodrich; comments due by 8-21-00; published 7-21-00
Boeing; comments due by 8-24-00; published 7-10-00
Cessna; comments due by 8-24-00; published 6-21-00
Empresa Brasileira de Aeronautica S.A.; comments due by 8-25-00; published 7-26-00
Fokker; comments due by 8-25-00; published 7-26-00
McDonnell Douglas; comments due by 8-21-00; published 7-5-00
Stemme GmbH & Co.; comments due by 8-25-00; published 7-26-00
Class E airspace; comments due by 8-21-00; published 7-5-00
VOR Federal airways; comments due by 8-21-00; published 7-5-00

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Intelligent transportation system architecture and standards; comments due by 8-23-00; published 5-25-00
Statewide and metropolitan transportation planning; comments due by 8-23-00; published 5-25-00
Transportation decisionmaking; National Environmental Protection Act procedures; public parks, wildlife and waterfowl refuges, and historic sites protection; comments due by 8-23-00; published 5-25-00

TRANSPORTATION DEPARTMENT
Federal Transit Administration
Statewide and metropolitan transportation planning; comments due by 8-23-00; published 5-25-00
Transportation decisionmaking; National Environmental Protection Act procedures; public parks, wildlife and waterfowl refuges, and historic sites protection; comments due by 8-23-00; published 5-25-00

TREASURY DEPARTMENT
Comptroller of the Currency
Federal Deposit Insurance Act:
Customer information safeguard standards establishment; and safety and soundness standards Year 2000 guidelines rescission; comments due by 8-25-00; published 6-26-00

TREASURY DEPARTMENT
Thrift Supervision Office
Federal Deposit Insurance Act:
Customer information safeguard standards establishment; and safety and soundness standards Year 2000 guidelines rescission; comments due by 8-25-00; published 6-26-00

LIST OF PUBLIC LAWS

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S. 1629/P.L. 106–257

Oregon Land Exchange Act of 2000 (Aug. 8, 2000; 114 Stat. 650)

S. 1910/P.L. 106–258

To amend the Act establishing Women's Rights National Historical Park to permit the Secretary of the Interior to acquire title in fee simple to the Hunt House located in Waterloo, New York. (Aug. 8, 2000; 114 Stat. 655)

H.R. 4576/P.L. 106–259

Department of Defense Appropriations Act, 2001 (Aug. 9, 2000; 114 Stat. 656)

Last List August 9, 2000

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