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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 00-037-3]

Citrus Canker; Payments for Commercial Citrus Tree Replacement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with one change, an interim rule that amended our citrus canker regulations to establish provisions under which eligible owners of commercial citrus groves may receive payments to replace commercial citrus trees removed because of citrus canker. The interim rule that provided for the payment of those funds was necessary to reduce the economic effect of the citrus canker quarantine on affected commercial citrus growers.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Program Support Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease that affects plants and plant parts, including fresh fruit, of citrus and citrus relatives (Family Rutaceae). Citrus canker can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It can also cause lesions on the fruit of infected plants, which renders the fruit unmarketable, and cause infected fruit to drop from the trees before reaching maturity. The aggressive A (Asiatic) strain of citrus canker can infect susceptible plants

rapidly and lead to extensive economic losses in commercial citrus-producing areas.

The regulations to prevent the interstate spread of citrus canker are contained in 7 CFR 301.75-1 through 301.75-14 (referred to below as the regulations). The regulations restrict the interstate movement of regulated articles from and through areas quarantined because of citrus canker and provide conditions under which regulated fruit may be moved into, through, and from quarantined areas for packing. The regulations currently list parts of Broward, Collier, Dade, Hendry, Hillsborough, and Manatee Counties, FL, as quarantined areas for citrus canker.

In an interim rule effective and published in the **Federal Register** on October 16, 2000 (65 FR 61077-61080, Docket No. 00-037-1), we amended the regulations to provide for the payment of tree replacement funds to eligible owners of commercial citrus groves who have had citrus trees destroyed because of citrus canker. These provisions, which are intended to reduce the economic effect of the citrus canker quarantine on affected commercial citrus growers, were added to the regulations as a new section, § 301.75-15.

We solicited comments concerning our proposal for 60 days ending on December 15, 2000. We received two comments by that date. They were from the Florida Lime Administrative Committee and a citrus grower cooperative.

One commenter pointed out an error in the economic information presented in the interim rule's background section. Specifically, we stated that Florida accounted for 72.72 percent of domestic lime production in 1997-1998. The commenter stated that Florida actually accounted for 100 percent of U.S. lime production during that period. The commenter is indeed correct; the National Agricultural Statistics Service's "Agricultural Statistics 2000" indicates that Florida produced 100 percent of domestically grown limes in both the 1997-1998 and 1998-1999 growing seasons. However, as Florida's share of lime production does not have an effect on the provisions of § 301.75-15, no changes to this rule are necessary as a result of that comment.

The second commenter stated that the \$26 per tree payment provided for by the rule was too high and offered information to support that contention. We continue to believe that the \$26 per tree payment, which is the same amount developed by the Department's Risk Management Agency for trees covered by the Florida Fruit Tree Pilot Crop Insurance Program, is appropriate, especially with the per-acre payment caps provided by the interim rule. Perhaps more importantly, however, \$26 is the per-tree payment amount that the Department was directed to pay under Sec. 810(a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106-387). Given that our FY 2001 appropriations act specifically directs us to pay \$26 per tree, subject to the per-acre caps provided in the act (which were used in the interim rule), we will not make any changes to § 301.75-15 in this final rule as a result of that comment.

The interim rule contained a requirement that claims for trees destroyed on or before the effective date of the rule (October 16, 2000) must be received within 60 days after the effective date of the rule (*i.e.*, by December 15, 2000), and that claims for trees destroyed after the effective date of the rule must be received within 60 days after the destruction of the trees. After the interim rule was published, State officials in Florida attempted to contact all eligible grove owners to inform them of their eligibility to present claims. We were subsequently informed by State officials that they had been unable to locate some grove owners in a timely manner, in most cases because the person had sold the property and/or had moved out of State. As a result, some eligible grove owners were not notified until shortly before or even after the deadline for claims. In order to provide us with the flexibility needed to address this situation, we are amending the regulations in § 310.75-15(c) regarding the submission of tree replacement claims to provide that the Administrator may, on a case-by-case basis, approve the consideration of late claims when it appears that the claim was late through no fault of the owner of the trees, in the opinion of the Administrator. This change will provide for the consideration of late claims for

up to 1 year after the effective date of this rule, in the case of trees destroyed on or before that effective date, or up to 1 year after the destruction of the trees in the case of trees destroyed after the effective date of this rule.

In this final rule, we are also amending § 301.75–15(c) to reflect the new address of the USDA Citrus Canker Eradication Program. Further, where that paragraph in the interim rule had referred to “the effective date of this rule” and “60 days after the effective date of this rule,” we have replaced those references with the actual dates (*i.e.*, October 16, 2000, and December 15, 2000, respectively).

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, with the changes discussed in this document.

This final rule also affirms the information contained in the interim rule concerning Executive Orders 12372 and 12988 and the economic analysis under Executive Order 12866 and the Regulatory Flexibility Act.

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

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. The interim rule adopted as final by this rule was effective on October 16, 2000. This rule amends the provisions of the interim rule regarding the due date for the submission of applications for tree replacement payments. Immediate action is necessary to enable the Administrator to approve the consideration of late claims when it appears the claim was late through no fault of the owner of the trees, in the Administrator's opinion. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in the interim rule were granted emergency approval by the Office of Management and Budget (OMB) under control number 0579–0163. OMB has approved the

continuation of that approval for 3 years.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, the interim rule amending 7 CFR part 301 that was published at 65 FR 61077–61080 on October 16, 2000, is adopted as a final rule with the following changes:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.75–15, paragraph (c) is revised to read as follows:

§ 301.75–15 Funds for the replacement of commercial citrus trees.

* * * * *

(c) *How to apply for tree replacement funds.* The form necessary to apply for funds to replace commercial citrus trees may be obtained from any local citrus canker eradication program office in Florida, or from the USDA Citrus Canker Eradication Program, 6901 West Sunrise Boulevard, Plantation, FL 33313. The completed application should be accompanied by a copy of the public order directing the destruction of the trees and its accompanying inventory that describes the number and the variety of trees removed. Your completed application must be sent to the USDA Citrus Canker Eradication Program, Attn: Commercial Tree Replacement Program, c/o Division of Plant Industry, 3027 Lake Alfred Road, Winter Haven, FL 33881. Claims for trees destroyed on or before October 16, 2000, must have been received on or before December 15, 2000. Claims for trees destroyed after October 16, 2000, must be received within 60 days after the destruction of the trees. The Administrator may, on a case-by-case basis, approve the consideration of late claims when it appears that the claim was late through no fault of the owner of the trees, in the opinion of the Administrator. However, any request for consideration of a late claim must be submitted to the Administrator on or before August 19, 2002 for trees

destroyed on or before August 17, 2001, and within 1 year after the destruction of the trees for trees destroyed after August 17, 2001.

* * * * *

Done in Washington, DC, this 13th day of August 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–20779 Filed 8–16–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–235–AD; Amendment 39–12389; AD 2001–16–20]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 Series Airplanes Modified by Supplemental Type Certificate SA5134NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767–200 series airplanes modified by supplemental type certificate SA5134NM, that requires modification of the in-flight entertainment (IFE) system. This action is necessary to prevent the inability of the flight crew to remove power from the IFE system when necessary. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective September 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Flight Structures, Inc., 4407 172nd Street NE., Arlington, Washington 98223. 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:

Louis Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1279; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 767-200 series airplanes modified by supplemental type certificate (STC) SA5134NM was published in the **Federal Register** on March 2, 2001 (66 FR 13195). That action proposed to require modification of the in-flight entertainment (IFE) system.

Comments

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

One commenter states that it does not operate any of the airplanes affected by the proposed AD.

Use Modification Developed by Airplane Manufacturer

One commenter requests that the FAA revise the proposed AD to require modification per procedures developed by the airplane manufacturer (Boeing) rather than by the STC holder (Flight Structures, Inc.). The commenter states that a modification developed by the airplane manufacturer is appropriate because installation of an IFE system per the subject STC does not change the power distribution from the production configuration. The commenter acknowledges the intent of the proposed AD but would prefer a solution developed by Boeing to ensure commonality among all Boeing Model 767-200 series airplanes. The commenter notes that such commonality is important for operating and maintenance procedures. The commenter also adds that, if the FAA adopts its recommendation, the compliance time for the proposed AD should be extended to allow time for Boeing to release a service bulletin and for the affected operators to do the modification.

We do not concur with the commenter's request. The IFE system—including the electrical components and wiring that provides electrical power to the system—was installed by the STC holder and is not common to all Boeing Model 767-200 series airplanes. The fact that installation of the subject IFE system was approved by STC indicates

that it represents a major change from the design previously approved under the type certificate for the Model 767-200 series airplanes. As such, the STC holder, not the airplane manufacturer, is responsible for the development of corrective actions for potential unsafe conditions related to the equipment installed per the STC.

Further, contrary to what the commenter states, the installation of the IFE system by the subject STC does include wiring changes, as well as the redesignation and reassignment of several circuit breakers on the airplane. The development of an appropriate modification necessitates knowledge of the wiring and circuit breaker changes involved with installation of the system. We cannot assume that the airplane manufacturer has the necessary engineering data, since these data are proprietary to the holder of the subject STC.

Also, since the STC holder has already developed appropriate service information (as described in the proposed AD), there is no reason to extend the compliance time as requested by the commenter. No change to the final rule is necessary in this regard.

Use of Circuit Breakers as Power Switches

One commenter disagrees with the FAA's inference in the preamble of the proposed AD that circuit breakers are used as power switches for the IFE system, thereby causing the circuit breaker to be opened and closed frequently. The commenter states that the IFE systems on its airplanes are typically powered on all the time except when maintenance on the IFE system is necessary. The commenter notes that this is consistent with how the majority of airplane electrical systems are managed. The commenter asserts that the circuit breakers are only used to deenergize the IFE system during non-normal and emergency situations.

The commenter requests no specific change to the AD. We acknowledge the commenter's statements, but find that no change to the final rule is necessary. We have determined that it is not acceptable to rely on system circuit breakers as the sole means of removing power from the IFE system. The use of circuit breakers as switches may result in degradation of the circuit breakers to the point where they may not trip at their rated current. Also, during non-normal or emergency situations, it is essential for the crew to quickly remove power from the IFE system to identify and isolate smoke or fumes that may be caused by the components or wiring of

the IFE system or to determine whether the IFE system is not the source of smoke or fumes. As stated in the proposed rule, the circuit breakers for the IFE system represent the only means of removing power from the IFE systems. In this case, these breakers are located in the electronics bay and are not readily accessible to the crew during flight. Therefore, we find it necessary to issue this AD to require modification of the IFE system so that power can be removed from it manually or automatically without affecting other systems necessary for safe flight and landing of the airplane.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 13 Model 767-200 series airplanes modified by STC SA5134NM in the worldwide fleet. The FAA estimates that all 13 airplanes are of U.S. registry and will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$300 per airplane. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be \$10,140, or \$780 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001-16-20 Boeing: Amendment 39-12389. Docket 2000-NM-235-AD.

Applicability: Model 767-200 series airplanes modified by supplemental type certificate (STC) SA5134NM, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of the flight crew to remove power from the in-flight entertainment (IFE) system when necessary, which, during a non-normal or emergency

situation, could result in inability to control smoke or fumes in the airplane flight deck or cabin; accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, modify the IFE system to change the source of electrical power for the IFE system from the main bus to a utility bus, in accordance with Flight Structures Service Bulletin 90FS062-23-01, Revision 2, dated September 21, 2000.

Spares

(b) As of the effective date of this AD, no person may install an IFE system in accordance with STC SA5134NM, on any airplane, unless it is modified in accordance with this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Flight Structures Service Bulletin 90FS062-23-01, Revision 2, dated September 21, 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 Flight Structures, Inc., 4407 172nd Street NE, Arlington, Washington 98223. 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.

Effective Date

(f) This amendment becomes effective on September 21, 2001.

Issued in Renton, Washington, on August 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-20587 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-234-AD; Amendment 39-12388; AD 2001-16-19]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-100 and -200 Series Airplanes Modified by Supplemental Type Certificate ST00196SE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 747-100 and -200 series airplanes modified by supplemental type certificate ST00196SE, that requires modification of the in-flight entertainment (IFE) system and revision of the Airplane Flight Manual. This action is necessary to ensure that the flight crew is able to remove electrical power from the IFE system when necessary and is advised of appropriate procedures for such action. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective September 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from JAMCO America, Inc., 1018 80th Street SW, Everett, Washington 98023. 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: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2793; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 747-100 and -200 series airplanes

modified by supplemental type certificate (STC) ST00196SE was published in the **Federal Register** on March 29, 2001 (66 FR 17118). That action proposed to require modification of the in-flight entertainment (IFE) system and revision of the Airplane Flight Manual (AFM).

Comments

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

Request To Extend Compliance Time

The commenter asks the FAA to extend the compliance time for the proposed actions. The commenter states that it operates the 11 airplanes affected by this AD. Of these 11 airplanes modified by STC ST00196SE, 3 airplanes were further modified by a second STC, which involved installation of another entertainment system. Due to the nature of the modifications by the second STC, the commenter is unable to comply with the requirements of the proposed AD. Because it will need additional service information to fulfill the intent of the proposed AD, the commenter asks the FAA to extend the compliance time of this AD until 18 months after the issuance of such new service information.

We do not concur. First, the commenter provides no justification for an extension of the compliance time of this AD for the 8 airplanes that were not modified by a second STC. Thus, we find that no extension of the compliance time is necessary for these airplanes.

Second, with regard to the 3 airplanes that cannot be modified according to the procedures specified in this AD, the operator may request approval of an alternative method of compliance as provided by paragraph (c) of this AD. We will consider approving both the alternative method of compliance as well as an adjustment of the compliance time for the required actions. No change to the final rule is necessary.

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 as proposed.

Cost Impact

There are approximately 11 Model 747-100 and -200 series airplanes modified by STC ST00196SE in the worldwide fleet. None of the airplanes affected by this AD are on the U.S.

Register. All airplanes included in the applicability of this AD currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 8 work hours per airplane to accomplish the required modification, at an average labor rate of \$60 per work hour. Required parts will cost approximately \$450 per airplane. Based on these figures, the cost impact of the required modification will be \$930 per airplane.

Should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 1 work hour per airplane to accomplish the required AFM revision, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the required AFM revision will be \$60 per airplane.

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

Regulatory Impact

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001-16-19 Boeing: Amendment 39-12388. Docket 2000-NM-234-AD.

Applicability: Model 747-100 and -200 series airplanes modified by supplemental type certificate (STC) ST00196SE, certificated in any category.

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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flight crew is able to remove electrical power from the in-flight entertainment (IFE) system when necessary and is advised of appropriate procedures for such action, accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD.

(1) Modify the IFE system in accordance with JAMCO America Service Bulletin 747-25-M025, dated August 30, 2000.

Airplane Flight Manual Revision

(2) Revise the procedures for "Electrical System Smoke or Fire" of the "Emergency Procedures" section of the FAA-approved Airplane Flight Manual (AFM) to include the following information. This may be accomplished by inserting a copy of this AD into the AFM.

"IF SMOKE SOURCE IS UNDETERMINED:

Galley Power, Recirculating and Gasper Fans, and supplemental vent fans (if installed)
 . . . OFF

Establish communications with cabin crew.
 Instruct cabin crew to depress in-flight entertainment (IFE) system Master Control System Power 'OFF' switch.

Obtain confirmation from cabin crew that electrical power to the IFE system has been removed."

Spares

(b) As of the effective date of this AD, no person shall install an IFE system in accordance with STC ST00196SE on any airplane, unless it is modified and the FAA-approved AFM is revised in accordance with this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The modification shall be done in accordance with JAMCO America Service Bulletin 747-25-M025, dated August 30, 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 JAMCO America, Inc., 1018 80th Street SW, Everett, Washington 98023. 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.

Effective Date

(f) This amendment becomes effective on September 21, 2001.

Issued in Renton, Washington, on August 9, 2001.

Vi L. Lipski,

*Manager, Transport Airplane Directorate,
 Aircraft Certification Service.*

[FR Doc. 01-20586 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2000-NM-233-AD; Amendment 39-12387; AD 2001-16-18]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 767-300 Series Airplanes Modified by Supplemental Type Certificate ST00157SE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767-300 series airplanes modified by supplemental type certificate ST00157SE, that requires modification of the electrical circuits that supply power to the in-flight entertainment (IFE) system. This action is necessary to prevent the inability of the flight crew to remove power from the IFE system when necessary. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective September 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from JAMCO America, Inc., 1018 80th Street SW., Everett, Washington 98023. 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: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton,

Washington 98055-4056; telephone (425) 227-2793; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 767-300 series airplanes modified by supplemental type certificate (STC) ST00157SE was published in the **Federal Register** on March 29, 2001 (66 FR 17121). That action proposed to require modification of the electrical circuits that supply power to the in-flight entertainment (IFE) system.

Comments

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

One commenter states that it does not operate any of the airplanes affected by the proposed AD, and thus has no comment.

Use Modification Developed by Airplane Manufacturer

One commenter requests that the FAA revise the proposed AD to require modification per procedures developed by the airplane manufacturer (Boeing) rather than by the STC holder (JAMCO America). The commenter states that a modification developed by the airplane manufacturer is appropriate because installation of an IFE system per the subject STC does not change the power distribution from the production configuration. The commenter states that it acknowledges the intent of the proposed AD, but it would prefer a solution developed by Boeing to ensure commonality among all Boeing Model 767-300 series airplanes. The commenter notes that such commonality is important for operating and maintenance procedures. The commenter also adds that, if the FAA adopts its recommendation, the compliance time for the proposed AD should be extended to allow time for Boeing to release a service bulletin and for the affected operators to do the modification.

We do not concur with the commenter's request. The IFE system—including the electrical components and wiring that provides electrical power to the system—was installed by the STC holder and is not common to all Boeing Model 767-300 series airplanes. The fact that installation of the subject IFE system was approved by STC indicates that it represents a major change from the design previously approved under the type certificate for the Model 767-300 series airplanes. As such, the STC

holder, not the airplane manufacturer, is responsible for the development of corrective actions for potential unsafe conditions related to any part of the airplane modified per the STC.

Further, contrary to what the commenter states, the installation of the IFE system by the subject STC does include wiring changes, as well as the redesignation and reassignment of several circuit breakers in the P37 Right Miscellaneous Equipment Panel on the airplane. The development of an appropriate modification necessitates knowledge of the wiring and circuit breaker changes involved with installation of the system. We cannot assume that the airplane manufacturer has the necessary engineering data, since these data are proprietary to the holder of the subject STC.

Also, since the STC holder has already developed appropriate service information (as described in the proposed AD), there is no reason to extend the compliance time as requested by the commenter. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 49 Model 767-300 series airplanes modified by STC ST00157SE in the worldwide fleet. The FAA estimates that 49 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$80 per airplane. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be \$12,740, or \$260 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001-16-18 Boeing: Amendment 39-12387. Docket 2000-NM-233-AD.

Applicability: Model 767-300 series airplanes modified by supplemental type certificate (STC) ST00157SE, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD.

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of the flight crew to remove power from the in-flight entertainment (IFE) system when necessary; which, during a non-normal or emergency situation, could result in inability to control smoke or fumes in the airplane flight deck or cabin; accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, modify the electrical circuits that supply power to the IFE system in accordance with JAMCO America Service Bulletin 767-25-M019, dated August 30, 2000.

Spares

(b) As of the effective date of this AD, no person shall install an IFE system in accordance with STC ST00157SE on any airplane, unless it is modified in accordance with this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with JAMCO America Service Bulletin 767-25-M019, dated August 30, 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 JAMCO America, Inc., 1018 80th Street SW, Everett, Washington 98023. 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.

Effective Date

(f) This amendment becomes effective on September 21, 2001.

Issued in Renton, Washington, on August 9, 2001.

Vi L. Lipski,

*Manager, Transport Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 01-20585 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-238-AD; Amendment 39-12390; AD 2001-16-21]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 767-200 Series Airplanes Modified by Supplemental Type Certificate SA4998NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767-200 series airplanes modified by supplemental type certificate SA4998NM, that requires modification of the in-flight entertainment (IFE) system to connect it to a different power source. This action is necessary to prevent the inability of the flight crew to remove power from the IFE system when necessary. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective September 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Flight Structures, Inc., 4407 172nd Street NE, Arlington, Washington 98223. 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:

Louis Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind

Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1279; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 767-200 series airplanes modified by supplemental type certificate (STC) SA4998NM was published in the **Federal Register** on March 2, 2001 (66 FR 13201). That action proposed to require modification of the in-flight entertainment (IFE) system to connect it to a different power source.

Comments

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

One commenter states that it does not operate any of the airplanes affected by the proposed AD.

Use Modification Developed by Airplane Manufacturer

One commenter requests that the FAA revise the proposed AD to require modification per procedures developed by the airplane manufacturer (Boeing) rather than by the STC holder (Flight Structures, Inc.). The commenter states that a modification developed by the airplane manufacturer is appropriate because installation of an IFE system per the subject STC does not change the power distribution from the production configuration. The commenter acknowledges the intent of the proposed AD but would prefer a solution developed by Boeing to ensure commonality among all Boeing Model 767-200 series airplanes. The commenter notes that such commonality is important for operating and maintenance procedures. The commenter also adds that, if the FAA adopts its recommendation, the compliance time for the proposed AD should be extended to allow time for Boeing to release a service bulletin and for the affected operators to do the modification.

We do not concur with the commenter's request. The IFE system—including the electrical components and wiring that provides electrical power to the system—was installed by the STC holder and is not common to all Boeing Model 767-200 series airplanes. The fact that installation of the subject IFE system was approved by STC indicates that it represents a major change from the design previously approved under the type certificate for the Model 767-200 series airplanes. As such, the STC

holder, not the airplane manufacturer, is responsible for the development of corrective actions for potential unsafe conditions related to the equipment installed per the STC.

Further, contrary to what the commenter states, the installation of the IFE system by the subject STC does include wiring changes, as well as the redesignation and reassignment of several circuit breakers on the airplane. The development of an appropriate modification necessitates knowledge of the wiring and circuit breaker changes involved with installation of the system. We cannot assume that the airplane manufacturer has the necessary engineering data, since these data are proprietary to the holder of the subject STC.

Also, since the STC holder has already developed appropriate service information (as described in the proposed AD), there is no reason to extend the compliance time as requested by the commenter. No change to the final rule is necessary in this regard.

Use of Circuit Breakers as Power Switches

One commenter disagrees with the FAA's inference in the preamble of the proposed AD that circuit breakers are used as power switches for the IFE system, thereby causing the circuit breaker to be opened and closed frequently. The commenter states that the IFE systems on its airplanes are typically powered on all the time except when maintenance on the IFE system is necessary. The commenter notes that this is consistent with how the majority of airplane electrical systems are managed. The commenter asserts that the circuit breakers are only used to deenergize the IFE system during non-normal and emergency situations.

The commenter requests no specific change to the AD. We acknowledge the commenter's statements, but find that no change to the final rule is necessary. We have determined that it is not acceptable to rely on system circuit breakers as the sole means of removing power from the IFE system. The use of circuit breakers as switches may result in degradation of the circuit breakers to the point where they may not trip at their rated current. Also, during non-normal or emergency situations, it is essential for the crew to quickly remove power from the IFE system to identify and isolate smoke or fumes that may be caused by the components or wiring of the IFE system or to determine whether the IFE system is not the source of smoke or fumes. As stated in the proposed rule, the circuit breakers for

the IFE system represent the only means of removing power from the IFE systems. This may prevent the crew from removing power from the IFE system immediately. Therefore, we find it necessary to issue this AD to require modification of the IFE system so that power can be removed from it manually or automatically without affecting other systems necessary for safe flight and landing of the airplane.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 17 Model 767-200 series airplanes modified by STC SA4998NM in the worldwide fleet. The FAA estimates that all 17 airplanes are of U.S. registry and will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$300 per airplane. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be \$13,260, or \$780 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001-16-21 Boeing: Amendment 39-12390. Docket 2000-NM-238-AD.

Applicability: Model 767-200 series airplanes modified by supplemental type certificate (STC) SA4998NM, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of the flight crew to remove power from the in-flight entertainment (IFE) system when necessary; which, during a non-normal or emergency situation, could result in inability to control smoke or fumes in the airplane flight deck or cabin; accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, modify the in-flight

entertainment system to change the power source from the main electrical bus to a utility electrical bus, in accordance with Flight Structures Service Bulletin 89FS134-23-01, Revision 2, dated September 21, 2000.

Spares

(b) As of the effective date of this AD, no person may install an IFE system in accordance with STC SA4998NM on any airplane, unless it is modified in accordance with this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Flight Structures Service Bulletin 89FS134-23-01, Revision 2, dated September 21, 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 Flight Structures, Inc., 4407 172nd Street NE., Arlington, Washington 98223. 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.

Effective Date

(f) This amendment becomes effective on September 21, 2001.

Issued in Renton, Washington, on August 9, 2001.

Vi L. Lipski,

*Manager, Transport Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 01-20588 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–241–AD; Amendment 39–12391; AD 2001–16–22]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–30 Series Airplanes Modified by Supplemental Type Certificate SA8452SW

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–10–30 series airplanes modified by supplemental type certificate SA8452SW, that requires modification of the in-flight entertainment (IFE) system and revision of the Airplane Flight Manual and the Inflight Manual. This action is necessary to ensure that the airplane crew is able to remove electrical power from the IFE system when necessary and is advised of appropriate procedures for such action. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective September 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Continental Airlines, Inc., 600 Jefferson Street HQJAV, Houston, Texas 77002. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Fort Worth Airplane Certification Office, 2601 Meacham Blvd., Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ingrid Knox, Aerospace Engineer, ASW–150, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298; telephone (817) 222–5139; fax (817) 222–5960.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–10–30 series airplanes modified by supplemental type certificate (STC) SA8452SW was published in the **Federal Register** on March 2, 2001 (66 FR 13207). That action proposed to require modification of the in-flight entertainment (IFE) system and revision of the Airplane Flight Manual and the Inflight Manual.

Comments

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

Withdraw the Proposed AD

One commenter states that the proposed AD is not necessary because the subject IFE system was installed by an approved STC. The commenter acknowledges that there is not a single switch that can remove power from all components of the system, but notes that power may be removed from the separate components of the IFE system (e.g., components that supply audio broadcasts, video broadcasts, or boarding music). This is accomplished by pulling appropriate circuit breakers or using dedicated power switches for each separate component of the IFE system.

The FAA infers that the commenter is requesting that we withdraw the proposed rule. We do not concur. We have determined that it is necessary to require a modification of the IFE system to install a master power switch and relay to enable the cabin crew to remove power from the entire IFE system with a single action. This will allow the airplane crew to quickly identify and isolate smoke or fumes that may be caused by the components or wiring of the IFE system. Further, we have determined that it is necessary to revise applicable manuals to inform the flight and cabin crews how to remove power from the IFE system in a single action, to aid them in determining whether or not the IFE system is the source of smoke or fumes. We also note that we do not certify circuit breakers to be used as switches on transport category airplanes. The use of circuit breakers as switches may result in degradation of the circuit breakers to the point where they will not trip at their rated current, thus creating a potentially unsafe condition by not protecting the wiring of associated systems. No change to the final rule is necessary.

Compliance Times for Future ADs

One commenter states that it has no comments specific to the proposed actions. However, the commenter states that, if the FAA issues further rulemaking that applies to other IFE systems installed on other airplane models by STC, we should start the 18-month compliance time only after the following events have occurred:

- The FAA has approved an engineering data package generated by the STC holder.
- The STC holder has made modification kits available.

We acknowledge the commenter's concern with the compliance time for further rulemaking actions. As we stated in the proposed AD, in developing an appropriate compliance time for this and similar actions on IFE systems installed by STC, we considered not only the degree of urgency associated with addressing the subject unsafe condition, but the amount of time necessary to accomplish the proposed actions, the availability of necessary parts, and the practical aspect of accomplishing the proposed actions within an interval of time that parallels normal scheduled maintenance for the affected operators. If we issue further rulemaking on other IFE systems installed on other airplane models, we will again consider these factors, as well as any others that are relevant.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 31 Model DC–10–30 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 31 airplanes of U.S. registry will be affected by this AD.

It will take approximately 16 work hours per airplane to accomplish the required modification, at an average labor rate of \$60 per work hour. Required parts will cost approximately \$2,000 per airplane. Based on these figures, the cost impact of this modification on the affected U.S. operator is estimated to be \$91,760, or \$2,960 per airplane.

It will take approximately 1 work hour per airplane to accomplish the required manual revisions, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of these manual revisions on the affected U.S. operator is estimated to be \$1,860, or \$60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–16–22 McDonnell Douglas:

Amendment 39–12391. Docket 2000–NM–241–AD.

Applicability: Model DC–10–30 series airplanes modified by supplemental type certificate (STC) SA8452SW; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that the airplane crew is able to remove electrical power from the in-flight entertainment (IFE) system when necessary and is advised of appropriate procedures for such action, accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, accomplish paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Modify the IFE system to incorporate a master power switch and relay, in accordance with Continental Airlines Top Drawing 2330DA11072, Revision B, dated September 15, 2000.

(2) Revise the "Electrical Fire or Smoke Source Unknown Checklist" in the Airplane Flight Manual to alert the flight crew to the existence of the master power switch for the IFE system, in accordance with Continental Airlines Engineering Change/Repair Authorization (EC/RA) 2330–02334, dated September 15, 2000.

(3) Revise the "Fires" section, "General Procedures" paragraph, and "Smoke in the Cabin" section of the Inflight Manual to alert the flight crew and cabin crew to the existence of the master power switch for the IFE system and to inform the flight crew and cabin crew of where to find and how to operate the switch, in accordance with Continental Airlines EC/RA 2330–02335, dated September 15, 2000.

Note 2: Continental Airlines Top Drawing 2330DA11072, Revision B, refers to the following Continental Airlines drawings as additional sources of information for accomplishment of the modification: 1100DB11064, Revision A, dated September 5, 2000; 2330DB11063, dated August 2, 2000; 2500DB11059, Revision A, dated August 18, 2000; 2330DB11073, Revision A, dated September 5, 2000; 2330DA11074, Revision

A, dated September 5, 2000; and 2330DB11075, Revision A, dated September 5, 2000.

Spares

(b) As of the effective date of this AD, no person shall install an IFE system in accordance with STC SA8452SW on any airplane, unless it is modified and the applicable manuals are revised in accordance with this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Continental Airlines Top Drawing 2330DA11072, Revision B, dated September 15, 2000; Continental Airlines Engineering Change/Repair Authorization 2330–02334, dated September 15, 2000; and Continental Airlines Engineering Change/Repair Authorization 2330–02335, dated September 15, 2000; 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 Continental Airlines, Inc., 600 Jefferson Street HQJAV, Houston, Texas 77002. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Fort Worth Airplane Certification Office, 2601 Meacham Blvd., Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on September 21, 2001.

Issued in Renton, Washington, on August 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20589 Filed 8–16–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2001–NM–262–AD; Amendment 39–12392; AD 2001–17–01]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 series airplanes. This action requires measuring the gap between the bellcrank and the body of the rotary variable inductive transducers (RVITs) of the aileron and elevator, performing corrective action if necessary, and torquing the bolt that attaches the bellcrank to the RVIT shaft. This action is necessary to prevent restricted movement of the aileron or elevator, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective August 27, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 27, 2001.

Comments for inclusion in the Rules Docket must be received on or before September 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–262–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain “Docket No. 2001–NM–262–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, 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: Rob Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6071; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–120 series airplanes. The DAC advises that there has been a recent instance of interference between the bellcrank of the aileron rotary variable inductive transducer (RVIT) and the head of the hinge pin that attaches the RVIT support. Restricted movement of the aileron or elevator, if not corrected, could result in reduced controllability of the airplane.

The design of the elevator and aileron RVIT bellcranks on these airplanes is similar in their potential for interference with flight control. Therefore, both the elevator and aileron RVITs are addressed in this AD.

Explanation of Relevant Service Information

EMBRAER has issued Alert Service Bulletin 120–31–A046, dated July 13, 2001, which describes procedures for measuring the gap between the bellcrank and the body of the elevator/aileron RVITs and torquing the bolt that attaches the bellcrank to the RVIT shaft. Corrective actions include inspecting to detect damage of the connecting rod; replacing any damaged rod with a new part having the same part number; and adjusting the gap between the bellcrank and the RVIT body. The DAC classified this alert service bulletin as mandatory and issued Brazilian emergency airworthiness directive 2001–07–01, dated July 26, 2001, to ensure the continued airworthiness of these airplanes in Brazil.

FAA’s Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent restricted movement of the aileron or elevator, which could result in reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the alert service bulletin described previously.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule’s Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

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 shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter’s ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD

action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue.

For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket 2001-NM-262-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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 the following new airworthiness directive:

2001-17-01 Empresa Brasileira de Aeronautica S.A. (EMBRAER):

Amendment 39-12392. Docket 2001-NM-262-AD.

Applicability: Model EMB-120 series airplanes, certificated in any category; serial numbers 120004 and 120006 through 120355 inclusive; that have been modified in accordance with EMBRAER Service Bulletin 120-31-0039, 120-31-0040, 120-31-0041, or 120-31-0042.

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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent restricted movement of the aileron or elevator, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 50 flight hours after the effective date of this AD, measure the gap between the bellcrank and the body of the rotary variable inductive transducers (RVITs) of the elevator and aileron, in accordance with EMBRAER Alert Service Bulletin 120-31-A046, dated July 13, 2001.

(1) If the gap is within the limits specified by the alert service bulletin: Prior to further flight, tighten the bolt that attaches the bellcrank to the RVIT shaft to a torque of 40–45 inch pounds, in accordance with the alert service bulletin.

(2) If the gap is not within the limits specified by the alert service bulletin: Prior to further flight, accomplish all applicable corrective actions (including inspecting to detect damage of the connecting rod; replacing any damaged rod with a new rod having the same part number; and adjusting the gap between the bellcrank and the RVIT body), and tighten the bolt that attaches the bellcrank to the RVIT shaft to a torque of 40–45 inch pounds; in accordance with the alert service bulletin.

Alternative Methods of Compliance

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

Note 2: 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

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

Incorporation by Reference

(d) The actions shall be done in accordance with EMBRAER Alert Service Bulletin 120-31-A046, dated July 13, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, 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.

Note 3: The subject of this AD is addressed in Brazilian emergency airworthiness directive 2001-07-01, dated July 26, 2001.

Effective Date

(e) This amendment becomes effective on August 27, 2001.

Issued in Renton, Washington, on August 10, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-20701 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 01-AWP-11]

Modification to Phoenix-Goodyear Municipal Airport Class D Surface Area; Phoenix, AZ**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This action amends the ceiling of the Phoenix-Goodyear Municipal Airport Class D Surface Area to extend from the surface up to, but not including, 3,000 feet above Mean Sea Level (MSL). The action enhances air traffic operational safety by allowing airspace to be charted in a manner more consistent with the nature of the operations routinely conducted at Phoenix-Goodyear Municipal Airport.

EFFECTIVE DATE: November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Airspace Specialist, Airspace Branch, AWP-520.11, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone number (310) 725-6611.

SUPPLEMENTARY INFORMATION:**Background**

On June 5, 2001, the FAA published a document (66 FR 30118) proposing to modify the Class D airspace at Phoenix-Goodyear Municipal Airport in Phoenix, Arizona. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal to the FAA. In the ensuing comment period, which closed on July 20, 2001, the FAA received no comments on the proposed action.

The Rule

This action amends 14 CFR part 71 by lowering the ceiling of the Phoenix-Goodyear Municipal Airport Class D Surface Area to extend from the surface up to, but not including, 3,000 feet above Mean Sea Level (MSL). The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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)

does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, through September 15, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in that Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 71 of Title 14, Code of Federal Regulations as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AWP AZ D Phoenix-Goodyear Municipal Airport, AZ [REVISED]

Phoenix-Goodyear Municipal Airport, AZ (Lat. 33°25'22" N, long. 112°22'34" W)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 3-mile radius of Phoenix-Goodyear Municipal Airport, excluding the portion within the Phoenix, Luke AFB, AZ, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on August 6, 2001.

John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01-20814 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 01-AWP-10]

Modification to Phoenix-Deer Valley Municipal Airport Class D Surface Area; Phoenix, AZ**AGENCY:** Federal Aviation Administration (FAA) DOT.**ACTION:** Final rule.

SUMMARY: This action amends the ceiling of the Phoenix-Deer Valley Municipal Airport Class D Surface Area to extend from the surface up to, but not including, 4,000 feet above Mean Sea Level (MSL). The action enhances air traffic operational safety by allowing airspace to be charted in a manner more consistent with the nature of the operations routinely conducted at Phoenix-Deer Valley Municipal Airport.

EFFECTIVE DATE: November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Airspace Specialist, Airspace Branch, AWP-520.11, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone number (301) 725-6611.

SUPPLEMENTARY INFORMATION:**Background**

On June 5, 2001, the FAA published a document (66 FR 30119) proposing to modify the Class D airspace at Phoenix-Deer Valley Municipal Airport in Phoenix, Arizona. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal to the FAA. In the ensuing comment period, which closed on July 20, 2001, the FAA received no comments on the proposed action.

The Rule

This action amends 14 CFR part 71 by lowering the ceiling of the Phoenix-Deer Valley Municipal Airport Class D Surface Area to extend from the surface up to, but not including, 4,000 feet above Mean Sea Level (MSL). The FAA has determined that this regulation only involves an established body of

technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, through September 15, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in that Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 71 of Title 14, Code of Federal Regulations as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AWP AZ D Phoenix, Deer Valley Municipal Airport, AZ [REVISED]

Phoenix, Deer Valley Municipal Airport, AZ (Lat. 33°41'18"N, long. 112°04'57"W)

That airspace extending upward from the surface to, but not including, 4,000 feet MSL

within a 4.4-mile radius of Phoenix-Deer Valley Municipal airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on August 6, 2001.

John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–20815 Filed 8–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–8]

Modification to Glendale Municipal Airport Class D Surface Area; Glendale, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the ceiling of the Glendale Municipal Airport Class D Surface Area to extend from the surface up to, but not including, 3,000 feet above Mean Sea Level (MSL). The action enhances air traffic operational safety by allowing airspace to be charted in a manner more consistent with the nature of the operations routinely conducted at Glendale Municipal Airport.

EFFECTIVE DATE: November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Airspace Specialist, Airspace Branch, AWP–520.11, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone number (310) 725–6611.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 2001, the FAA published a document (66 FR 30117) proposing to modify the Class D airspace at Glendale Municipal Airport in Glendale, Arizona. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal to the FAA. In the ensuing comment period, which closed on July 20, 2001, the FAA received no comments on the proposed action.

The Rule

This action amends 14 CFR part 71 by lowering the ceiling of the Glendale Municipal Airport Class D Surface Area to extend from the surface up to, but not including, 3,000 feet above Mean Sea Level (MSL). The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, through September 15, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in that Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 71 of Title 14, Code of Federal Regulations as follows:

PART 72—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AWP AZ D Glendale, AZ [REVISED]

Glendale Municipal Airport, AZ

(Lat. 33°31'38" N, long. 112°17'42" W)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 3-mile radius of Glendale Municipal Airport excluding that portion west of a line beginning at lat. 33°29'00" N, long. 112°19'26" W; to lat. 33°29'29" N, long. 112°19'29" W; to lat. 33°33'24" N, long. 112°18'04" W; to lat. 33°34'32" N, long. 112°16'43" W; This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on August 6, 2001.

John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01-20816 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71****[Airspace Docket No. 01-AWP-3]****Modification to Chandler Municipal Airport Class D Surface Area; Chandler, AZ**

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action amends the ceiling of the Chandler Municipal Airport Class D Surface Area to extend from the surface up to, but not including, 3,000 feet above Mean Sea Level (MSL). The action enhances air traffic operational safety by allowing airspace to be charted in a manner more consistent with the nature of the operations routinely conducted at Chandler Municipal Airport.

EFFECTIVE DATES: November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Airspace Specialist, Airspace Branch, AWP-520.11, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone number (310) 725-6611.

SUPPLEMENTARY INFORMATION**Background**

On June 5, 2001, the FAA published a document (66 FR 30120) proposing to

modify the Class D airspace at Chandler Municipal Airport in Chandler, Arizona. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal to the FAA. In the ensuing comment period, which closed on July 20, 2001, the FAA received no comments on the proposed action.

The Rule

This action amends 14 CFR part 71 by lowering the ceiling of the Chandler Municipal Airport Class D Surface Area to extend from the surface up to, but not including, 3,000 feet above Mean Sea Level (MSL). The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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; Federal 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, through September 15, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in that Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 71 of Title 14, Code of Federal Regulations as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amendment as follows:

Paragraph 5000 Class D Airspace

* * * * *

AMP AZ D Chandler Municipal Airport, AD [REVISED]

Chandler Municipal Airport, AZ

(Lat. 33°16'09" N, long. 111°48'40" W)

Williams Gateway Airport, AZ

(Lat. 33°18'28" N, long. 111°39'19" W)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 4-mile radius of Chandler Municipal Airport, excluding the portion within the Williams Gateway Airport, AZ, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on August 6, 2001.

John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01-20817 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION**17 CFR Parts 3 and 170****Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers**

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: In accordance with certain provisions of the Commodity Futures Modernization Act of 2000 (“CFMA”), the Commodity Futures Trading Commission (“Commission” or “CFTC”) is amending its regulation, which specifies the information that various applicants for registration must file. The amendment provides for notice registration as a futures commission merchant (“FCM”) or introducing broker (“IB”), as applicable, in the case of a broker or dealer (“BD”) registered with the Securities and Exchange

Commission ("SEC") that, among other things, limits its involvement with commodity futures contracts to security futures products. In accordance with certain other provisions of the CFMA, the Commission is amending its regulation which requires each registered FCM to be a member of a registered futures association. The amendment exempts notice-registered BDs from this requirement.

DATES: Effective: September 17, 2001.

FOR FURTHER INFORMATION CONTACT:

Barbara S. Gold, Assistant Chief Counsel, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418-5450, electronic mail: bgold@cftc.gov, or lpent@cfctc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

On December 21, 2000, the CFMA was signed into law.¹ Among other things, the CFMA removed the restriction in the Commodity Exchange Act ("CEA") on the trading of futures contracts on individual equity securities and narrow-based indices of equity securities.² Under the revised law, security futures products³ may be traded on a designated contract market or on a registered derivatives transaction execution facility.⁴

New section 4f(a)(2) of the CEA now provides that any BD that is registered with the SEC⁵ shall be registered as an FCM or IB, as applicable, "effective contemporaneously with the submission of notice," if—

(A) the broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security future products;

(B) the broker or dealer files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors;

(C) the registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(D) the broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

Moreover, new section 4f(a)(4)(C)(i) of the CEA provides that a BD that is registered as an FCM pursuant to notice registration shall not be required to become a member of a registered futures association. Accordingly, on May 14, 2001 the Commission proposed to amend Rule 3.10 to provide for FCM and IB notice registration thereunder and to amend Rule 170.15 to exclude from its scope BDs notice-registered as FCMs (the "CFTC Proposal").⁶

Among other things, the CFTC Proposal provided that this notice registration would be made "by following such procedures for notice registration as may be specified" by the National Futures Association ("NFA").⁷ As the Commission explained, this was consistent with the Commission's previous delegations of registration authority to NFA and with the study on regulation of intermediaries required of the Commission by section 125 of the

CFMA.⁸ Subsequent to the publication of the CFTC Proposal, NFA submitted, and the Commission approved, a notice registration rule and related form.⁹ In a separate release published elsewhere in today's edition of the **Federal Register**, the Commission is announcing its delegation to NFA of the processing of notice forms filed by BDs for registration as an FCM or IB.

B. Comments

Three comment letters were filed on the CFTC Proposal: one by NFA, one by the Chicago Mercantile Exchange Inc. ("CME"), and one by the Futures Industry Association ("FIA"). While all of these commenters supported the CFTC Proposal (and the Commission's contemplated notice registration delegation to NFA), two of them took exception to the corresponding CFMA-mandated proposal of the SEC that would provide for notice registration as a BD of certain registered FCMs and IBs for the limited purpose of effecting transactions in security futures products ("SEC Proposal").¹⁰ Specifically, CME and FIA commented that while the notice registration form proposed by NFA was simple and straightforward, the SEC Proposal appeared to have taken a different approach and would discriminate against FCMs and IBs seeking to notice register as BDs.¹¹ CME stated that the notice registration procedures for the CFTC and the SEC should be virtually identical and urged the Commission to defer implementation of notice registration rules until it could more closely and fairly coordinate its rules and those of the SEC in this area. FIA also stated that it saw no reason why the SEC could not adopt a procedure similar to the CFTC proposal and FIA encouraged the Commission to consult with the SEC to that end. Additionally, CME and FIA objected to the provision in the SEC Proposal that would prohibit notice-registered FCMs from becoming members of a national securities exchange for the limited purpose of effecting securities futures products on that exchange. Here, too, they claimed that this would result in disparate

¹ Pub. L. 106-554, 114 Stat. 2763. The text of the CFMA may be accessed on the Internet at <http://agriculture.house.gov/txt5660.pdf>.

² See section 251(a) of the CFMA. This trading previously had been prohibited by Section 2(a)(1)(B)(v) of the CEA.

³ The term "security futures product" is defined in section 1a(32) of the CEA to mean "a security future or any put, call, straddle, option, or privilege on any security future." The term "security future" is defined in section 1a(31) of the CEA. Because the CFMA also provides that options on security futures cannot be traded until at least December 21, 2003, security futures are the only security futures product that may be available for trading during the next 27 months.

⁴ The CFMA also specifically prescribes certain dates on which security futures trading can commence. For example, retail transactions cannot commence until December 21, 2001. Section 202(a) of the CFMA; section 6(g)(5) of the Securities Exchange Act of 1934.

⁵ Because the CFMA speaks in terms of a "broker or dealer," the term "BD" as used in this release applies equally to a broker, a dealer or a person registered as both a broker and a dealer.

⁶ 66 FR 27476 (May 17, 2001). The comment period on the CFTC Proposal originally was due to expire June 18, 2001. In response to a request it received, the Commission extended the comment period to July 11, 2001. 66 FR 33494 (June 22, 2001).

The Commission did not similarly propose (and is not now adopting) notice registration under Rule 3.12 for the APs of those BDs notice-registered as FCMs and IBs under Rule 3.10, because the CFMA exempts these APs from registration altogether. Specifically, section 252(d) of the CFMA amends section 4k of the CEA to provide that:

Any associated person of a broker or dealer that is registered with the Securities and Exchange Commission, and who limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery or any options on such a contract, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products, shall be exempt from [Section 4k(1)] of this Act and the rules thereunder. Commission rules referred to herein are found at 17 CFR Ch. I (2001).

⁷ NFA is a futures association registered under section 17 of the CEA.

⁸ See 66 FR 27476 at 27478.

⁹ Specifically, this was done by way of Commission approval of NFA's amendment to its Rule 204 on August 10, 2001.

¹⁰ 66 FR 34041 (June 26, 2001).

¹¹ Briefly stated, the NFA registration form is on one piece of paper, with one side asking for basic identifying information and necessary certifications and the other side providing instructions. The SEC Proposal would have an FCM or IB complete and file Form BD, which is the form an applicant currently must complete and file to register as a "full service" BD.

treatment for FCMs notice-registered as BDs.

In response to these comments, the Commission notes that it has conferred with the SEC on these issues and that it continues to do so in this area as well as others concerning security futures products. Nonetheless, the Commission continues to believe that, as stated by FIA, its BD notice registration procedures (*i.e.*, the NFA notice registration procedures that the Commission has approved) are “consistent with the relevant provisions of the CFMA and . . . the spirit underlying it.” Accordingly, in light of that belief and the deadlines imposed by the CFMA, the Commission has determined not to defer final action on the CFTC Proposal and is adopting the amendments to Rules 3.10 and 170.15 as proposed.

II. The Rule Amendments

A. Rule 3.10

As proposed, the Commission is amending Rule 3.10 in several ways. First, paragraph (a)(1)(i) is being revised to alert applicants for registration that there is a special, limited registration procedure under new Rule 3.10(a)(3). Second, paragraph (a)(3) is being added. Captioned “Notice registration as a futures commission merchant or introducing broker for certain securities brokers or dealers,” it adds an exception to the FCM and IB registration requirements of Rule 3.10(a) for BDs who meet the criteria of new section 4f(a)(2) of the CEA. Registration under paragraph (a)(3) is to be made “by following such procedures for notice registration as may be specified” by NFA. This registration will be effective upon the filing of the notice prescribed by NFA, as mandated by section 252(b)(2) of the CFMA. Finally, paragraph (d) is being amended to relieve these notice registrants from the annual update requirement.

The Commission similarly is amending as proposed Rule 170.15. The amendment adds a provision to exempt FCMs registered in accordance with Rule 3.10(a)(3) from the requirement to become and remain a member of a registered futures association.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein would affect persons seeking to be registered under notice registration procedures as an FCM or IB

pursuant to new section 4f(a)(2). The Commission has previously established certain definitions of “small entities” to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.¹² The Commission previously determined that registered FCMs are not small entities for the purpose of the RFA.¹³ With respect to IBs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected IBs would be considered to be small entities and, if so, the economic impact on them of any rule.¹⁴

As noted in the CFTC Proposal, these amendments would provide exemptive relief from provisions of the Commission’s rules that otherwise will be applicable to such persons. Consequently, the Commission believes that the adoption of these rule amendments would reduce the burden of compliance by persons seeking to be registered as an FCM or IB. No comments were received in response to the Commission’s specific request for comments on this issue.

B. Paperwork Reduction Act

This rulemaking contains information collection requirements within the meaning of the Paperwork Reduction Act of 1995 (“PRA”).¹⁵ As required by the PRA, the Commission has submitted a copy of this part to the Office of Management and Budget (“OMB”) for its review. In response to the Commission’s invitation in the notice of proposed rulemaking to comment on any potential paperwork burdens associated therewith, no comments were received.

The final rule does not contain any disclosure requirements or any consumer reporting requirements. It does, however, require the collection of certain information from BDs seeking to be notice-registered as an FCM or IB. The Commission may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number. The Commission has received a control number for this information collection from OMB.

C. Cost-Benefit Analysis

Section 119 of the CFMA amended section 15 of the CEA to require that the Commission, before promulgating a rule or issuing an order under the CEA, consider the costs and benefits of the

Commission’s action in light of five criteria.¹⁶ As explained in the preamble of the CFTC proposal, the main relevant considerations with respect to notice registration are the first two considerations set forth in the CEA, “protection of market participants and the public” and “efficiency, competitiveness and financial integrity of the futures markets.”¹⁷ The Commission then expressed its views that: (1) Persons who are registered as BDs with the SEC are appropriate subjects for notice registration where their futures-related activity is restricted to security futures products; and (2) these additional registrants may promote the efficiency and competitiveness of those markets on which security future products may be traded and that their presence as intermediaries in these markets may serve to promote the financial integrity of those markets, and further noted that the CFMA specifically mandates that registered BDs be noticed-registered with the Commission as an FCM or IB.¹⁸ The Commission did not receive any comments on this cost-benefit analysis.

List of Subjects

17 CFR Part 3

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 170

Authority delegations (Government agencies), Commodity futures.

For the reasons discussed in the preamble, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

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

Authority: 5 U.S.C. 552, 552b; 7 U.S.C. 1a, 2, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16, 18, 19, 21, 23.

2. Section 3.10 is amended as follows:

- A. By revising paragraph (a)(1)(i),
- B. By adding a new paragraph (a)(3), and
- C. By revising the first sentence of paragraph (d).

The revisions and addition to read as follows:

¹⁶ These considerations include: (A) Protection of market participants and the public; (B) efficiency, competitiveness, and financial integrity of futures markets; (C) price discovery; (D) sound risk management practices; and (E) other public interest considerations.

¹⁷ 66 FR 27476 at 27478.

¹⁸ *Id.*

¹² 47 FR at 18618–21 (April 30, 1982).

¹³ 47 FR at 18619–20.

¹⁴ 47 FR at 18618, 18620.

¹⁵ 44 U.S.C. 3501 *et seq.*

§ 3.10 Registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

(a) *Application for registration.* (1)(i) Except as provided in paragraph (a)(3) of this section, application for registration as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant must be on Form 7-R, completed and filed with the National Futures Association in accordance with the instructions thereto.

* * * * *

(3) *Notice registration as a futures commission merchant or introducing broker for certain securities brokers or dealers.* (i) Any broker or dealer that is registered with the Securities and Exchange Commission may be registered as a futures commission merchant or introducing broker, as applicable, by following such procedures for notice registration as may be specified by the National Futures Association, if—

(A) The broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility, to security futures products as defined in section 1a(32) of the Act;

(B) The registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(C) The broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

(ii) The registration will be effective upon the filing of the notice prescribed by the National Futures Association in accordance with the instructions thereto.

* * * * *

(d) *Annual filing.* Any person registered as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant in accordance with paragraph (a)(1) and (a)(2) of this section must file with the National Futures Association a Form 7-R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. * * *

PART 170—REGISTERED FUTURES ASSOCIATIONS

3. The authority citation for Part 170 continues to read as follows:

Authority: 7 U.S.C. 6p, 12a and 21, unless otherwise noted.

Subpart C—Membership in a Registered Futures Association

4. Section 170.15 is revised to read as follows:

§ 170.15 Futures Commission Merchants.

(a) Except as provided in paragraph (b) of this section, each person required to register as a futures commission merchant must become and remain a member of at least one futures association which is registered under section 17 of the Act and which provides for the membership therein of such futures commission merchant, unless no such futures association is so registered.

(b) The requirements of paragraph (a) of this section shall not apply to a futures commission merchant registered in accordance with § 3.10(a)(3) of this chapter.

Issued in Washington, DC on August 10, 2001 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01-20628 Filed 8-16-01; 8:45 am]

BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 41 and 140

RIN 3038-AB81

Exemption for Certain Brokers or Dealers From Provisions of the Commodity Exchange Act and CFTC Regulations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: In accordance with certain provisions of the Commodity Futures Modernization Act of 2000 (“CFMA”), the Commodity Futures Trading Commission (“Commission” or “CFTC”) has adopted, substantially as proposed, new rule which establishes procedures for granting requests for orders exempting certain brokers or dealers (“BDs”) registered with the Securities and Exchange Commission (“SEC”) from provisions of the Commodity Exchange Act (the “Act”) and/or the Commission’s regulations where the Commission determines that

the exemption is necessary or appropriate in the public interest and consistent with the protection of investors. The Commission is also permitting securities industry self-regulatory organizations (“SROs”) to submit such requests for exemptive orders on behalf of their members, and it is delegating to the Director of the Division of Trading and Markets authority to grant, to conditionally grant, or to deny, any such requests for exemptive orders.

EFFECTIVE DATE: October 9, 2001.

FOR FURTHER INFORMATION CONTACT:

Lawrence B. Patent, Associate Chief Counsel, or Christopher W. Cummings, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, telephone number: (202) 418-5450, facsimile number: (202) 418-5536, electronic mail: lpatent@cftc.gov, or ccummings@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The CFMA, signed into law on December 21, 2000, effected, among other things, removal of the restriction in the Act¹ on the trading of futures contracts on individual equity securities and narrow-based indices of equity securities.² Under the revised law, security futures products³ may be traded on a designated contract market or on a registered derivatives transaction execution facility (“DTF”).⁴

Section 4d of the Act provides that any person who engages in soliciting or accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any designated contract market or DTF—e.g., for a security futures product—must be registered with the Commission as: (1) A futures commission merchant

¹ 7 U.S.C. 1 *et seq.*, as amended by Pub. L. 106-554, 114 Stat. 2763 (2000). The text of the CFMA may be accessed on the Internet at <http://agriculture.house.gov/txt5660.pdf>.

² See section 251(a) of the CFMA. This trading previously had been prohibited by Section 2(a)(1)(B)(v) of the Act.

³ The term “security futures product” is defined in section 1a(32) of the Act to mean “a security future or any put, call, straddle, option, or privilege on any security future.” The term “security future” is defined in section 1a(31) of the Act. Because the CFMA also provides that options on security futures cannot be traded until December 21, 2003 at the earliest, security futures are the only security futures product that may be available for trading during the next 27 months.

⁴ The CFMA also specifically prescribes certain dates on which security futures trading can commence. For example, retail transactions cannot commence until December 21, 2001. Section 202(a) of the CFMA; Section 6(g)(5) of the Securities Exchange Act of 1934 (“the ‘34 Act”).

("FCM"), if it also accepts any money, securities, or property, or extends credit in lieu thereof, to margin, guarantee, or secure futures contracts; or (2) an introducing broker ("IB"), if it does not accept money or other property to margin, guarantee or secure futures contracts.⁵ Section 4f(a)(1) of the Act provides that application for registration as an FCM or IB "shall be made in such form and manner as prescribed by the Commission."⁶ Pursuant to this authority, the Commission adopted Rule 3.10, which currently requires that an applicant for registration as an FCM or IB file prescribed registration and financial report forms.⁷

However, as a result of the CFMA, new section 4f(a)(2) of the Act⁸ now provides that, notwithstanding section 4f(a)(1), any BD⁹ that is registered with the SEC shall be registered as an FCM or IB, as applicable, "effective contemporaneously with the submission of notice," if:

(A) the broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products;

(B) the broker or dealer files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors;

(C) the registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(D) the broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the '34 Act.

Accordingly, in a separate **Federal Register** release, the Commission

proposed to amend Rule 3.10 to provide for FCM and IB notice registration thereunder.¹⁰

New section 4f(a)(3) of the Act¹¹ provides a similar exemption (without the notice filing requirement) from the requirement under section 4e of the Act to register as a floor broker ("FB") or floor trader ("FT"). An FB or FT is exempt from registration as such if:

(A) the floor broker or floor trader is a broker or dealer registered with the Securities and Exchange Commission;

(B) the floor broker or floor trader limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market to security futures products;¹² and

(C) the registration of the floor broker or floor trader is not suspended pursuant to an order of the Securities and Exchange Commission.

Persons registered as FCMs or IBs pursuant to the notice registration procedure of new section 4f(a)(2) and persons who are exempt from FB or FT registration pursuant to new section 4f(a)(3) are expressly exempted by new section 4f(a)(4)¹³ from certain enumerated provisions of the Act, as well as the Commission's rules that were promulgated under those provisions.¹⁴ Moreover, such persons

¹⁰ See Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers, 66 FR 27476 (May 17, 2001). Section 4k(1) of the Act generally requires each person who is an associated person ("AP") of an FCM or IB to register as such. The CFMA exempts from registration the APs of FCMs and IBs who would be subject to notice registration.

¹¹ As set forth in section 252(b) of the CFMA.

¹² Of course, an FT is restricted to executing orders for his or her own account and the Commission does not view this provision of the CFMA as expanding the scope of activities in which an FT may engage.

¹³ As set forth in section 252(c) of the CFMA.

¹⁴ Those provisions include: section 4c(b)—regulation of commodity options trading by the Commission; Section 4c(d)—dealer options exemption; Section 4c(e)—Commission authority to ban dealer options; Section 4c(g)—requirement for contemporaneous written record of all orders for execution on the floor or subject to the rules of a designated contract market or DTF; Section 4d—registration requirements for FCMs and IBs and customer funds segregation requirement for FCMs; Section 4e—registration requirement for FBs and FTs; Section 4h—prohibition of misrepresentation that a person is a member of a registered entity, that a person is registered with the Commission, or that a futures contract will be or has been executed on a registered entity; Section 4f(b)—FCM and IB minimum financial requirements; Section 4f(c)—FCM risk assessment requirement; Section 4j—restrictions on dual trading in security futures products; Section 4k(1)—registration requirement for APs of FCMs and IBs; Section 4p—proficiency testing and ethics training requirements for registrants; Section 6d—State causes of action under the Act and Commission right to intervene or appeal; Section 8(d)—Commission's obligation to investigate commodity marketing conditions and to

are not required to become members of NFA and the prohibition in NFA's By-Laws against NFA members transacting business with non-members does not apply.¹⁵

In addition to the statutory exemption from enumerated sections of the Act (and the rules adopted under those sections) granted to BDs that notice-register as FCMs or IBs under new section 4f(a)(2), or that are exempt from FB or FT registration under new section 4f(a)(3), the CFMA authorizes the Commission to further exempt such BDs, by rule, regulation or order from any provision of the Act or the Commission's rules, to the extent the exemption is necessary or appropriate in the public interest and is consistent with the protection of investors. The CFMA also directs the Commission to determine, by rule or regulation, the procedures under which an order under new section 4f(a)(4)(B) shall be granted.¹⁶

In response to the CFMA's directions to establish rules for requesting and granting exemptive orders, the Commission proposed the rule changes the adoption of which is announced by this **Federal Register** release.¹⁷ In the Proposing Release, the Commission also sought comments regarding specific sections of the Act or provisions of the Commission's rules, beyond those already specified in the CFMA, from which such BDs should be made exempt by rule.

II. Application for an Order Granting Additional Exemptive Relief

New section 4f(a)(4)(B)(i) of the Act provides that the Commission may issue

furnish reports to producers, consumers and distributors; Section 8(g)—Commission obligation to disclose information concerning registrants to State governments and political subdivisions thereof; and Section 16—Commission authority to investigate markets and to furnish reports to the public on a regular basis. APs of BDs who limit their futures-related activities to security futures products are also exempt from registration under the Act and the same provisions of the Act and rules thereunder cited in this footnote. See section 252(d) of the CFMA.

¹⁵ The final subparagraph of new section 4f(a)(4) provides that: (1) A person that is notice-registered as an FCM or IB pursuant to new section 4f(a)(2) or an AP thereof, or that is an FB or FT exempt from registration under new section 4f(a)(3), need not become a member of a registered futures association; and (2) a registered futures association may not prevent its members from transacting business with a person that is exempt under new sections 4f(a)(2) or (a)(3).

¹⁶ New section 4f(a)(4)(B)(ii) of the Act, as set forth in section 252(c) of the CFMA. The statute gives the Commission discretion to decline to entertain an application for such an order.

¹⁷ See Exemption for Certain Brokers or Dealers from Provisions of the Commodity Exchange Act and CFTC Regulations, 66 FR 20118 (April 19, 2001) (the "Proposing Release").

⁵ See sections 1a(20) and (23) of the Act, which define the terms "futures commission merchant" and "introducing broker," respectively.

⁶ Prior to the enactment of the CFMA, this provision was found in section 4f(a) of the Act. The CFMA (at section 252(b)) amended section 4(f) by redesignating paragraph (a) as paragraph (a)(1) and by adding new paragraphs (a)(2) and (a)(3) (section 252(b)(2) of the CFMA) and (a)(4) (section 252(c) of the CFMA).

⁷ Commission regulations referred to herein are found at 17 CFR Ch. I (2001).

⁸ As set forth in section 252(b) of the CFMA.

⁹ Because the CFMA speaks in terms of a "broker or dealer," the term "BD" as used in this release applies equally to a broker, a dealer or a person registered as both a broker and a dealer.

an order to exempt, conditionally or unconditionally, any BD subject to notice registration under new section 4f(a)(2) of the Act, or any BD exempt from floor broker or floor trader registration pursuant to new section 4f(a)(3), from any provision of the Act or any provision of the Commission's regulations to the extent that the exemption is necessary or appropriate in the public interest and is consistent with the protection of investors. New section 4f(a)(4)(B)(ii) directs the Commission to determine the procedures by which an exemptive order under section 4f(a)(4)(B) shall be granted, and vests the Commission with sole discretion to decline to entertain any application for such an order.¹⁸ Accordingly, the Commission proposed, and sought comments regarding, procedures for applying for an exemptive order under section 4f(a)(4)(B) of the Act.¹⁹

As proposed, Rule 41.41 called for applicants to supply either a written application or an electronic mail submission containing the applicant's name, main business address and phone number, information about the applicant's registration status with the SEC (and assurance that the registration is not subject to a suspension), the specific section(s) of the Act or provision(s) of Commission rules from which exemption is sought, any applicable analogous provisions of the securities laws and regulations, an explanation of the facts and circumstances under which the applicant believes that the requested exemptive relief is necessary or appropriate in the public interest, and an explanation of the extent to which the requested exemptive relief is consistent with the protection of investors. The last two items contain the standards upon which the CFMA requires the Commission to base the grant of a request for an order. The proposed rule also stated that the grant or denial of a request is within the Commission's sole discretion (as specifically provided in the CFMA).

The Commission received one comment letter in response to the Proposing Release. The commenter urged that a national securities exchange should have the right to request an exemptive order under section 4f(a)(4)(B) on behalf of the

exchange's members. The commenter, itself a national securities exchange, believes it is particularly qualified to inform the Commission of the potential impact of self-regulatory organization ("SRO") rules, Federal securities laws and Commission regulations on the exchange's members. The commenter also asserted that regulatory efficiency would be enhanced by the submission of one request for an exemptive order instead of multiple requests, and the issuance of one order, instead of multiple orders with the potential for dissimilar treatment of similarly situated requesters. The Commission agrees with the commenter's rationale and notes that, under Rule 30.10, the rule permitting petitions for exemption from any of the Commission's rules governing foreign futures and options transactions, the Commission considers petitions from a foreign regulatory agency or SRO on behalf of the agency's regulatees or the SRO's members, respectively. Accordingly, as adopted, paragraph (c) of Rule 41.41 reads "A national securities exchange or other securities industry self-regulatory organization may submit an application for an order pursuant to this section on behalf of its members." The text of Rule 41.41 is otherwise adopted as proposed.

We note for the sake of clarity that an application for an exemptive order under Rule 41.41 that meets the procedural requirements of the new rule need not also comply with the requirements of Rule 140.99 ("Requests for exemptive, no-action and interpretative letters").

III. Delegation of Authority

In the Proposing Release, the Commission proposed to delegate to the Director of the Division of Trading and Markets authority to grant or deny applications for exemptive orders under proposed Rule 41.41. With respect to the granting and denying of applications for exemptive orders, the Commission intended this delegation to expedite the procedure and to place consideration of exemptive orders with the staff members most directly involved in exemptive matters. The Commission stated its belief that this delegation will maximize regulatory efficiency with respect to these proposed rule changes.

No comments were received regarding the proposed delegation of authority. Accordingly, new paragraph (a)(8) of Rule 140.93 is adopted as proposed.

IV. Other Comments

In addition to suggesting that a national securities exchange be permitted to request exemptive orders under new section 4f(a)(4)(B) on behalf

of the exchange's members, the sole comment letter received in response to the Proposing Release also contained two other comments. The first of these comments asserted that the Commission should exempt by rule or regulation persons that perform the functions of FBs and FTs on the floor of a national securities exchange with respect to security futures from the provisions of the Act and Commission rules thereunder that are covered by comparable provisions of the '34 Act, SEC Regulations and applicable exchange rules. The commenter proposed that the following Commission rules could be thus dispensed with: Rule 1.38 (Execution of transactions); Rule 1.39 (Simultaneous buying and selling orders of different principals; execution of, for and between principals); Rule 1.62 (Contract market requirement for floor broker and floor trader registration); Rule 1.63 (Service on self-regulatory organization governing boards or committees by persons with disciplinary histories); Rule 1.64 (Composition of various self-regulatory organization governing boards and major disciplinary committees); Rule 1.69 (Voting by interested members of self-regulatory organization governing boards and various committees); Part 18 rules (Reports by traders); Rule 155.2 (Trading standards for floor brokers); Rule 155.5 (Prohibition on dual trading by floor brokers); and Rule 156 (Broker associations).

We note that the CFMA exempts from section 4j of the Act (which governs restrictions on dual trading) contract markets notice-designated as such under section 5f of the Act, which would include national securities exchanges, national securities associations or alternative trading systems.²⁰ Thus, although designated contract markets and DTFs will be subject to section 4j of the Act and dual trading rules thereunder,²¹ the commenter's suggestion with respect to Rules 155.2 and 155.5 is now moot.²²

With respect to Rules 1.63, 1.64 and 1.69, these rules concern corporate governance issues for SROs and, as such, the commenter's remarks would more effectively be made in a comment

¹⁸ The CFMA places no corresponding obligation upon the SEC.

¹⁹ As noted in the Proposing Release, exemption from the sections of the Act listed in Section 4f(a)(4)(A) is automatic, and it is therefore unnecessary for persons to request exemptive orders with respect to those sections or the rules that were adopted thereunder.

²⁰ See Designated Contract Markets in Security Futures Products; Notice Designation Requirements, Continuing Obligations, Applications for Exemptive Orders, and Exempt Provisions, 66 FR 29517 (May 31, 2001).

²¹ Proposed Regulation to Restrict Dual Trading in Security Futures Products, 66 FR 36218 (July 11, 2001).

²² The comment with respect to Rule 1.62 is also moot, as a result of the enactment of the CFMA and the proposed new regulatory framework. See note 22, *supra*.

to the Commission's May 31, 2001 proposal on notice-designation of contract markets in security futures products and related matters.²³ The Commission would consider specific exemptive requests under Rule 41.41 as adopted with respect to the other rules mentioned by the commenter.

The other comment was a request for rulemaking regarding the obligations of national securities exchanges that list security futures to comply with the Act and Commission regulations regarding contract market responsibilities. On the same date as the commenter's letter, the Commission published in the **Federal Register** such a proposal for rulemaking.²⁴ The Commission believes that that proposal disposes of this comment.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–612, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein affect persons registered under notice-registration procedures as FCMs or as IBs, and persons who are exempt from FB or FT registration pursuant to new section 4f(a)(3). The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.²⁵ The Commission previously determined that registered FCMs are not small entities for the purpose of the RFA.²⁶ With respect to IBs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected IBs would be considered to be small entities and, if so, the economic impact on them of any rule.²⁷

The amendments, adoption of which is announced herein, do not impose any new burdens upon persons registered as FCMs or IBs pursuant to the notice registration procedure of new section 4f(a)(2) and persons who are exempt from FB or FT registration pursuant to new section 4f(a)(3). Rather, these amendments establish procedures for requesting additional exemptive relief from provisions of the Act and/or the Commission's regulations for such persons. Consequently, the Commission believes that these rule amendments will in many cases reduce the burden of

compliance by persons notice-registered as FCMs or IBs and persons who are exempt from FB or FT registration pursuant to new section 4f(a)(3). Although the Commission specifically sought comments regarding the impact this rule may have on small entities, none were received.

B. Paperwork Reduction Act

New Rule 41.41 contains information collection requirements. As required by the Paperwork Reduction Act of 1995,²⁸ the Commission submitted a copy of the proposed rules to the Office of Management and Budget for its review. No comments were received in response to the Commission's invitation in the proposed rules to comment on any potential paperwork burdens associated with this regulation.

C. Cost-Benefit Analysis

Section 119 of the CFMA amended section 15 of the Act to require that the Commission, before promulgating a regulation under the Act or issuing an order, consider the costs and benefits of the Commission's action in light of five criteria.²⁹ The main considerations relevant to this rule are the first two considerations set forth in the Act, "protection of market participants and the public" and "efficiency, competitiveness and financial integrity of the futures markets." The Commission notes that the CFMA specifically mandates that procedures be established by which notice-registered FCMs and IBs and persons exempt from registering as FBs or FTs may seek orders granting additional exemptive relief beyond that specifically granted by the CFMA to such persons. The Commission has patterned Rule 41.41 on existing procedures, and in response to a commenter's request, has provided in the final rule that a national securities exchange or other securities industry self-regulatory organization may make an application under the rule on behalf of its members, potentially saving resources and expenses of both applicants and Commission staff. Accordingly, in adopting Rule 41.41 to establish the procedures required by Congress, the Commission has endeavored to minimize any costs incurred by those seeking the exemptive relief permitted by the CFMA.

²⁸ 44 U.S.C. 3501, *et seq.*

²⁹ These considerations include: (A) Protection of market participants and the public; (B) efficiency, competitiveness, and financial integrity of futures markets; (C) price discovery; (D) sound risk management practices; and (E) other public interest considerations.

Lists of Subjects

17 CFR Part 41

Customer protection, Reporting and recordkeeping requirements, Security futures.

17 CFR Part 140

Authority delegations.

For the reasons stated in the preamble, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 41—SECURITY FUTURES PRODUCTS

1. The authority citation for Part 41 is added to read as follows:

Authority: 7 U.S.C. 6f and 12a.

2. Section 41.41 is added to read as follows:

§ 41.41 Application for an Exemptive Order Pursuant to Section 4f(a)(4)(B) of the Act.

(a) Any futures commission merchant or introducing broker registered in accordance with the notice registration provisions of § 3.10 of this chapter, or any broker or dealer exempt from floor broker or floor trader registration pursuant to section 4f(a)(3) of the Act, may apply to the Commission for an order pursuant to section 4f(a)(4)(B) of the Act granting exemption to such person from any provision of the Act or the Commission's regulations other than sections 4c(b), 4c(d), 4c(e), 4c(g), 4d, 4e, 4h, 4f(b), 4f(c), 4j, 4k(1), 4p, 6d, 8(d), 8(g), and 16 of the Act and the rules thereunder.

(b) An application pursuant to this section must set forth in writing or in an electronic mail message the following information:

(1) The name, main business address and main business telephone number of the person applying for an order;

(2) The capacity in which the person is registered with the Securities and Exchange Commission and the person's CRD number (if a member of the National Association of Securities Dealers, Inc.) or equivalent self-regulatory organization identification, together with a certification, if true, that the person's registration is not suspended pursuant to an order of the Securities and Exchange Commission;

(3) The particular section(s) of the Act and/or provision(s) of the Commission's regulations with respect to which the person seeks exemption;

(4) Any provision(s) of the securities laws or rules, or of the rules of a securities self-regulatory organization analogous to the provision(s);

(5) A clear explanation of the facts and circumstances under which the

²³ See note 20, *supra*.

²⁴ *Ibid*.

²⁵ 47 FR 18618–21 (April 30, 1982).

²⁶ 47 FR at 18619–20.

²⁷ 47 FR at 18618, 18620.

person believes that the requested exemptive relief is necessary or appropriate in the public interest; and

(6) A clear explanation of the extent to which the requested exemptive relief is consistent with the protection of investors.

(c) A national securities exchange or other securities industry self-regulatory organization may submit an application for an order pursuant to this section on behalf of its members.

(d) An application for an order must be submitted to the Director of the Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, if in paper form, or to tm@cftc.gov if submitted via electronic mail.

(e) The Commission may, in its sole discretion, grant the application, deny the application, decline to entertain the application, or grant the application subject to one or more conditions.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

4. The authority citation for Part 140 continues to read as follows:

Authority: 7 U.S.C. 2 and 12a.

5. Section 140.91 is amended by reserving paragraph (a)(7) and by adding new paragraph (a)(8) to read as follows:

§ 140.91 Delegation of Authority to the Director of the Division of Trading and Markets.

(a) * * *

(7) [Reserved]

(8) All functions reserved to the Commission in § 41.41 of this chapter. Any action taken pursuant to the delegation of authority under this paragraph (a)(8) shall be made with the concurrence of the General Counsel or, in his or her absence, a Deputy General Counsel.

* * * * *

Issued in Washington, D.C. on August 10, 2001, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01-20629 Filed 8-16-01; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF STATE

22 CFR Part 62

[Public Notice 3752]

Exchange Visitor Program

AGENCY: Department of State

ACTION: Final rule.

SUMMARY: This rule amends existing regulations governing the au pair exchange program. These amendments create a sub-category of au pair exchange participation under which the au pair participant will provide fewer hours of child care for the host family and the required educational component that the au pair must complete increases from not less than six semester hours of academic credit or its equivalent per year to not less than twelve semester hours of academic credit or its equivalent per year. A notice of proposed rule with request for comment regarding this matter was published in the **Federal Register** on May 16, 2001. No comments were received during the thirty day comment period.

DATES: This rule is effective August 17, 2001.

FOR FURTHER INFORMATION CONTACT:

Stanley S. Colvin, Director, Office of Exchange Coordination and Designation, U.S. Department of State, 301 Fourth Street, SW, Room 852, Washington, DC 20547; telephone (202) 619-6828.

SUPPLEMENTARY INFORMATION: These regulations govern Department-designated au pair programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family while providing child care services and attending a U.S. post-secondary educational institution. The Department's goal in amending existing regulations is to provide an opportunity for participation by foreign nationals who wish to pursue their academic studies more vigorously. To this end, the Department now approves a reduction in the amount of child care services this au pair participant will provide to not more than 30 hours per week and an increase in the amount of academic credit the au pair will pursue to not less than twelve semester hours or its equivalent. At the suggestion of Department-designated au pair sponsors, the Department has identified this form of au pair participation as EduCare. Existing provisions for au pair participation based upon up to 45 hours of child care services and the pursuit of not less than six semester hours of academic credit or its equivalent remain unchanged.

To accomplish this dual objective, EduCare au pair participants will be placed with host families that need before and after school child care services for their school age children. Accordingly, EduCare au pair participants may not be placed with

families having pre-school children unless alternative, full-time arrangements are in place for the supervision of such pre-school children. As the EduCare au pair participant will be more actively pursuing his or her academic studies, a reduction in the number of hours that the au pair will provide child care services, from not more than 45 hours per week to not more than 30 hours per week, is hereby adopted. This reduction in the number of hours of child care services provided dictates a corresponding reduction in the weekly wage paid to an EduCare au pair participant. An au pair participating in the EduCare program will be paid in accordance with the provisions of the Fair Labor Standards Act. However, as a matter of administrative convenience for both Department-designated sponsors and participating host families, the weekly wage for EduCare au pair participants be calculated as a percentage of the weekly wage paid to all other au pair participants.

List of Subjects in 22 CFR Part 62

Cultural exchange programs.

Accordingly, 22 CFR Part 62 is amended as follows:

PART 62—EXCHANGE VISITOR PROGRAM

1. The Authority citation for Part 62 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431-1442, 2451-2460; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105-277, 112 Stat. 2681 et seq.; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168.

2. Section 62.31 is amended by revising paragraphs (a), (c)(1) through (c)(3), and (e) introductory text, (e)(3) and (e)(5), (j) and (k) to read as follows:

§ 62.31 Au pairs.

(a) Introduction. This section governs Department of State-designated exchange visitor programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family. All au pair participants provide child care services to the host family and attend a U.S. post-secondary educational institution. Au pair participants provide up to forty-five hours of child care services per week and pursue not less than six semester hours of academic credit or its equivalent during their year of program participation. Au pairs participating in the EduCare program provide up to thirty hours of child care

services per week and pursue not less than twelve semester hours of academic credit or its equivalent during their year of program participation.

* * * * *

(c) * * *

(1) Limit the participation of foreign nationals in such programs to not more than one year;

(2) Limit the number of hours an EduCare au pair participant is obligated to provide child care services to not more than 10 hours per day or more than 30 hours per week and limit the number of hours all other au pair participants are obligated to provide child care services to not more than 10 hours per day or more than 45 hours per week;

(3) Require that EduCare au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than twelve semester hours of academic credit or its equivalent and that all other au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent;

* * * * *

(e) *Au pair placement.* Sponsors shall secure, prior to the au pair's departure from the home country, a host family placement for each participant. Sponsors shall not:

* * * * *

(3) Place an au pair with a host family having children under the age of two, unless the au pair has at least 200 hours of documented infant child care experience. An au pair participating in the EduCare program shall not be placed with a family having pre-school children in the home unless alternative full-time arrangements for the supervision of such pre-school children are in place;

* * * * *

(5) Place an au pair with a host family unless a written agreement between the au pair and the host family detailing the au pair's obligation to provide child care has been signed by both the au pair and the host family prior to the au pair's departure from his or her home country. Such agreement shall clearly state whether the au pair is an EduCare program participant or not. Such agreement shall limit the obligation to provide child care services to not more than 10 hours per day or more than 45 hours per week unless the au pair is an EduCare participant. Such agreement shall limit the obligation of an EduCare participant to provide child care service

to not more than 10 hours per day or more than 30 hours per week.

* * * * *

(j) *Wages and hours.* Sponsors shall require that au pair participants:

(1) Are compensated at a weekly rate based upon 45 hours of child care services per week and paid in conformance with the requirements of the Fair Labor Standards Act as interpreted and implemented by the United States Department of Labor. EduCare participants shall be compensated at a weekly rate that is 75% of the weekly rate paid to non-EduCare participants;

(2) Do not provide more than 10 hours of child care per day, or more than 45 hours of child care in any one week. EduCare participants may not provide more than 10 hours of child care per day or more than 30 hours of child care in any one week;

(3) Receive a minimum of one and one half days off per week in addition to one complete weekend off each month; and

(4) Receive two weeks of paid vacation.

(k) *Educational component.* Sponsors shall require that during their period of program participation, all EduCare au pair participants be enrolled in an accredited U.S. post-secondary institution for not less than twelve semester hours of academic credit or its equivalent and that all other au pair participants be enrolled in an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent. As a condition of program participation, host family participants must agree to facilitate the enrollment and attendance of the au pair in an accredited U.S. post-secondary institution and to pay the cost of such academic course work in an amount not to exceed \$1,000 for EduCare au pair participants and in an amount not to exceed \$500 for all other au pair participants.

* * * * *

Dated: July 10, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 01-20800 Filed 8-16-01; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-01-135]

RIN 2115-AA97

Security Zone; Arthur Kill, Staten Island, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone around Howland Hook Terminal in the Arthur Kill during loading operations for military equipment. This action is necessary to protect the Port of New York/New Jersey against terrorism, sabotage or other subversive acts and incidents of a similar nature during the U.S. Army's ship loading operations. This action is intended to restrict vessel traffic in a portion of the Arthur Kill. **DATES:** This rule is effective from 6 a.m. on August 14, until 8 p.m. on August 18, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD01-01-135) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York, 718-354-4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Due to the date that specific information on the ship loading operations was made available to the Coast Guard, there was insufficient time to draft and publish an NPRM before its effective date. The delay encountered if normal rulemaking procedures were followed would be contrary to the public interest, as immediate action is needed to protect the Port of New York/New Jersey and the U.S. Army's ship loading operations.

Background and Purpose

This security zone is needed to ensure the security of the Port of New York/New Jersey and the military equipment loading operations on the Arthur Kill at Howland Hook Terminal, Staten Island, NY. There is a significant national security interest in protecting the U.S. Army's ship loading operations. This security zone will safeguard the Port of New York/New Jersey, against terrorism, sabotage or other subversive acts and incidents of a similar nature during the U.S. Army's ship loading operations.

The security zone includes all waters of the Arthur Kill bound by the following points: 40°38'36.1"N 074°11'10.3"W; thence to 40°38'36.9"N 074°11'13.6"W; thence to 40°38'26.3"N 074°11'29.4"W; thence to 40°38'17.5"N 074°11'37.6"W; thence to 40°38'16.7"N 074°11'35.8"W (NAD 1983); thence along the shoreline to the point of beginning. This security zone is effective from 6 a.m. on Tuesday, August 14, until 8 p.m. on Saturday, August 18, 2001. The U.S. Army only anticipates requiring the activation of this security zone during two 8-hour periods of the zones' effective dates. Exact dates and times will be made available via marine information broadcasts once the U.S. Army makes them available to the U.S. Coast Guard.

This security zone is based on the security needs for the Port of New York/New Jersey and the U.S. Army. It has been narrowly tailored to impose the least impact on maritime interests yet provide the level of security deemed necessary. This safety zone does not affect the Federal navigation channel west of Howland Hook Terminal. Entry into or movement within this security zone is prohibited unless authorized by the Coast Guard Captain of the Port, New York.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12886, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels

will be restricted from the zone, that vessels may still transit through the Arthur Kill during the zones' activation, vessels will not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone, and extensive advance notifications which will be made.

The U.S. Army only anticipates requiring the activation of this security zone during two 8-hour periods of the zones' effective dates. Exact dates and times will be made available via marine information broadcasts once the U.S. Army makes them available to the U.S. Coast Guard.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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 a portion of the Arthur Kill during the time this zone is activated.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Marine traffic will still be able to transit through the Arthur Kill during the zones' activation. Additionally, vessels will not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via Marine Information Broadcasts, which are widely available to users of the Arthur Kill.

The U.S. Army only anticipates requiring the activation of this security zone during two 8-hour periods of the zones' effective dates. Exact dates and times will be made available via marine information broadcasts once the U.S. Army makes them available to the U.S. Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Unfunded Mandates

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a security zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01-135 to read as follows:

§ 165.T01-135 Security Zone: Arthur Kill, Staten Island, NY.

(a) *Location.* The following area is a security zone: All waters of the Arthur Kill bound by the following points: 40°38'36.1"N 074°11'10.3"W; thence to 40°38'36.9"N 074°11'13.6"W; thence to 40°38'26.3"N 074°11'29.4"W; thence to 40°38'17.5"N 074°11'37.6"W; thence to 40°38'16.7"N 074°11'35.8"W (NAD 1983); thence along the shoreline to the point of beginning.

(b) *Effective period.* This section is effective from 6 a.m. on Tuesday,

August 14, until 8 p.m. on Saturday, August 18, 2001.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 8, 2001.

P. A. Harris,

Captain, U. S. Coast Guard Captain of the Port, New York, Acting.

[FR Doc. 01-20720 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 400, 430, 431, 434, 435, 438, 440, and 447

[CMS-2001-IFC]

RIN 0938-AL07

Medicaid Program; Medicaid Managed Care; Further Delay of Effective Date

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule with comment; Further delay of effective date.

SUMMARY: This document further delays the effective date of the final rule with comment period on Medicaid managed care that we published in the **Federal Register** on January 19, 2001 (66 FR 6228). The January 2001 final rule with comment period, if it had taken effect, would have combined most of the regulatory provisions relating to Medicaid managed care into a new part in 42 CFR, and would have implemented Medicaid managed care requirements of the Balanced Budget Act of 1997 (Pub. L. 105-33).

In a **Federal Register** final rule (66 FR 11546) published on February 26, 2001, we delayed the effective date of the January 2001 rule from April 19, 2001 until June 18, 2001. On June 18, 2001, we published another final rule in the **Federal Register** that delayed the effective date of the January 2001 final rule from June 18, 2001 until August 17, 2001 (66 FR 32776). This document

further delays the effective date of the January 2001 final rule from August 17, 2001 until August 16, 2002. In addition, this document gives the public an opportunity to comment on the length of the delay of effective date.

These delays were necessary to give newly appointed Department officials the opportunity for further review and consideration of the new regulations. During these delays, we have heard from key stakeholders in the Medicaid managed care program, including States, advocates for beneficiaries, and provider organizations. These stakeholders expressed strong (sometimes opposing) views about the regulation. In particular, concerns were expressed about revisions made in the final rule that were based on public comments we received on the September 29, 1998 proposed rule (63 FR 52022). Other commenters raised concerns about how we chose to implement those provisions in the final rule without further opportunity for public comment.

We are publishing in the August 20, 2001 issue of the **Federal Register** another proposed rule allowing an additional opportunity for public comment on revised Medicaid managed care provisions.

DATES: *Effective Date:* The final rule with comment period that published on January 19, 2001 at 66 FR 6228 and delayed on February 26, 2001 at 66 FR 11546 until June 18, 2001 and delayed on June 18, 2001 at 66 FR 32776 until August 17, 2001 is further delayed until August 16, 2002.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on October 16, 2001.

ADDRESSES: Mail written comments (one original and three copies) to the following address only:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2001-IFC, P.O. Box 8016, Baltimore, MD 21244-8016.

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses: Room 443-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5-16-03, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Comments mailed to the addresses indicated as appropriate for hand or

courier delivery may be delayed and could be considered late.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code CMS-2001-IFC.

If you have comments on the information collection requirements, please mail copies directly to the following:

Centers for Medicare & Medicaid Services, Office of Information Services, DHES, SSG, Attn: Julie Brown, CMS-2001-IFC, Room N2-14-26, 7500 Security Boulevard, Baltimore, MD 21244-1850;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Brenda Aguilar, Desk Officer.

FOR FURTHER INFORMATION CONTACT:
Deirdre Duzor, (410) 786-4626.

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: August 1, 2001.

Thomas A. Scully,
Administrator, Centers for Medicare & Medicaid Services.

Approved: August 10, 2001.

Tommy G. Thompson,
Secretary.
[FR Doc. 01-20714 Filed 8-16-01; 8:45 am]
BILLING CODE 4120-01-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7767]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain

management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Edward Pasterick, Division Director, Program Marketing and Partnership Division, Federal Insurance Administration and Mitigation Directorate, 500 C Street, SW.; Room 411, Washington, DC 20472, (202) 646-3098.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq. unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief

and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of

the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region III: Virginia: Danville, city of, Pittsylvania County.	510044	October 17, 1974, Emerg.; March 16, 1981, Reg. August 9, 2001.	8/9/01	8/9/01
Region X: Washington: Washtucna, town of, Adams County.	530006	December 26, 1975, Emerg.; September 30, 1988, Reg. August 9, 2001.	-do-	-do-
Region II: New York: Elba, town of, Essex County.	361156	March 7, 1975, Emerg.; July 20, 1979, Reg. August 23, 2001	8/23/01	8/23/01
Region VI: Louisiana: Albany, village of, Livingston Parish.	220114	October 14, 1983, Emerg.; October 14, 1983, Reg. August 23, 2001.	-do-	-do-
Denham Springs, city of, Livingston Parish.	220116	June 25, 1975, Emerg.; October 15, 1981, Reg. August 23, 2001.	-do-	-do-
Killian, village of, Livingston Parish.	220355	October 26, 1977, Emerg.; August 1, 1987, Reg. August 23, 2001.	-do-	-do-
Livingston, town of, Livingston Parish.	220118	June 21, 1978, Emerg.; April 15, 1979, Reg. August 23, 2001 ...	-do-	-do-
Livingston Parish, unincorporated areas.	220113	May 20, 1977, Emerg.; September 30, 1988, Reg. August 23, 2001.	-do-	-do-
Port Vincent, village of, Livingston Parish.	220119	May 17, 1977, Emerg.; August 16, 1988, Reg. August 23, 2001	-do-	-do-
Springfield, town of, Livingston Parish.	220120	March 24, 1998, Reg. August 23, 2001	-do-	-do-
Texas: Cedar Hill, city of, Dallas County.	480168	June 21, 1974, Emerg.; April 1, 1981, Reg. August 23, 2001	-do-	-do-
Cockrell Hill, city of, Dallas County.	480169	February 29, 1996, Emerg.; August 23, 2001	-do-	-do-
Coppell, city of, Dallas County.	480170	June 11, 1975, Emerg.; August 1, 1980, Reg. August 23, 2001	-do-	-do-
Dallas County, unincorporated areas.	480165	September 4, 1970, Emerg.; July 19, 1982, Reg. August 23, 2001.	-do-	-do-
DeSoto, city of, Dallas County.	480172	June 12, 1974, Emerg.; May 5, 1981, Reg. August 23, 2001	-do-	-do-
Duncanville, city of, Dallas County.	480173	April 16, 1974, Emerg.; April 13, 1981, Reg. August 23, 2001	-do-	-do-
Farmers Branch, city of, Dallas County.	480174	February 25, 1972, Emerg.; February 15, 1978, Reg. August 23, 2001.	-do-	-do-
Garland, city of, Dallas County.	485471	August 7, 1970, Emerg.; April 16, 1971, Reg. August 23, 2001 ..	-do-	-do-
Glenn Heights, city of, Dallas County.	481265	July 8, 1980, Emerg.; July 16, 1980, Reg. August 23, 2001	-do-	-do-
Grand Prairie, city of, Dallas County.	485472	October 1, 1971, Emerg.; July 6, 1973, Reg. August 23, 2001 ...	-do-	-do-
Highland Park, town of, Dallas County.	480178	October 30, 1974, Emerg.; July 16, 1979, Reg. August 23, 2001	-do-	-do-
Hutchins, city of, Dallas County.	480179	May 13, 1975, Emerg.; May 1, 1980, Reg. August 23, 2001	-do-	-do-
Irving, city of, Dallas County.	480180	June 19, 1970, Emerg.; November 19, 1980, Reg. August 23, 2001.	-do-	-do-
Lancaster, city of, Dallas County.	480182	May 28, 1974, Emerg.; August 3, 1981, Reg. August 23, 2001 ..	-do-	-do-

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Mesquite, city of, Dallas County.	485490	July 24, 1970, Emerg.; July 30, 1971, Reg. August 23, 2001	-do-	-do-
Richardson, city of, Dallas County.	480184	February 20, 1975, Emerg.; December 4, 1979, Reg. August 23, 2001.	-do-	-do-
Rowlett, city of, Dallas County.	480185	June 10, 1975, Emerg.; September 1, 1978, Reg. August 23, 2001.	-do-	-do-
Sachse, city of, Dallas County.	480186	July 25, 1975, Emerg.; September 1, 1978, Reg. August 23, 2001.	-do-	-do-
Seagoville, city of, Dallas County.	480187	June 25, 1975, Emerg.; June 15, 1981, Reg. August 23, 2001 ...	-do-	-do-
Sunnyvale, town of, Dallas County.	480188	July 16, 1975, Emerg.; February 1, 1980, Reg. August 23, 2001	-do-	-do-
University Park, city of, Dallas County.	480189	March 12, 1975, Emerg.; November 15, 1979, Reg. August 23, 2001.	-do-	-do-
Wilmer, city of, Dallas County.	480190	June 2, 1975, Emerg.; September 17, 1980, Reg. August 23, 2001.	-do-	-do-
Region IX:				
Arizona: Avondale, city of, Maricopa County.	040038	August 25, 1975, Emerg.; June 15, 1979, Reg. August 23, 2001	-do-	-do-
Buckeye, town of, Maricopa County.	040039	December 17, 1974, Emerg.; February 15, 1980, Reg. August 23, 2001.	-do-	-do-
Carefree, town of, Maricopa County.	040126	December 31, 1970, Emerg.; July 2, 1979, Reg. August 23, 2001.	-do-	-do-
Cave Creek, town of, Maricopa County.	040129	June 9, 1988, Emerg.; June 9, 1988, Reg. August 23, 2001	-do-	-do-
Chandler, city of, Maricopa County.	040040	May 16, 1975, Emerg.; July 16, 1980, Reg. August 23, 2001	-do-	-do-
El Mirage, city of, Maricopa County.	040041	August 8, 1975, Emerg.; December 1, 1978, Reg. August 23, 2001.	-do-	-do-
Fountain Hills, town of, Maricopa County.	040135	February 10, 1994, Reg. August 23, 2001	-do-	-do-
Gila Bend, town of, Maricopa County.	040043	May 16, 1975, Emerg.; December 4, 1979, Reg. August 23, 2001.	-do-	-do-
Glendale, city of, Maricopa County.	040045	March 20, 1975, Emerg.; April 16, 1979, Reg. August 23, 2001	-do-	-do-
Gilbert, town of, Maricopa County.	040044	June 10, 1975, Emerg.; January 16, 1980, Reg. August 23, 2001.	-do-	-do-
Goodyear, city of, Maricopa County.	040046	August 8, 1975, Emerg.; July 16, 1979, Reg. August 23, 2001 ...	-do-	-do-
Guadalupe, town of, Maricopa County.	040111	April 1, 1994, Emerg.; August 23, 2001	-do-	-do-
Litchfield Park, city of, Maricopa County.	040128	August 19, 1988, Emerg.; August 19, 1988, Reg. August 23, 2001.	-do-	-do-
Maricopa County, unincorporated areas.	040037	December 31, 1970, Emerg.; July 2, 1979, Reg. August 23, 2001.	-do-	-do-
Mesa, city of, Maricopa County.	040048	September 29, 1972, Emerg.; May 15, 1980, Reg. August 23, 2001.	-do-	-do-
Paradise Valley, town of, Maricopa County.	040049	September 15, 1972, Emerg.; May 1, 1980, Reg. August 23, 2001.	-do-	-do-
Peoria, city of, Maricopa County.	040050	June 18, 1975, Emerg.; November 17, 1978, Reg. August 23, 2001.	-do-	-do-
Phoenix, city of, Maricopa County.	040051	December 17, 1971, Emerg.; December 4, 1979, Reg. August 23, 2001.	-do-	-do-
Queen Creek, town of, Maricopa County.	040132	July 22, 1992, Reg. August 23, 2001	-do-	-do-
Scottsdale, city of, Maricopa County.	045012	March 26, 1971, Emerg.; September 21, 1973, Reg. August 23, 2001.	-do-	-do-
Surprise, city of, Maricopa County.	040053	March 26, 1976, Emerg.; December 15, 1978, Reg. August 23, 2001.	-do-	-do-
Tempe, city of, Maricopa County.	040054	November 18, 1974, Emerg.; August 15, 1980, Reg. August 23, 2001.	-do-	-do-
Tolleson, city of, Maricopa County.	040055	February 18, 1975, Emerg.; January 16, 1980, Reg. August 23, 2001.	-do-	-do-
Wickenburg, town of, Maricopa County.	040056	January 16, 1974, Emerg.; January 5, 1978, Reg. August 23, 2001.	-do-	-do-
Youngstown, city of, Maricopa County.	040057	June 5, 1975, Emerg.; November 15, 1978, Reg. August 23, 2001.	-do-	-do-

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Shishmaref, city of, unorganized borough. Region IX:	020084	June 5, 1998, Emerg.; August 23, 2001 Reg. August 23, 2001 ..	-do-	-do-
Idaho: Idaho County, unincorporated areas.	160123	February 16, 1979, Emerg.; May 2, 1997, Reg. August 23, 2001	-do-	-do-

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: August 1, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–20723 Filed 8–16–01; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–P–7604]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1-percent-annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Administrator for Federal Insurance and Mitigation Administration reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Hazards, Mapping and Risk Assessment Division, FEMA, 500 C

Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator for Federal Insurance Administration and Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Indiana:					
Marion	City of Indianapolis	June 14, 2001, June 21, 2001, <i>The Indianapolis Star</i> .	The Honorable Barthen Peterson, Mayor, City of Indianapolis, 200 East Washington Street, Suite 2501, Indianapolis, Indiana 46204.	September 21, 2001.	180159
Hendricks	Town of Plainfield	June 7, 2001, June 14, 2001, <i>The Hendricks County Flyer</i> .	Mr. Richard A. Carlucci, Town Manager, Town of Plainfield, 206 West Main Street, Plainfield, Indiana 46268.	September 14, 2001.	180089
Kansas:					
Johnson	City of Lenexa	June 19, 2001, June 26, 2001, <i>The Legal Record</i> .	The Honorable Joan Bouman, Mayor, City of Lenexa, 12350 W. 87th Street Parkway, Lenexa, Kansas 66215.	May 31, 2001	200168
Johnson	City of Shawnee ...	June 21, 2001, June 28, 2001, <i>The Journal Herald</i> .	The Honorable Jim Allen, Mayor, City of Shawnee, 11110 Johnson Drive, Shawnee, Kansas 66203.	May 31, 2001	200177
Texas:					
Harris	Unincorporated Areas.	May 18, 2001, May 25, 2001, <i>Houston Chronicle</i> .	The Honorable Robert Eckles, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	August 9, 2001	480287
Hidalgo	City of Edinburg ...	May 24, 2001, May 31, 2001, <i>Edinburg Daily Review</i> .	The Honorable Joe Ochoa, Mayor, City of Edinburg, P.O. Box 1079, Edinburg, Texas 78540.	May 14, 2001	480338
Hidalgo	Unincorporated Areas.	May 24, 2001, May 31, 2001, <i>The Monitor</i> .	The Honorable Jose Eloy Pulido, Hidalgo County Judge, P.O. Box 1356, Edinburg, Texas 78540.	May 17, 2001	480334
Tarrant	City of North Richland Hills.	June 22, 2001, June 29, 2001, <i>Fort Worth Star-Telegram</i> .	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182.	June 12, 2001	480607

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: August 10, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01-20725 Filed 8-16-01; 8:45 am]

BILLING CODE 6718-04-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Final rule.

SUMMARY: Modified Base (1-percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect

for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Hazards, Mapping and Risk Assessment Division, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646-3461 or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below of the final determinations of modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Administrator, Federal Insurance and Mitigation Administration, has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFE

determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because

modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Illinois: Lake (FEMA Docket No. 7602).	City of Waukegan	March 22, 2001, March 29, 2001, <i>Chicago Tribune</i> .	The Honorable Bill Durkin, Mayor, City of Waukegan, 106 North Utica, Waukegan, Illinois 60085.	June 29, 2001	170397
Kansas: Johnson (FEMA Docket No. 7602).	City of Shawnee ...	February 8, 2001, February 15, 2001, <i>Topeka Capital-Journal</i> .	The Honorable Jim Allen, Mayor, City of Shawnee, City Hall, 11110 Johnson Drive, Shawnee, Kansas 66203.	January 18, 2001	200177
Texas: Potter and Randall (FEMA Docket No. 7602).	City of Amarillo	February 1, 2001, February 8, 2001, <i>Amarillo Daily News</i> .	The Honorable Kel Seliger, Mayor, City of Amarillo, P.O. Box 1971, Amarillo, Texas 79105.	May 10, 2001	480529
Collin (FEMA Docket No. 7602).	Unincorporated Areas.	January 18, 2001, January 25, 2001, <i>Plano Star Courier</i> .	Mr. William J. Roberts, Attn: Mr. Ruben E. Delgado, 210 South McDonald, McKinney, Texas 75069.	April 26, 2001	480130
Denton (FEMA Docket No. 7602).	City of Denton	March 23, 2001, March 30, 2001, <i>Denton Record Chronicle</i> .	The Honorable Euline Brock, Mayor, City of Denton, 215 East McKinney Street, Denton, Texas 76201.	March 9, 2001	480194
Denton (FEMA Docket No. 7602).	Unincorporated Areas.	March 23, 2001, March 30, 2001, <i>Denton Record Chronicle</i> .	The Honorable Kirk Wilson, Denton County Judge, Courthouse-on-the-Square, 110 West Hickory Street, Denton, Texas 76201-0000.	March 9, 2001	480774
Tarrant (FEMA Docket No. 7602).	City of Euless	February 22, 2001, March 1, 2001, <i>Fort Worth Star-Telegram</i> .	The Honorable Mary Lib Saleh, Mayor, City of Euless, 201 North Ector Drive, Euless, Texas 76039.	January 25, 2001	480593
Dallas (FEMA Docket No. 7602).	City of Irving	January 18, 2001, January 25, 2001, <i>Irving News</i> .	The Honorable Joe H. Putnam, Mayor, City of Irving, P.O. Box 152288, Irving, Texas 75060-0000.	April 26, 2001	480180
Dallas (FEMA Docket No. 7602).	City of Irving	March 15, 2001, March 22, 2001, <i>Irving News</i> .	The Honorable Bill Durkin, Mayor, City of Waukegan, P.O. Box 152288, Irving, Texas 75060.	February 20, 2001	480180
Montgomery (FEMA Docket No. 7602).	Unincorporated Areas.	March 23, 2001, March 30, 2001, <i>Conroe Courier</i> .	The Honorable Alan B. Sadler, Montgomery County Judge, 300 N. Thompson Street, Suite 210, Conroe, Texas 77301.	June 29, 2001	480483
Collin (FEMA Docket No. 7602).	City of Plano	January 18, 2001, January 25, 2001, <i>Plano Star Courier</i> .	The Honorable Jeran Akers, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086-0358.	April 26, 2001	480140

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: August 10, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01-20724 Filed 8-16-01; 8:45 am]

BILLING CODE 6718-04-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 382

[Docket No. FMCSA-2000-8456]

RIN 2126-AA58

Controlled Substances and Alcohol Use and Testing

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

ACTION: Final rule.

SUMMARY: The Department of Transportation published its drug and alcohol testing procedures regulations on December 19, 2000. The FMCSA is revising its conforming regulations entitled "Controlled Substances and Alcohol Use and Testing." The purpose of this revision is to make the FMCSA's controlled substances and alcohol testing regulations consistent with DOT's revised testing procedures and to avoid duplication. Additionally, the FMCSA is amending its drug and alcohol testing regulations to update obsolete provisions and to clarify certain provisions of the rules.

DATES: The final rule is effective August 17, 2001.

FOR FURTHER INFORMATION CONTACT:

Kenneth E. Rodgers, FMCSA, Transportation Specialist, 400 7th Street, SW., MC-ECE, Washington, DC 20590, 202-366-4016 (voice), 202-366-7908 (fax), or Kenneth.Rodgers@fhwa.dot.gov (e-mail).

SUPPLEMENTARY INFORMATION: The Department of Transportation published a comprehensive revision to the departmental drug and alcohol testing procedural rule (49 CFR part 40) (December 19, 2000, 65 FR 79462). The new part 40 makes numerous changes in the way that drug and alcohol testing will be conducted in the future. The rule in its totality became effective August 1, 2001.

Part 40 is one element of a One-DOT set of regulations designed to deter and detect the use of illegal drugs and the misuse of alcohol by employees performing safety-sensitive

transportation functions. It is important that the FMCSA, which regulates the motor carrier industry, publish rules that are consistent with the revised part 40 to avoid duplication, conflict, or confusion among DOT regulatory requirements. Therefore, we are publishing amended drug and alcohol testing regulations to conform to part 40. We are also amending part 382 to clarify certain provisions of the rules in response to public comments received in this docket.

Background

On December 19, 2000, (65 FR 79462) the Department published a final rule titled "Procedures for Transportation Workplace Drug and Alcohol Testing Programs." This rule revised 49 CFR part 40 to improve the clarity of the organization and language of the regulation, to incorporate guidance and interpretations of the rule into its text, and to update the rule to respond to changes in technology, the testing industry, and the Department's drug and alcohol testing program.

Consequently, the FMCSA proposed to change its drug testing rules (49 CFR part 382) so that they would conform to the new requirements contained in part 40. As such, the FMCSA is deleting provisions from part 382 that are also covered in the new part 40. Employers and employees affected by part 382 have always been required to adhere to parts 40 and 382 to comply with the FMCSA's drug and alcohol testing requirements. Referring the reader directly to part 40 instead of duplicating part 40 rule text in part 382 would promote both drafting economy and consistency of interpretation. This final rule removes regulatory text from part 382 regarding return to duty testing, follow-up testing, medical review officer (MRO) notifications, inquiries from previous employers, and referral, evaluation and treatment requirements. Instead, the regulation incorporates by reference the appropriate provisions of part 40 that address these issues.

The primary purpose of this final rule is to conform part 382 to the new part 40. However, the FMCSA also proposed to update and clarify existing text references that were either outdated or in need of clarification. This included replacing references to the Federal Highway Administration with the Federal Motor Carrier Safety Administration, removing obsolete implementation dates and reporting requirements, and providing clarification of the meaning of existing requirements that were frequently the subject matter of questions from the motor carrier industry.

The FMCSA issued a notice of proposed rulemaking (NPRM) on April 30, 2001 (66 FR 21538). We received 22 comments in response to this NPRM. The final rule responds to these comments and makes appropriate modifications to the existing rules governing the FMCSA's drug and alcohol testing program.

Structure of the Rule

The Department restructured part 40 in the question and answer format. Comments received were very complimentary about the reorganization of that rule, generally praising the rule as much clearer and easier to follow. As a result, the Department received the plain English award "No Gobbledygook" for its efforts.

The FMCSA received several comments suggesting that we follow suit with the Department and publish our final rule in the question and answer format. Although this is a desirable concept that we hope to implement eventually, the FMCSA was under an ambitious timetable to publish this final rule to be effective simultaneously with the effective date of part 40. Rewriting part 382 in question and answer format would have taken a considerable amount of additional time. Therefore, the FMCSA decided to publish the final rule in the current format so that it will be effective as close as possible to the August 1, 2001, effective date for part 40.

In addition to detailed paragraph-by-paragraph comments on the text of the NPRM, commenters focused on common policy issues that involved interpretations of the current regulatory text. A comment was received suggesting that we incorporate the published interpretations of part 382 into the regulations, as was done in part 40. Unlike the case with part 40, the NPRM did not incorporate all of the published regulatory guidance into the rule text for purposes of soliciting public comment. Eventually, the FMCSA will rewrite the existing Federal Motor Carrier Safety Regulations in question and answer format. This will include incorporating regulatory guidance, however, this will not be accomplished in this rulemaking proceeding. Consequently, we have incorporated regulatory guidance into the final rule only to a limited extent, i.e., when necessary to clarify confusion expressed by commenters regarding the meaning of a particular regulatory provision.

Effective Dates

Generally, final rules must be published at least 30 days before their

effective dates. However, the Administrative Procedure Act (5 U.S.C. sec. 553(d)(3)) creates an exception to this general rule on the basis of good cause found by the agency and published rule. The FMCSA is making this rule effective immediately upon publication, rather than 30 days from now. The good cause supporting this action is that the purpose of this rule is to ensure that the FMCSA's drug and alcohol testing regulation is consistent with the Department-wide 49 CFR part 40, which went into effect on August 1, 2001. This consistency is very important in order to avoid overlap, conflict, duplication, or confusion between different DOT drug and alcohol testing regulations. Unless this regulation goes into effect immediately, this purpose of the rule cannot be achieved during the 30-day period in which part 40 would be in effect but the conforming changes to this rule would not. The FMCSA must make this rule effective immediately in order to ensure that its purpose is achieved. We would point out that because the new part 40 was published over seven months ago, affected parties have had ample time to prepare to implement the changes it makes and to which this amendment conforms the FMCSA's regulation.

Owner-Operators

Many of the comments received focused on the inherent problems that arise in regards to controlled substances and alcohol testing for owner-operators. The regulations require self-employed owner-operators to join consortiums in order to meet the requirements of part 382. Most of the comments addressed the role of a service agent in relation to owner-operators. Section 40.355(f) permits service agents to act as intermediaries in the transmission of substance abuse professional (SAP) reports to an owner-operator or other self-employed individual. Section 40.355(h) states that service agents may make decisions to test an owner-operator based upon reasonable suspicion, post-accident, return-to-duty, and follow-up determination criteria. Section 40.355(j) permits service agents to determine that an owner-operator has refused a drug or alcohol test, but only if authorized by a DOT agency regulation.

Many service agents believe that they should be permitted, with the owner-operator's consent, to serve as the designated employer representative (DER) for the purpose of drug and alcohol compliance.

This is an area of great concern to the FMCSA. We are exploring ways of dealing with this problem. For example,

in section 226 of the Motor Carrier Safety Improvement Act (MCSIA) of 1999, Congress required the Secretary to conduct a study of the feasibility and merits of requiring medical review officers or employers to report to the State that issued the driver's commercial driver's license (CDL) all verified positive controlled substances test results for any driver subject to controlled substances testing in 49 CFR part 382. The study would also consider the feasibility of requiring all prospective employers, before hiring any driver, to query the State that issued the CDL on whether the State has any record of a verified positive drug test on that driver. Currently there are drivers who are found to have positive drug and/or alcohol test results who quit a job after testing positive. They may or may not receive any counseling or treatment and simply go to another motor carrier/employer without any record of the positive drug or alcohol test result. The motor carrier industry has expressed interest in having a database that would house drug and alcohol test results. The safety benefit of having records of positive drug and/or alcohol tests would be in the ability to identify these drivers who are safety risks to themselves and to the public.

In carrying out the study, Congress requires an assessment on identifying methods for safeguarding the confidentiality of verified drug test results. In addition, the study shall examine the costs, benefits, and safety impacts of requiring States to maintain records of verified positive drug test results; and whether a process should be established to allow drivers to correct errors in their records and to expunge information from their records after a reasonable period of time. A notice soliciting public comment on this study was published in the **Federal Register** on July 9, 2001 (66 FR 35825).

We hope the results of this report will help significantly in addressing the issues relative to owner-operators. We recognize that the drug and alcohol program is a deterrent program and that it does not offer 100 percent guarantees that employers and employee alike will adhere to the requirements outlined in the regulations.

We received various comments that suggested C/TPAs be allowed to report positive test results on owner-operators to the FMCSA. To date, we have not allowed this practice. The FMCSA believes to the extent possible, all employers should be treated similarly regardless of size in order to promote uniformity in the program. Employers are only required to report drug and alcohol test results if they have been

requested by FMCSA to submit their annual calendar year summaries. The FMCSA does not support the idea of C/TPAs reporting positive test results on owner-operators. We believe that reporting positive test results for owner-operators will not improve compliance or enforcement efforts. We reached this conclusion because a positive test result in and of itself does not indicate non-compliance with the regulations. Non-compliance only occurs when the evidence suggests that an employer allowed a driver to operate a CMV without adhering to the referral, evaluation, and treatment and return to duty testing requirements after testing positive for alcohol or a controlled substance. Additionally, an argument can be made that all aspects of the Federal Motor Carrier Safety Regulations (FMCSRs) should be strengthened to ensure owner-operators comply with the various requirements in the safety regulations. However, the FMCSA has no plausible data that suggest the problems regarding owner-operators are so great that we should establish specific requirements that target this class of employers. The FMCSA remains confident the safety systems currently in place will continue to allow us to focus our resources on problem employers to ensure corrective actions are taken to resolve problems that may arise.

Section-by-Section Discussion

The following discussion addresses the comments received on the NPRM on a section-by-section basis. Sections not specifically discussed below generated no comments and, consequently, have been adopted without further modification.

Subpart A—General

Section 382.103 Applicability

Two comments were received regarding the exceptions in section 382.103(d). Specifically, 382.103(d)(1) states that employers subject to the Federal Transit Administration's (FTA) drug and alcohol testing rules are not subject to part 382. However, although section 382.103(d)(1) references the requirements of 49 CFR parts 653 and 654, the FTA has recodified its drug and alcohol testing requirements in part 655. The FMCSA has amended the final rule to reference the correct part.

Section 382.107 Definitions

Actual Knowledge

Most comments were favorable and praised the fact that we placed the definition of actual knowledge in the regulatory text. However, the comments

suggested this section should be removed from Subpart B—Prohibitions because the definition of actual knowledge is not a prohibition. In response, we have removed this section from subpart B and placed it in section 382.107.

One comment voiced concern that including the “employer’s direct observation” within the definition of actual knowledge contradicts the requirements for reasonable suspicion testing. The commenter suggested inserting language stating, “direct observation as used in this definition does not include reasonable suspicion testing.”

Direct observation, for purposes of this definition, refers to observation of actual drug and alcohol use rather than observation of behavior or physical characteristics that indicate that the driver may be under the influence of drugs or alcohol. We have adopted the commenter’s request to modify the definition to distinguish between actual knowledge and the reasonable suspicion testing requirements.

Another comment described a scenario where a driver received a traffic citation for driving a CMV while under the influence of alcohol or controlled substances. The commenter noted that part 40 states that only a violation of DOT rules triggers a SAP evaluation and questioned whether a driver is subject to a SAP evaluation if the driver is cited while driving a commercial motor vehicle. Subpart B of part 382 states that no employer having actual knowledge that a driver has tested positive for an alcohol or controlled substances test shall permit the driver to perform safety-sensitive functions. Actual knowledge “includes” knowledge that the driver has received a traffic citation for driving a CMV while under the influence of alcohol or controlled substances. A CMV driver who receives a traffic citation while in a CMV is considered to have violated subpart B. In this case, the employee is subject to the referral, treatment, and evaluation requirements.

Driver

Comments regarding the definition of a driver suggested the language is inconsistent with the new employer definition and proposed that the definition be modified to delete the following reference shown in quotation marks: “who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.” We concur with the comments and have modified

the definition to remove the language in question for consistency.

Employer

Comments were received regarding the definition of employer as it relates to an owner-operator. The comments suggested that language in the revised definition of the word “employer” which references an individual who is self-employed is confusing and can be misconstrued. The definition of employer in section 382.107 was modified to correspond with the definition in revised part 40. Employer is defined as a person or entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this part. The term, as used in these regulations, refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, as well as those individuals employed by the entity who take personnel action resulting from violations of this part and any applicable DOT agency regulation. Service agents are not employers for the purpose of this part.

In spite of the change in terminology, we do not believe that the part 40 definition intended to change the circumstances under which a motor carrier is responsible for compliance with part 382 by self-employed individuals whose CMV operations it directs or controls. In published regulatory guidance, we have stated that “an owner-operator may act as both an employer and a driver at certain times, or as a driver for another employer at certain times depending on contractual arrangements and operational structure” (62 FR 16384), and that owner-operators who are not leased to motor carriers must belong to a consortium for random testing purposes (62 FR 16387). A carrier that uses owner-operators is not responsible for ensuring the owner-operator’s compliance with part 382 unless it can be shown that the primary carrier has control of the owner-operator’s operation of his or her CMV.

A motor carrier is not automatically responsible for an owner-operator’s compliance with part 382 simply because the parties have entered into an agreement or subcontract to provide transportation services. However, inasmuch as our owner-operator leasing regulations, at 49 CFR § 376.12(c), require authorized carrier lessees to have exclusive possession, control and use of the equipment during the term of the lease, we consider an owner-operator operating a CMV under such a lease to be under the lessee carrier’s

control and direction for purposes of part 382 compliance. In the absence of a lease subject to part 376, there are other activities which may indicate whether a motor carrier controls or directs self-employed individuals including, but not limited to (1) establishing work schedules, (2) providing the origin, destination and/or routes for trips, (3) establishing worksite procedures, or (4) determining what drivers shall do as work progresses or assignments change. However, we decline to establish a bright line rule defining what constitutes sufficient control and direction in every case, as that determination depends on consideration of the totality of circumstances, which may vary among carriers.

Refuse To Submit

A commenter stated the definition used in part 382 is inconsistent with the definition used in part 40 and suggested that part 382 defer to part 40. The commenter stated that part 382’s definition of “refusal to submit” does not incorporate the entire refusal to submit definition in part 40. In response, we have modified the definition in part 382 to be consistent with part 40 and have retained the definition in part 382 so that the employer and employee clearly understand what constitutes a refusal to submit. Another commenter was concerned that certain employee actions that could be considered a refusal to test may fall outside of the parameters outlined in this definition. The commenter suggested that we should maintain the previously existing language in part 382 which reads “engaging in conduct that clearly obstructs the testing process” and use the language as a deterrent to employees engaging in such conduct. We believe the definition in part 40, which we are adopting in these rules, satisfactorily addresses the concern of the commenter by ensuring that any employee who fails to cooperate with any part of the testing process could be in violation of the regulation by refusing to submit to drug or alcohol testing.

Section 382.113 Requirement for Notice

One commenter suggested that we clarify that employers must give notice to their drivers that an alcohol or controlled substances test is required by part 382 prior to each test, rather than providing a general notice. We have already published an interpretation to that effect and, for clarification purposes, have inserted the word

“each” in the regulatory text for this section.

Section 382.115 Starting Date for Testing Programs

The starting date for testing programs has been modified to reflect that all previously codified implementation dates have elapsed. The implementation dates for large foreign employers and small foreign employers have been removed. This section now requires all motor carriers, both domestic and foreign, to implement the testing program requirements when they begin operating commercial motor vehicles in the United States.

Section 382.117 Public Interest Exclusion

This section has been included to ensure consistency with 49 CFR part 40, subpart R. In an attempt to protect the public interest, and transportation employers and employees, the Department incorporated the public interest exclusion (PIE) into its regulations. The FMCSA has included this section to inform motor carriers subject to the controlled substances and alcohol testing regulations that they may not use a service agent who has had a PIE issued against it. The Department uses public interest exclusions to exclude service agents who are in serious noncompliance with the drug and alcohol testing regulations from participating in DOT's drug and alcohol testing program.

Section 382.119 Stand-Down Waiver Provision

This section has been added to implement the stand-down waiver provision contained in 49 CFR part 40. Section 40.21 maintains the departmental policy of prohibiting employers from standing an employee down, that is, removing the employee from safety-sensitive service after the medical review officer (MRO) has received a laboratory report of either a confirmed positive test result, adulterated test result, or substituted test result before the result has been verified by the MRO. The new section 40.21(d) authorizes each Administrator (or his or her designee) to waive this prohibition if doing so would effectively enhance safety while protecting employee fairness and confidentiality. Therefore, the new section 382.119 stand-down waiver provision outlines the procedures for applying for a waiver to the FMCSA. The FMCSA would review petitions for a waiver and decide to grant or deny the petition based on the requirements established in section 40.21.

We received a comment stating that we should strengthen the language in the preamble as it relates to sections 40.21 and 382.119. In response, we have further clarified in the rule text that an employer is prohibited from standing employees down, except as consistent with the waiver provisions contained in section 40.21.

The FMCSA intends to grant waivers only to employers who present a sound factual basis for their request and have in place a number of provisions to protect employees' legitimate interests. The FMCSA has the authority to grant or deny a stand-down petition and will make a case-by-case decision about the merits of a stand-down petition with respect to each company that applies for a waiver.

Section 382.121 Employee Admission of Alcohol and Controlled Substances Use

This section appeared in the NPRM as section 382.219. It has been moved from subpart B to subpart A because it is more in the nature of a general regulatory requirement as opposed to a prohibition.

A number of commenters requested clarification concerning issues raised by this section. The common issues centered around five areas. The first area of concern was whether the self-admission program is a voluntary program. The intent of this section is to allow employers to establish programs that permit employees to self-identify drug use or alcohol abuse without DOT consequences. The decision whether to establish such a program is voluntary, and is not mandated by this rule. However, if an employer chooses to implement a self-admission program, the employer must ensure the program complies with the requirements of this part.

The second area of concern involves employees who have admitted to having a controlled substance or alcohol problem and want clarification on what is meant by the requirement that the driver make the admission of alcohol misuse or controlled substances use before performing a safety sensitive function. The FMCSA's objective is to deter employees from operating a CMV if they are using a controlled substance or misusing alcohol. If an employer has a self-admission program, the intent of that program is to allow a driver to disclose a problem and not be subject to DOT sanctions. However, the employer's program is not an excuse for an employee to abuse the good faith intent of the program. The goal is to encourage employees to disclose a drug or alcohol problem prior to reporting for

duty on any given day. Once an employee has reported for duty and participated in a safety-sensitive function, it will be too late to self-disclose under the provisions of the employer's self-admission program.

The third area of contention seeks a clarification on what criteria are acceptable for employee treatment and evaluation prior to returning to a safety-sensitive function. The FMCSA will require that employers ensure the employee has obtained treatment from a drug and alcohol abuse evaluation expert prior to the employee returning to a safety-sensitive function. The expert can be an employee assistance professional, substance abuse professional, or a qualified drug and alcohol counselor. The criteria for returning to a safety-sensitive function will be determined by sound clinical and established substance abuse standards of care in clinical practice, and utilizing reliable alcohol and drug abuse assessment tools. The evaluations must be conducted face-to-face with the employee and should include a standard psycho-social history; an in-depth drug and alcohol use history (with information regarding onset, duration, frequency, and amount of use; substance(s) of use and choice; emotional and physical characteristics of use; associated health, work, family, personal, and interpersonal problems); and a current evaluation of the employee's mental status. The evaluation should provide a clinical assessment, treatment recommendations, and a treatment plan to be successfully complied with prior to the employee becoming eligible for follow-up evaluation and subsequent return to safety-sensitive functions. The regulatory text has been modified to add two new paragraphs to this section. Section 382.121(b)(4) establishes return-to-duty testing requirements and section 382.121(b)(5) permits employers to incorporate employee monitoring and non-DOT follow-up tests as part of a self-admission program.

The fourth area of concern involves the required action to be taken if an employee refuses to submit to the treatment required under the self-admission program. The FMCSA believes that an employee who has admitted to a problem with drugs or alcohol under the employer's self-admission program must comply with the requirements of the employer's self-admission program. If an employee fails to comply with any part of the program, or fails to obtain the recommended treatment as prescribed by the employee assistance professional, substance abuse professional, or drug and alcohol abuse

counselor, the employee has violated the conditions of the employer's self-admission program and is therefore subject to the provisions of subpart B of part 382. The employer would be required to remove the employee from a safety-sensitive function and comply with the DOT referral, evaluation, and treatment requirements contained in Subpart O of part 40.

The fifth area of concern centers upon what is meant by adverse action. The FMCSA's intent is that the self-admission program not be used as a disciplinary tool, as it would defeat the purpose of encouraging employees to voluntarily seek treatment. Because the program is voluntary, an employer can choose not to have such a program and still abide by DOT requirements. The FMCSA has remained silent on disciplinary actions, hiring/firing decisions, or financial matters. We have been steadfast in insisting that employers establish policies that outline their drug and alcohol program in accordance with 382.601. However, if an employer establishes a self-admission program, it must not take adverse action against an employee who makes a disclosure under the provisions of the self-admission program.

Subpart B—Prohibitions

As noted above, proposed sections 382.217 and 382.219 have been moved to subpart A. None of the other sections in this subpart generated comments and no other modifications have been made.

Subpart C—Tests Required

Section 382.301 Pre-Employment Testing

One comment received on pre-employment alcohol testing expressed concern that it is confusing to include detailed requirements on permissive pre-employment alcohol testing, as it appears to endorse employer pre-employment alcohol testing programs. This section neither endorses nor discourages an employer from conducting pre-employment alcohol testing. It simply requires an employer that chooses to conduct pre-employment alcohol testing to comply with 49 CFR part 40 and the requirements outlined in paragraph (d)(1)–(5) of this section.

Section 382.303 Post-Accident Testing

We proposed to modify this section because it was brought to our attention that post-accident testing procedures were routinely being misinterpreted for requiring post-accident testing for either controlled substances or alcohol, but not both. Consequently, we tried to clarify

this section by separating the provisions for alcohol and controlled substances testing into two distinct requirements in the rule text. Most comments that addressed this change were favorable. However, some commenters pointed out that situations exist where law enforcement officers do not give citations at the time of the accident and, in some cases, do so after the time limitations for conducting post-accident tests have expired. The post-accident testing rules state that employers should cease attempts to conduct post-accident tests once the allotted time has expired and document the reason why post-accident tests were not performed. We believe that reinforcing these time constraints enhances understanding of the rule text. As a result, we incorporated the appropriate time limits into sections 382.303(a)(2) and (b)(2). If the law enforcement officer does not issue a citation within the specified time frames, the employer should not attempt to conduct post-accident testing and should proceed with documenting the reason why the test was not performed. If an employer wants to pursue testing under its own program, the employer may conduct non-DOT test accordingly.

In response to a comment seeking clarification of an employer's obligation to test surviving drivers, we have changed the regulatory text of sections 382.303(a) and (b) to require each employer to test each "of its" surviving drivers for alcohol and controlled substances following an accident.

As proposed in the NPRM, we have eliminated the outdated reporting requirements that formerly appeared in sections 382.303(b)(2) and (b)(3).

Section 382.305 Random Testing

The NPRM proposed revising this section to require publication of the notice of minimum annual random testing percentage rates only when the rates change. There were several comments that opposed this proposal. Commenters stated the proposal would cause employers to constantly monitor Federal Registers to ensure compliance, imposing a greater regulatory burden on employers and service agents.

The FMCSA considered the potential burden on the industry if the testing rates were only published when changed. Currently, the FMCSA has experienced difficulties in publishing the rates on a timely basis as prescribed in the regulations. This is in large part due to the lack of compliance from the industry in responding to the drug and alcohol surveys needed to determine the appropriate percentage testing rates. Often, the FMCSA has to resubmit

survey requests and extend reporting deadlines in order to obtain a valid sample of participants to properly assess the testing rates. As a result, it has been difficult to publish the notice of applicable percentage testing rates prior to the beginning of each calendar year, as required by the regulations. The FMCSA contends that publishing the rates when a change is required will not pose additional burdens upon the industry. In addition to publishing the prospective testing rates in the **Federal Register**, the FMCSA would post them on its Website and provide the information to various industry newsletters, trade magazines, and other relevant publications. There would be ample time for the industry to implement the new testing rates.

In an attempt to make the rules more clear and concise and easier to follow, the FMCSA has separated the specific requirements of sections 382.305(i) and (k) into separate paragraphs. Section 382.305(i)(1) describes the types of methods to be used for selecting drivers for random testing. The requirement is the same as before, but now stands alone. In newly designated section 382.305(i)(2), we require that each driver selected for random testing shall have an equal chance of being tested. This restates the existing requirement, but is intended to clarify that employers must test the drivers selected and may not choose alternate drivers for the purpose of complying with the applicable rates at the expense of ensuring that random testing is conducted properly. Section 382.305(i)(3) has been added to require that drivers be tested during the applicable testing selection periods. Some employers are not testing drivers selected during a testing period because the drivers are not available for testing on a given day, i.e., a pre-determined testing date. Therefore, the employer skips the driver and moves to the next driver on the list. This prevents the driver that was initially selected from having an equal chance of being tested. Most employers are using quarterly testing cycles to conduct their random testing. Therefore, employers should have ample time to ensure that drivers selected during a testing cycle can be tested within that testing cycle. Although events may occur that prohibit a driver from being tested during a testing cycle, we want to ensure that this is the exception, and not the normal practice.

In response to a comment expressing confusion about the meaning of the second sentence of section 382.305(j), we have eliminated the words "or any DOT alcohol or controlled substances

random testing rule may be calculated for the employer.”

The final section that we modified for clarity is 382.305(k). The newly designated 382.305(k)(1) requires employers to ensure that random testing is unannounced. Correspondingly, 382.305(k)(2) requires that random testing dates be spread apart reasonably throughout the calendar year. Section 382.305(k) was separated into distinct paragraphs to clarify that the employer must address two specific requirements.

Section 382.307 Reasonable Suspicion Testing

A commenter noted that 382.307(f) requires a written record of the observations leading to a controlled substance test and makes a case that documentation should also be required for alcohol testing. The FMCSA agrees with the commenter and has modified this section to require a written record for observations leading to a reasonable suspicion alcohol test.

Subpart D—Handling of Test Results, Record Retention and Confidentiality

Section 382.401 Retention of Records

Commenters were generally pleased that the laboratory quarterly statistical summaries had been modified to a semi-annual requirement, thus reducing the paperwork burden.

Section 382.413 Inquiries for Alcohol and Controlled Substances Information From Previous Employers

We proposed changing this section by eliminating most of the regulatory text and incorporating the requirements of part 40, subpart B. The FMCSA received one comment stating the changes in this section had no effects on the requirements in part 40; therefore, the commenter was in support of the proposed change.

Subpart E—Consequences for Drivers Engaging in Substance Use-Related Conduct

Section 382.507 Penalties

We received one comment proposing that we add “civil and/or criminal” to this section to further define the requirements. We agree, and have modified this section accordingly.

Subpart F—Alcohol Misuse and Controlled Substances Use Information, Training, and Referral

Section 382.603 Training for Supervisors

We often receive inquiries regarding the need for recurring supervisory training. We received a comment suggesting that this section should be

modified to require recurring training. The FMCSA requires that supervisors obtain 60 minutes of training on alcohol misuse and receive an additional 60 minutes of training on controlled substances use. This regulation does not require additional training for supervisors and we do not believe a recurring training requirement is necessary.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

These final rules have been designated as non-significant under Executive Order 12866 and the Department of Transportation’s Regulatory Policies and Procedures. They are non-significant because they merely make changes to conform to the revised 49 CFR part 40, which has already been subject to extensive comment and analysis, or seek to remove obsolete provisions or clarify existing law. The proposed changes would not have any incremental economic impacts. The economic impacts of the underlying part 40 changes were analyzed in connection with the part 40 rulemaking.

Regulatory Flexibility Act

Because this rule has no incremental economic impacts, the FMCSA certifies, under the Regulatory Flexibility Act, that it will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999. The FMCSA has determined this final rule would not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FMCSA has determined that there are no new requirements for information collection associated with this final rule. All the information collection requirements of part 40 have been analyzed and approved by OMB. This rule would impose no information collection requirements that have not already been reviewed in the context of the part 40 rulemaking, so no further Paperwork Reduction Act review is necessary.

Unfunded Mandates Reform Act

This rule would not impose a Federal mandate resulting in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 12988 (Civil Justice Reform)

This action 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.

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

The FMCSA certifies that this rule has no taking implications under the Fifth Amendment or Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

National Environmental Policy Act

The agency has analyzed this rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have an adverse effect on the quality of the environment.

List of Subjects in 49 CFR Part 382

Administrative practice and procedure, Alcohol abuse, Alcohol testing, Drug abuse, Drug testing, Highway safety, Motor carriers, Penalties, Reporting and recordkeeping requirements, Safety, Transportation.

Accordingly, the FMCSA revises part 382 of 49 CFR to read as follows:

PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

Subpart A—General

- Sec.
- 382.101 Purpose.
 - 382.103 Applicability.
 - 382.105 Testing procedures.
 - 382.107 Definitions.
 - 382.109 Preemption of State and local laws.
 - 382.111 Other requirements imposed by employers.
 - 382.113 Requirements for notice.
 - 382.115 Starting date for testing programs.
 - 382.117 Public interest exclusion.
 - 382.119 Stand-down waiver provision.
 - 382.121 Employee admission of alcohol and controlled substances use.

Subpart B—Prohibitions

- 382.201 Alcohol concentration.
- 382.205 On-duty use.
- 382.207 Pre-duty use.
- 382.209 Use following an accident.
- 382.211 Refusal to submit to a required alcohol or controlled substances test.
- 382.213 Controlled substances use.
- 382.215 Controlled substances testing.

Subpart C—Tests Required

- 382.301 Pre-employment testing.
- 382.303 Post-accident testing.
- 382.305 Random testing.
- 382.307 Reasonable suspicion testing.
- 382.309 Return-to-duty testing.
- 382.311 Follow-up testing.

Subpart D—Handling of Test Results, Record Retention, and Confidentiality

- 382.401 Retention of records.
- 382.403 Reporting of results in a management information system.
- 382.405 Access to facilities and records.
- 382.407 Medical review officer notifications to the employer.
- 382.409 Medical review officer record retention for controlled substances.
- 382.411 Employer notifications.
- 382.413 Inquiries for alcohol and controlled substances information from previous employers.

Subpart E—Consequences for Drivers Engaging in Substance Use-Related Conduct

- 382.501 Removal from safety-sensitive function.
- 382.503 Required evaluation and testing.
- 382.505 Other alcohol-related conduct.
- 382.507 Penalties.

Subpart F—Alcohol Misuse and Controlled Substances Use Information, Training, and Referral

- 382.601 Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances.
- 382.603 Training for supervisors.
- 382.605 Referral, evaluation, and treatment.

Authority: 49 U.S.C. 31133, 31136, 31301 *et seq.*, 31502; and 49 CFR 1.73.

Subpart A—General

§ 382.101 Purpose.

The purpose of this part is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

§ 382.103 Applicability.

(a) This part applies to every person and to all employers of such persons who operate a commercial motor vehicle in commerce in any State, and is subject to:

(1) The commercial driver's license requirements of part 383 of this subchapter;

(2) The Licencia Federal de Conductor (Mexico) requirements; or

(3) The commercial drivers license requirements of the Canadian National Safety Code.

(b) An employer who employs himself/herself as a driver must comply with both the requirements in this part that apply to employers and the requirements in this part that apply to drivers. An employer who employs only himself/herself as a driver shall implement a random alcohol and controlled substances testing program of two or more covered employees in the random testing selection pool.

(c) The exceptions contained in § 390.3(f) of this subchapter do not apply to this part. The employers and drivers identified in § 390.3(f) of this subchapter must comply with the requirements of this part, unless otherwise specifically provided in paragraph (d) of this section.

(d) *Exceptions.* This part shall not apply to employers and their drivers:

(1) Required to comply with the alcohol and/or controlled substances testing requirements of part 655 of this title (Federal Transit Administration alcohol and controlled substances testing regulations); or

(2) Who a State must waive from the requirements of part 383 of this subchapter. These individuals include active duty military personnel; members of the reserves; and members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training and national guard military technicians (civilians who are required to wear military uniforms), and active duty U.S. Coast Guard personnel; or

(3) Who a State has, at its discretion, exempted from the requirements of part 383 of this subchapter. These individuals may be:

(i) Operators of a farm vehicle which is:

(A) Controlled and operated by a farmer;

(B) Used to transport either agricultural products, farm machinery, farm supplies, or both to or from a farm;

(C) Not used in the operations of a common or contract motor carrier; and

(D) Used within 241 kilometers (150 miles) of the farmer's farm.

(ii) Firefighters or other persons who operate commercial motor vehicles which are necessary for the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals, and are not subject to normal traffic regulation.

§ 382.105 Testing procedures.

Each employer shall ensure that all alcohol or controlled substances testing conducted under this part complies with the procedures set forth in part 40 of this title. The provisions of part 40 of this title that address alcohol or controlled substances testing are made applicable to employers by this part.

§ 382.107 Definitions.

Words or phrases used in this part are defined in §§ 386.2 and 390.5 of this subchapter, and § 40.3 of this title, except as provided in this section—

Actual knowledge for the purpose of subpart B of this part, means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in § 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under § 382.307.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this part.

Alcohol use means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

Commerce means:

(1) Any trade, traffic or transportation within the jurisdiction of the United

States between a place in a State and a place outside of such State, including a place outside of the United States; and

(2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (1) of this definition.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle—

(1) Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or

(2) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or

(3) Is designed to transport 16 or more passengers, including the driver; or

(4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Confirmation (or confirmatory) drug test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) validity test means a second test performed on a urine specimen to further support a validity test result.

Confirmed drug test means a confirmation test result received by an MRO from a laboratory.

Consortium/Third party administrator (C/TPA) means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of this part.

Controlled substances mean those substances identified in § 40.85 of this title.

Designated employer representative (DER) is an individual identified by the employer as able to receive communications and test results from

service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the company. Service agents cannot serve as DERs.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) *Inclusions.* Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

(2) *Exclusions.* (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

(ii) Tire disablement without other damage even if no spare tire is available.

(iii) Headlight or taillight damage.

(iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.

DOT Agency means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with part 40 of this title.

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Employer means a person or entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this part. The term, as used in this part, means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this part and any applicable DOT agency regulations. Service agents are not employers for the purposes of this part.

Licensed medical practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he

or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Positive rate means the number of positive results for random controlled substances tests conducted under this part plus the number of refusals of random controlled substances tests required by this part, divided by the total of random controlled substances tests conducted under this part plus the number of refusals of random tests required by this part.

Refuse to submit (to an alcohol or controlled substances test) means that a driver:

(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see § 40.61(a) of this title);

(2) Fail to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see § 40.63(c) of this title) a pre-employment test is not deemed to have refused to test;

(3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see § 40.63(c) of this title) for a pre-employment test is not deemed to have refused to test;

(4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen (see §§ 40.67(l) and 40.69(g) of this title);

(5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see § 40.193(d)(2) of this title);

(6) Fail or declines to take a second test the employer or collector has directed the driver to take;

(7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under § 40.193(d) of this title. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;

(8) Fail to cooperate with any part of the testing process (e.g., refuse to empty

pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or

(9) Is reported by the MRO as having a verified adulterated or substituted test result.

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

(1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

(2) All time inspecting equipment as required by §§ 392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

(3) All time spent at the driving controls of a commercial motor vehicle in operation;

(4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of § 393.76 of this subchapter);

(5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and

(6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (or initial test) means:

(1) In drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.

(2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Stand-down means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Violation rate means the number of drivers (as reported under § 382.305) found during random tests given under

this part to have an alcohol concentration of 0.04 or greater, plus the number of drivers who refuse a random test required by this part, divided by the total reported number of drivers in the industry given random alcohol tests under this part plus the total reported number of drivers in the industry who refuse a random test required by this part.

§ 382.109 Preemption of State and local laws.

(a) Except as provided in paragraph (b) of this section, this part preempts any State or local law, rule, regulation, or order to the extent that:

(1) Compliance with both the State or local requirement in this part is not possible; or

(2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement in this part.

(b) This part shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, employers, or the general public.

§ 382.111 Other requirements imposed by employers.

Except as expressly provided in this part, nothing in this part shall be construed to affect the authority of employers, or the rights of drivers, with respect to the use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation.

§ 382.113 Requirement for notice.

Before performing each alcohol or controlled substances test under this part, each employer shall notify a driver that the alcohol or controlled substances test is required by this part. No employer shall falsely represent that a test is administered under this part.

§ 382.115 Starting date for testing programs.

(a) All domestic-domiciled employers must implement the requirements of this part on the date the employer begins commercial motor vehicle operations.

(b) All foreign-domiciled employers must implement the requirements of this part on the date the employer begins commercial motor vehicle operations in the United States.

§ 382.117 Public interest exclusion.

No employer shall use the services of a service agent who is subject to public

interest exclusion in accordance with 49 CFR part 40, Subpart R.

§ 382.119 Stand-down waiver provision.

(a) Employers are prohibited from standing employees down, except consistent with a waiver from the Federal Motor Carrier Safety Administration as required under this section.

(b) An employer subject to this part who seeks a waiver from the prohibition against standing down an employee before the MRO has completed the verification process shall follow the procedures in 49 CFR 40.21. The employer must send a written request, which includes all of the information required by that section to the Federal Motor Carrier Safety Administrator (or the Administrator's designee), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

(c) The final decision whether to grant or deny the application for a waiver will be made by the Administrator or the Administrator's designee.

(d) After a decision is signed by the Administrator or the Administrator's designee, the employer will be sent a copy of the decision, which will include the terms and conditions for the waiver or the reason for denying the application for a waiver.

(e) Questions regarding waiver applications should be directed to the Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The telephone number is (202) 366-5720.

§ 382.121 Employee admission of alcohol and controlled substances use.

(a) Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this part and part 40 of this title, provided that:

(1) The admission is in accordance with a written employer-established voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section;

(2) The driver does not self-identify in order to avoid testing under the requirements of this part;

(3) The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and

(4) The driver does not perform a safety sensitive function until the employer is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

(b) A qualified voluntary self-identification program or policy must contain the following elements:

(1) It must prohibit the employer from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;

(2) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem;

(3) It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;

(4) It must ensure that:

(i) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or

(ii) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and

(5) It may incorporate employee monitoring and include non-DOT follow-up testing.

Subpart B—Prohibitions

§ 382.201 Alcohol concentration.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.

§ 382.205 On-duty use.

No driver shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.

§ 382.207 Pre-duty use.

No driver shall perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that a driver has used

alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.

§ 382.209 Use following an accident.

No driver required to take a post-accident alcohol test under § 382.303 shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

§ 382.211 Refusal to submit to a required alcohol or controlled substances test.

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under § 382.303, a random alcohol or controlled substances test required under § 382.305, a reasonable suspicion alcohol or controlled substances test required under § 382.307, or a follow-up alcohol or controlled substances test required under § 382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

§ 382.213 Controlled substances use.

(a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in § 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(b) No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

(c) An employer may require a driver to inform the employer of any therapeutic drug use.

§ 382.215 Controlled substances testing.

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

Subpart C—Tests Required

§ 382.301 Pre-employment testing.

(a) Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo

testing for controlled substances as a condition prior to being used, unless the employer uses the exception in paragraph (b) of this section. No employer shall allow a driver, who the employer intends to hire or use, to perform safety-sensitive functions unless the employer has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver.

(b) An employer is not required to administer a controlled substances test required by paragraph (a) of this section if:

(1) The driver has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and

(2) While participating in that program, either:

(i) Was tested for controlled substances within the past 6 months (from the date of application with the employer), or

(ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the employer); and

(3) The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

(c)(1) An employer who exercises the exception in paragraph (b) of this section shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:

(i) Name(s) and address(es) of the program(s).

(ii) Verification that the driver participates or participated in the program(s).

(iii) Verification that the program(s) conforms to part 40 of this title.

(iv) Verification that the driver is qualified under the rules of this part, including that the driver has not refused to be tested for controlled substances.

(v) The date the driver was last tested for controlled substances.

(vi) The results of any tests taken within the previous six months and any other violations of subpart B of this part.

(2) An employer who uses, but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with

§ 382.401. If the employer cannot verify that the driver is participating in a controlled substances testing program in accordance with this part and part 40 of this title, the employer shall conduct a pre-employment controlled substances test.

(d) An employer may, but is not required to, conduct pre-employment alcohol testing under this part. If an employer chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:

(1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).

(2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).

(3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.

(4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of this title.

(5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

§ 382.303 Post-accident testing.

(a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol for each of its surviving drivers:

(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor

vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for controlled substances for each of its surviving drivers:

(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

TABLE FOR § 382.303(A) AND (B)

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
i. Human fatality	YES	YES.
	NO	YES.
ii. Bodily injury with immediate medical treatment away from the scene	YES	YES.
	NO	NO.
iii. Disabling damage to any motor vehicle requiring tow away	YES	YES.
	NO	NO.

(d)(1) *Alcohol tests.* If a test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(2) *Controlled substance tests.* If a test required by this section is not administered within 32 hours following the accident, the employer shall cease attempts to administer a controlled substances test, and prepare and

maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

(f) An employer shall provide drivers with necessary post-accident information, procedures and

instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

(g)(1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the employer.

(2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided

such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the employer.

(h) *Exception.* This section does not apply to:

(1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or

(2) An occurrence involving only the loading or unloading of cargo; or

(3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in § 571.3 of this title) by an employer unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with § 177.823 of this title.

§ 382.305 Random testing.

(a) Every employer shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.

(b)(1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.

(2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of driver positions.

(c) The FMCSA Administrator's decision to increase or decrease the minimum annual percentage rate for alcohol testing is based on the reported violation rate for the entire industry. All information used for this determination is drawn from the alcohol management information system reports required by § 382.403. In order to ensure reliability of the data, the FMCSA Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry violation rate. In the event of a change in the annual percentage rate, the FMCSA Administrator will publish in the **Federal Register** the new minimum annual percentage rate for random alcohol testing of drivers. The new minimum annual percentage rate for random alcohol testing will be applicable starting January 1 of the calendar year following publication in the **Federal Register**.

(d)(1) When the minimum annual percentage rate for random alcohol

testing is 25 percent or more, the FMCSA Administrator may lower this rate to 10 percent of all driver positions if the FMCSA Administrator determines that the data received under the reporting requirements of § 382.403 for two consecutive calendar years indicate that the violation rate is less than 0.5 percent.

(2) When the minimum annual percentage rate for random alcohol testing is 50 percent, the FMCSA Administrator may lower this rate to 25 percent of all driver positions if the FMCSA Administrator determines that the data received under the reporting requirements of § 382.403 for two consecutive calendar years indicate that the violation rate is less than 1.0 percent but equal to or greater than 0.5 percent.

(e)(1) When the minimum annual percentage rate for random alcohol testing is 10 percent, and the data received under the reporting requirements of § 382.403 for that calendar year indicate that the violation rate is equal to or greater than 0.5 percent, but less than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random alcohol testing to 25 percent for all driver positions.

(2) When the minimum annual percentage rate for random alcohol testing is 25 percent or less, and the data received under the reporting requirements of § 382.403 for that calendar year indicate that the violation rate is equal to or greater than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random alcohol testing to 50 percent for all driver positions.

(f) The FMCSA Administrator's decision to increase or decrease the minimum annual percentage rate for controlled substances testing is based on the reported positive rate for the entire industry. All information used for this determination is drawn from the controlled substances management information system reports required by § 382.403. In order to ensure reliability of the data, the FMCSA Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry positive rate. In the event of a change in the annual percentage rate, the FMCSA Administrator will publish in the **Federal Register** the new minimum annual percentage rate for controlled substances testing of drivers. The new minimum annual percentage rate for random controlled substances testing will be applicable starting

January 1 of the calendar year following publication in the **Federal Register**.

(g) When the minimum annual percentage rate for random controlled substances testing is 50 percent, the FMCSA Administrator may lower this rate to 25 percent of all driver positions if the FMCSA Administrator determines that the data received under the reporting requirements of § 382.403 for two consecutive calendar years indicate that the positive rate is less than 1.0 percent.

(h) When the minimum annual percentage rate for random controlled substances testing is 25 percent, and the data received under the reporting requirements of § 382.403 for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random controlled substances testing to 50 percent of all driver positions.

(i)(1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

(2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.

(3) Each driver selected for testing shall be testing during the selection period.

(j) The employer shall randomly select a sufficient number of drivers for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random alcohol and controlled substances testing determined by the FMCSA Administrator. If the employer conducts random testing for alcohol and/or controlled substances through a C/TPA, the number of drivers to be tested may be calculated for each individual employer or may be based on the total number of drivers covered by the C/TPA who are subject to random alcohol and/or controlled substances testing at the same minimum annual percentage rate under this part.

(k)(1) Each employer shall ensure that random alcohol and controlled substances tests conducted under this part are unannounced.

(2) Each employer shall ensure that the dates for administering random alcohol and controlled substances tests conducted under this part are spread

reasonably throughout the calendar year.

(l) Each employer shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the employer shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

(m) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(n) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for the same employer, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

(o) If an employer is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, the employer may—

(1) Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or

(2) Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which the employer is subject.

§ 382.307 Reasonable suspicion testing.

(a) An employer shall require a driver to submit to an alcohol test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of subpart B of this part concerning alcohol. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(b) An employer shall require a driver to submit to a controlled substances test when the employer has reasonable suspicion to believe that the driver has

violated the prohibitions of subpart B of this part concerning controlled substances. The employer's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

(c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or company official who is trained in accordance with § 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.

(d) Alcohol testing is authorized by this section only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this part. A driver may be directed by the employer to only undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(e)(1) If an alcohol test required by this section is not administered within two hours following the determination under paragraph (a) of this section, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination under paragraph (a) of this section, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(2) Notwithstanding the absence of a reasonable suspicion alcohol test under this section, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall an employer permit the driver to perform or continue to perform safety-sensitive functions, until:

(i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or

(ii) Twenty four hours have elapsed following the determination under

paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this part concerning the use of alcohol.

(3) Except as provided in paragraph (e)(2) of this section, no employer shall take any action under this part against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit an employer with independent authority of this part from taking any action otherwise consistent with law.

(f) A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

§ 382.309 Return-to-duty testing.

The requirements for return-to-duty testing must be performed in accordance with 49 CFR part 40, Subpart O.

§ 382.311 Follow-up testing.

The requirements for follow-up testing must be performed in accordance with 49 CFR part 40, Subpart O.

Subpart D—Handling of Test Results, Records Retention, and Confidentiality

§ 382.401 Retention of records.

(a) *General requirement.* Each employer shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) *Period of retention.* Each employer shall maintain the records in accordance with the following schedule:

(1) *Five years.* The following records shall be maintained for a minimum of five years:

(i) Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater,

(ii) Records of driver verified positive controlled substances test results,

(iii) Documentation of refusals to take required alcohol and/or controlled substances tests,

(iv) Driver evaluation and referrals,

(v) Calibration documentation,

(vi) Records related to the administration of the alcohol and controlled substances testing programs, and

(vii) A copy of each annual calendar year summary required by § 382.403.

(2) *Two years.* Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

(3) *One year.* Records of negative and canceled controlled substances test results (as defined in part 40 of this title) and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

(4) *Indefinite period.* Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by the employer while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

(c) *Types of records.* The following specific types of records shall be maintained. "Documents generated" are documents that may have to be prepared under a requirement of this part. If the record is required to be prepared, it must be maintained.

(1) Records related to the collection process:

- (i) Collection logbooks, if used;
- (ii) Documents relating to the random selection process;
- (iii) Calibration documentation for evidential breath testing devices;
- (iv) Documentation of breath alcohol technician training;
- (v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests;
- (vi) Documents generated in connection with decisions on post-accident tests;

(vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing; and

(viii) Consolidated annual calendar year summaries as required by § 382.403.

(2) Records related to a driver's test results:

(i) The employer's copy of the alcohol test form, including the results of the test;

(ii) The employer's copy of the controlled substances test chain of custody and control form;

(iii) Documents sent by the MRO to the employer, including those required by part 40, subpart G, of this title;

(iv) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this part;

(v) Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this part; and

(vi) Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that the employer:

(A) Must obtain in connection with the exception contained in § 382.301, and

(B) Must obtain as required by § 382.413.

(3) Records related to other violations of this part.

(4) Records related to evaluations:

(i) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance; and

(ii) Records concerning a driver's compliance with recommendations of the substance abuse professional.

(5) Records related to education and training:

(i) Materials on alcohol misuse and controlled substance use awareness, including a copy of the employer's policy on alcohol misuse and controlled substance use;

(ii) Documentation of compliance with the requirements of § 382.601, including the driver's signed receipt of education materials;

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;

(iv) Documentation of training for breath alcohol technicians as required by § 40.213(a) of this title; and

(v) Certification that any training conducted under this part complies with the requirements for such training.

(6) Administrative records related to alcohol and controlled substances testing:

(i) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, consortia, and third party service providers;

(ii) Names and positions of officials and their role in the employer's alcohol and controlled substances testing program(s);

(iii) Semi-annual laboratory statistical summaries of urinalysis required by § 40.111(a) of this title; and

(iv) The employer's alcohol and controlled substances testing policy and procedures.

(d) *Location of records.* All records required by this part shall be maintained as required by § 390.31 of this subchapter and shall be made available for inspection at the employee's principal place of business within two business days after a request has been made by an authorized

representative of the Federal Motor Carrier Safety Administration.

(e) *OMB control number.* (1) The information collection requirements of this part have been reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and have been assigned OMB control number 2126-0012.

(2) The information collection requirements of this part are found in the following sections: Sections 382.105, 382.113, 382.301, 382.303, 382.305, 382.307, 382.401, 382.403, 382.405, 382.409, 382.411, 382.601, 382.603.

§ 382.403 Reporting of results in a management information system.

(a) An employer shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers.

(b) If an employer is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report the employer's annual calendar year summary information, the employer shall prepare and submit the report to the FMCSA by March 15 of that year. The employer shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request. The report shall be in the form and manner prescribed by the FMCSA in its request. When the report is submitted to the FMCSA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official. Each employer shall ensure the accuracy and timeliness of each report submitted by the employer or a consortium.

(c) *Detailed summary.* Each annual calendar year summary that contains information on a verified positive controlled substances test result, an alcohol screening test result of 0.02 or greater, or any other violation of the alcohol misuse provisions of subpart B of this part shall include the following informational elements:

(1) Number of drivers subject to this part;

(2) Number of drivers subject to testing under the alcohol misuse or controlled substances use rules of more than one DOT agency, identified by each agency;

(3) Number of urine specimens collected by type of test (e.g., pre-employment, random, reasonable suspicion, post-accident);

(4) Number of positives verified by a MRO by type of test, and type of controlled substance;

(5) Number of negative controlled substance tests verified by a MRO by type of test;

(6) Number of persons denied a position as a driver following a pre-employment verified positive controlled substances test and/or a pre-employment alcohol test that indicates an alcohol concentration of 0.04 or greater;

(7) Number of drivers with tests verified positive by a medical review officer for multiple controlled substances;

(8) Number of drivers who refused to submit to an alcohol or controlled substances test required under this subpart, including those who submitted substituted or adulterated specimens;

(9)(i) Number of supervisors who have received required alcohol training during the reporting period; and

(ii) Number of supervisors who have received required controlled substances training during the reporting period;

(10)(i) Number of screening alcohol tests by type of test; and

(ii) Number of confirmation alcohol tests, by type of test;

(11) Number of confirmation alcohol tests indicating an alcohol concentration of 0.02 or greater but less than 0.04, by type of test;

(12) Number of confirmation alcohol tests indicating an alcohol concentration of 0.04 or greater, by type of test;

(13) Number of drivers who were returned to duty (having complied with the recommendations of a substance abuse professional as described in § 382.503 and part 40, subpart O of this title), in this reporting period, who previously:

(i) Had a verified positive controlled substance test result, or

(ii) Engaged in prohibited alcohol misuse under the provisions of this part;

(14) Number of drivers who were administered alcohol and drug tests at the same time, with both a verified positive drug test result and an alcohol test result indicating an alcohol concentration of 0.04 or greater; and

(15) Number of drivers who were found to have violated any non-testing prohibitions of subpart B of this part, and any action taken in response to the violation.

(d) *Short summary.* Each employer's annual calendar year summary that contains only negative controlled substance test results, alcohol screening

test results of less than 0.02, and does not contain any other violations of subpart B of this part, may prepare and submit, as required by paragraph (b) of this section, either a standard report form containing all the information elements specified in paragraph (c) of this section, or an "EZ" report form. The "EZ" report shall include the following information elements:

(1) Number of drivers subject to this part;

(2) Number of drivers subject to testing under the alcohol misuse or controlled substance use rules of more than one DOT agency, identified by each agency;

(3) Number of urine specimens collected by type of test (e.g., pre-employment, random, reasonable suspicion, post-accident);

(4) Number of negatives verified by a medical review officer by type of test;

(5) Number of drivers who refused to submit to an alcohol or controlled substances test required under this subpart, including those who submitted substituted or adulterated specimens;

(6)(i) Number of supervisors who have received required alcohol training during the reporting period; and

(ii) Number of supervisors who have received required controlled substances training during the reporting period;

(7) Number of screen alcohol tests by type of test; and

(8) Number of drivers who were returned to duty (having complied with the recommendations of a substance abuse professional as described in § 382.503 and part 40, subpart O, of this title), in this reporting period, who previously:

(i) Had a verified positive controlled substance test result, or

(ii) Engaged in prohibited alcohol misuse under the provisions of this part.

(e) Each employer that is subject to more than one DOT agency alcohol or controlled substances rule shall identify each driver covered by the regulations of more than one DOT agency. The identification will be by the total number of covered functions. Prior to conducting any alcohol or controlled substances test on a driver subject to the rules of more than one DOT agency, the employer shall determine which DOT agency rule or rules authorizes or requires the test. The test result information shall be directed to the appropriate DOT agency or agencies.

(f) A C/TPA may prepare annual calendar year summaries and reports on behalf of individual employers for purposes of compliance with this section. However, each employer shall sign and submit such a report and shall remain responsible for ensuring the

accuracy and timeliness of each report prepared on its behalf by a C/TPA.

§ 382.405 Access to facilities and records.

(a) Except as required by law or expressly authorized or required in this section, no employer shall release driver information that is contained in records required to be maintained under § 382.401.

(b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests. The employer shall promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.

(c) Each employer shall permit access to all facilities utilized in complying with the requirements of this part to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers.

(d) Each employer shall make available copies of all results for employer alcohol and/or controlled substances testing conducted under this part and any other information pertaining to the employer's alcohol misuse and/or controlled substances use prevention program, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers.

(e) When requested by the National Transportation Safety Board as part of an accident investigation, employers shall disclose information related to the employer's administration of a post-accident alcohol and/or controlled substance test administered following the accident under investigation.

(f) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

(g) An employer may disclose information required to be maintained under this part pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results) of this part (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought

by the driver). Additionally, an employer may disclose information in criminal or civil actions in accordance with § 40.323(a)(2) of this title.

(h) An employer shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent as outlined in § 40.321(b) of this title.

§ 382.407 Medical review officer notifications to the employer.

Medical review officers shall report the results of controlled substances tests to employers in accordance with the requirements of part 40, Subpart G, of this title.

§ 382.409 Medical review officer record retention for controlled substances.

(a) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five years for verified positive controlled substances test results.

(b) A medical review officer or third party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of one year for negative and canceled controlled substances test results.

(c) No person may obtain the individual controlled substances test results retained by a medical review officer or third party administrator, and no medical review officer or third party administrator shall release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit a medical review officer or third party administrator from releasing, to the employer or to officials of the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances testing program under this part, the information delineated in part 40, Subpart G, of this title.

§ 382.411 Employer notifications.

(a) An employer shall notify a driver of the results of a pre-employment controlled substances test conducted under this part, if the driver requests such results within 60 calendar days of being notified of the disposition of the employment application. An employer shall notify a driver of the results of

random, reasonable suspicion and post-accident tests for controlled substances conducted under this part if the test results are verified positive. The employer shall also inform the driver which controlled substance or substances were verified as positive.

(b) The designated employer representative shall make reasonable efforts to contact and request each driver who submitted a specimen under the employer's program, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

(c) The designated employer representative shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 72 hours.

§ 382.413 Inquiries for alcohol and controlled substances information from previous employers.

Employers shall request alcohol and controlled substances information from previous employers in accordance with the requirements of § 40.25 of this title.

Subpart E—Consequences for Drivers Engaging in Substance Use-Related Conduct

§ 382.501 Removal from safety-sensitive function.

(a) Except as provided in subpart F of this part, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by subpart B of this part or an alcohol or controlled substances rule of another DOT agency.

(b) No employer shall permit any driver to perform safety-sensitive functions; including driving a commercial motor vehicle, if the employer has determined that the driver has violated this section.

(c) For purposes of this subpart, commercial motor vehicle means a commercial motor vehicle in commerce as defined in § 382.107, and a commercial motor vehicle in interstate commerce as defined in part 390 of this subchapter.

§ 382.503 Required evaluation and testing.

No driver who has engaged in conduct prohibited by subpart B of this part shall perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of part 40, subpart O, of this title. No employer shall permit a driver who has engaged in conduct prohibited by subpart B of this part to perform safety-sensitive

functions, including driving a commercial motor vehicle, unless the driver has met the requirements of part 40, subpart O, of this title.

§ 382.505 Other alcohol-related conduct.

(a) No driver tested under the provisions of subpart C of this part who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for an employer, including driving a commercial motor vehicle, nor shall an employer permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

(b) Except as provided in paragraph (a) of this section, no employer shall take any action under this part against a driver based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an employer with authority independent of this part from taking any action otherwise consistent with law.

§ 382.507 Penalties.

Any employer or driver who violates the requirements of this part shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b). In addition, any employer or driver who violates the requirements of 49 CFR part 40 shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b).

Subpart F—Alcohol Misuse and Controlled Substances Use Information, Training, and Referral

§ 382.601 Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances.

(a) *General requirements.* Each employer shall provide educational materials that provide the requirements of this part and the employer's policies and procedures with respect to meeting these requirements.

(1) The employer shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this part and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.

(2) Each employer shall provide written notice to representatives of employee organizations of the availability of this information.

(b) *Required content.* The materials to be made available to drivers shall include detailed discussion of at least the following:

(1) The identity of the person designated by the employer to answer driver questions about the materials;

(2) The categories of drivers who are subject to the provisions of this part;

(3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with this part;

(4) Specific information concerning driver conduct that is prohibited by this part;

(5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this part, including post-accident testing under § 382.303(d);

(6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by § 382.303(d);

(7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this part;

(8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;

(9) The consequences for drivers found to have violated subpart B of this part, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under part 40, subpart O, of this title;

(10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04;

(11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and or referral to management.

(c) *Optional provision.* The materials supplied to drivers may also include information on additional employer policies with respect to the use of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on the employer's authority independent of this part. Any such additional policies or consequences

must be clearly and obviously described as being based on independent authority.

(d) *Certificate of receipt.* Each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials described in this section. Each employer shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

§ 382.603 Training for supervisors.

Each employer shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under § 382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

§ 382.605 Referral, evaluation, and treatment.

The requirements for referral, evaluation, and treatment must be performed in accordance with 49 CFR part 40, Subpart O.

Date Issued: August 8, 2001.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 01-20426 Filed 8-16-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-01-10381]

RIN 2127-AI51

Federal Motor Vehicle Safety Standards: Interior Trunk Release

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: In October 2000, NHTSA published a final rule establishing a new Federal motor vehicle safety standard that will require passenger cars with trunks to be equipped with a release

latch inside the trunk compartment. Four organizations filed petitions for reconsideration of this rule.

In response to these petitions, the agency is making several substantive changes to the final rule. It is excluding hatchbacks and station wagons. It is also excluding sub-compartments that are formed within the trunk compartment when a convertible power top folds down into the trunk. The agency is changing the definition of "trunk lid" to explicitly exclude the lids of interior storage compartments. The agency is revising the definition of "trunk compartment" to include standard equipment in the determination of the size of the trunk compartment. The agency is amending the standard to require that interior trunk releases on passenger cars with front trunk compartments unlatch the primary, but not the secondary, latch if the passenger car is moving when the trunk release is actuated. The agency is providing an additional year of lead-time for passenger cars with front trunk compartments.

The agency is also denying requests: To exclude passenger cars with trunk lids that contact the three-year-old child dummy (used to determine whether a trunk compartment is large enough to be subject to the standard) before latching, or provide those cars with an additional year of lead-time; to require that the ignition be in the "off" position for an automatic trunk release system to operate; to require that an automatic trunk release system may unlatch the trunk lid only when a person inside the trunk compartment is moving; and to allow means for temporary disabling of automatic trunk release systems.

Finally, the agency is adding a requirement that manufacturers irrevocably select which compliance option, manual or automatic, they will employ.

DATES: Effective date: The effective date for the amendments in this final rule is September 1, 2001.

Petitions for reconsideration deadline: If you wish to petition for reconsideration of this final rule, you must submit it so that we receive your petition not later than October 1, 2001.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical and policy questions: Kenneth O. Hardie, Office of Crash Avoidance Standards, NHTSA, 400 Seventh Street,

SW, Washington, DC 20590 (Telephone: 202-366-6987) (Fax: 202-493-2739).

For legal questions: Dion Casey, Office of Chief Counsel, NHTSA, 400 Seventh Street, SW, Washington, D.C. 20590 (Telephone: 202-366-2992) (Fax: 202-366-3820).

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I. Background

On October 20, 2000, NHTSA published a final rule establishing a new Federal motor vehicle safety standard (FMVSS No. 401, Interior Trunk Release) to address the problem of trunk entrapment. (65 FR 63014). Trunk entrapment can occur accidentally, such as when a child playing a game climbs into a trunk and pulls down the trunk lid, and intentionally, such as when a criminal forces a person into the trunk. The agency estimated that 21 people have died in 11 incidents of accidental trunk entrapment from 1987 to 1999. Eleven of these were children who died in three separate incidents when they locked themselves in the trunk of an automobile during a three-week period in July and August of 1998. The standard provides persons who find themselves trapped inside a passenger car trunk a chance to get out of the trunk alive.

Standard No. 401 requires all new passenger cars with trunks to be equipped with an interior trunk release inside the trunk compartment,

beginning September 1, 2001.

Manufacturers may comply with the standard by installing a manual release latch or an automatic release system which detects the presence of a person in the trunk and automatically unlatches the trunk lid.

To aid readers in understanding this document, we have set out the short standard, as published, in its entirety:

§ 571.401—Standard No. 401; Interior trunk release.

S1. Purpose and scope. This standard establishes the requirement for providing a trunk release mechanism that makes it possible for a person trapped inside the trunk compartment of a passenger car to escape from the compartment.

S2. Application. This standard applies to passenger cars that have a trunk compartment.

S3. Definitions.

Trunk compartment means a space that:

- (a) Is intended to be used for carrying luggage,
- (b) Is wholly separated from the occupant compartment of a passenger car by a permanently attached partition or by a fixed or fold-down seat back and/or partition,
- (c) Has a trunk lid, and
- (d) Is large enough so that the three-year-old child dummy described in Subpart C of Part 572 can be placed inside the trunk compartment and, with the test dummy in the trunk compartment, the trunk lid can be closed and latched. (Note: For purposes of this standard, the Part 572 Subpart C test dummy need not be equipped with the accelerometers specified in Part 572.21.)

Trunk lid means a movable body panel that provides access from outside a motor vehicle to a trunk compartment.

S4. Requirements.

S4.1 Each passenger car with a trunk compartment must have an automatic or manual release mechanism inside the trunk compartment that unlatches the trunk lid.

S4.2(a) Each manual release mechanism installed pursuant to S4.1 of this section must include a feature, like lighting or phosphorescence, that allows the release mechanism to be easily seen inside the closed trunk.

(b) Each automatic release mechanism installed pursuant to S4.1 of this section must unlatch the trunk lid within 5 minutes of when the lid is closed with a person inside the trunk compartment.

S4.3 Actuation of each release mechanism required by S4.1 of this section must completely release the trunk lid from all latching positions of the trunk lid latch, notwithstanding the requirements of any other standards in part 571 of this title.

II. Petitions for Reconsideration and NHTSA's Responses

NHTSA received petitions for reconsideration of the final rule from General Motors North America (GM), and Porsche Cars North America, Inc. (Porsche). The agency also received requests for interpretation of the final

rule from Volkswagen of America (VW) and the Alliance of Automobile Manufacturers (Alliance), whose members are the BMW Group, Daimler Chrysler, Fiat, Ford Motor Company, GM, Isuzu, Mazda, Mitsubishi Motors, Nissan, Porsche, Toyota, VW, and Volvo. VW and the Alliance requested that if NHTSA disagreed with their interpretations of the final rule, the agency treat the letters as petitions for reconsideration. The Alliance also filed a letter which contained comments supporting the GM and Porsche petitions for reconsideration.

A. Application

1. Hatchback Models

In their letters, VW and the Alliance requested that NHTSA issue a letter of interpretation to confirm their understanding of Standard No. 401 as not applying to hatchback models. VW and the Alliance requested that NHTSA determine that the hinged rear door ("hatch") of hatchback models is a "back door" rather than a "trunk lid." VW and the Alliance requested that if the agency disagreed with their understanding of the standard, that the agency treat their letters as petitions for reconsideration.

S3 of Standard No. 401 defines "trunk compartment" as a space that:

- (a) is intended to be used for carrying luggage,
- (b) is wholly separated from the occupant compartment of a passenger car by a permanently attached partition or by a fixed or fold-down seat back and/or partition,
- (c) has a trunk lid, and
- (d) is large enough so that the three-year-old child dummy described in Subpart C of Part 572 can be placed inside the trunk compartment and, with the test dummy in the trunk compartment, the trunk lid can be closed and latched.

The issue presented by VW and the Alliance is whether the hatch on hatchback¹ models is a "trunk lid" or a "back door." S3 of Standard No. 401 defines a "trunk lid" as "a moveable body panel that provides access from outside a motor vehicle to a trunk compartment." Standard No. 206, Door Locks and Door Retention Components, defines "back door" as "a door or door system on the back end of a motor vehicle through which passengers can enter or depart the vehicle, or cargo can

¹ NHTSA uses the term "hatchback" in several of its standards and regulations, but does not define it. The Environmental Protection Agency has defined it in 40 CFR 600.002-85(a)(34) to mean "a passenger automobile where the conventional luggage compartment, i.e., trunk, is replaced by a cargo area which is open to the passenger compartment and accessed vertically by a rear door which encompasses the rear window."

be loaded or unloaded; but does not include: (a) A trunk lid * * *."

NHTSA intended the terms "back door" and "trunk lid" to be mutually exclusive. The agency made this distinction when it extended the door lock and retention requirements of Standard No. 206, which originally covered only side doors, to back doors, including the hatch on hatchback models. (60 FR 50124, September 28, 1995). NHTSA did not intend for trunk lids to have to meet the lock and retention requirements, so the agency specifically excluded trunk lids from the definition of "back door."

NHTSA intended to echo the distinction between a "back door" and a "trunk lid" in the final rule establishing Standard No. 401. In the preamble of that final rule, the agency stated that "the requirements in * * * Standard No. 206 only apply if the moveable panel is not a trunk lid, and the requirements in this standard [No. 401] only apply if the moveable panel is a trunk lid." (65 FR 63019).

Despite this distinction, however, the hatch on some hatchback models may meet both the definition of "back door" and the definition of "trunk lid" in the October 2000 final rule. For example, a hatch may satisfy the latter part of the definition of a "back door," i.e., a "door on the back end of a motor vehicle through which passengers can enter or depart the vehicle, or cargo can be loaded or unloaded." It is possible that some hatches may also satisfy the definition of a "trunk lid," i.e., "a moveable body panel that provides access from outside a motor vehicle to a trunk compartment." A "trunk compartment" is, in turn, defined as a space that "is intended to be used for carrying luggage," "is wholly separated from the occupant compartment * * * by a permanently attached partition or by a fixed or fold-down seat back and/or partition," "has a trunk lid [the hatch]," and is large enough to fit the three-year-old child dummy.

NHTSA recognizes that it may have used conflicting language in the NPRM and the final rule establishing Standard No. 401. In the NPRM, NHTSA said that the standard would not apply to the hatch on hatchback models. The agency stated that its proposed definition of "trunk lid" would mean that "the requirement for an interior release would not apply to vehicles that do not typically have trunk lids, like hatchback cars, station wagons, pickup trucks, sport utility vehicles, and vans." (64 FR 70675).

However, in the final rule, the agency stated:

Concerning the applicability of this Standard to hatchbacks, if a moveable body panel, that provides access to a space wholly partitioned from the occupant compartment, encloses that space upon closing a permanently attached lid such as a hatchback lid, then the closing lid is considered a trunk lid for the purposes of this rule. (65 FR 63017).

(This statement was intended to indicate that hatchbacks were included only if the cargo area were actually wholly separated from the occupant compartment. Conversely, hatchbacks were excluded if the cargo area was only partially separated from the occupant compartment, e.g., by means of netting or by a roll-out shade that leaves open spaces on the side.)

In addition, in response to comments from the Ford Motor Company recommending that Standard No. 401 specifically exclude vehicles with hinged back doors, such as vans, SUVs, station wagons, and hatchbacks, that must comply with the latch requirements of Standard No. 206, the agency stated:

Contrary to Ford's assertions, S3 of Standard No. 206 expressly provides that the term "back door" does not include a "trunk lid." Thus, the requirements in S4.4.2 of Standard No. 206 only apply if the moveable panel is not a trunk lid, and the requirements in this standard only apply if the moveable panel is a trunk lid. (65 FR 63019).

The agency does not wish to apply Standard No. 401 to any hatchbacks. The agency notes that the Expert Panel on Trunk Entrapment, which was formed prior to the Standard No. 401 NPRM to study the problem of trunk entrapment, did not address hatchbacks, nor were there any data presented to the panel indicating that persons have died as a result of their being inadvertently or intentionally locked in the rear of hatchbacks. Absent such evidence, NHTSA is excluding them from Standard No. 401. However, the agency will reconsider the applicability of Standard No. 401 to some or all hatchbacks if data indicate that trunk entrapment deaths are occurring in them.

The agency is amending Standard No. 401 by excluding vehicles with a back door from the standard, adding a definition of "back door," and changing the definition of "trunk lid," as follows:

S2. Application. This standard applies to passenger cars that have a trunk compartment. This standard does not apply to passenger cars with a back door.

Back door means a door or door system on the back end of a passenger car through which cargo can be loaded or unloaded. The term includes the hinged back door on a hatchback or a station wagon.

Trunk lid means a moveable body panel that is not designed or intended as a passenger car entry point for passengers and that provides access from outside a passenger car to a trunk compartment. The term does not include a back door or the lid of a storage compartment located inside the passenger compartment of a passenger car.

2. Station Wagon Models

VW and the Alliance also asked the agency to confirm their understanding that Standard No. 401 does not apply to station wagon models equipped with luggage compartment covers. In its letter, VW stated:

Volkswagen and Audi station wagon models provide a luggage compartment cover, which operates like a roll-out shade or a net that the customer can use to provide privacy or retention for the luggage area. The luggage compartment cover can be released and rolled back even when the back door is closed and is made of soft material that can be moved aside by anyone who may be inside the luggage compartment when the cover is closed. It is Volkswagen's interpretation that such station wagon luggage compartment covers do not form an enclosed space, which would require an interior release for the back door of its station wagon models.

In its letter, the Alliance stated:

Station wagon models have open luggage compartment areas with direct access from the luggage compartment into the occupant seating area and therefore clearly do not have trunk compartments as defined in FMVSS 401. However, some station wagon models are provided with luggage cover accessories which operate like a roller shade or a netting and which are made of soft materials that can be moved aside to provide access from the covered luggage area to the passenger compartment.

For purposes of Standard No. 401, NHTSA has concluded that the rear door on station wagon models is not, and should not be treated as, a trunk lid. This conclusion is based primarily on the regulatory text in the final rule. Being full of openings, a net would clearly not "wholly separate" (emphasis added) the passenger compartment from the luggage area. Likewise, if a roll-out shade leaves any openings between the passenger compartment and the luggage area, the rear door is not a trunk lid under the final rule.

This conclusion is consistent with the Standard No. 401 NPRM. In the NPRM, NHTSA proposed to exclude the rear door of station wagon models. The agency stated that its proposed definition of "trunk lid" would mean that "the requirement for an interior release would not apply to vehicles that do not typically have trunk lids, like

hatchback cars, station wagons, pickup trucks, sport utility vehicles, and vans.” (64 FR 70675). Moreover, NHTSA is also concerned that, if the agency were to require the rear door of station wagon models to have an interior release mechanism, a child seated in the rear of a station wagon might be able to activate the mechanism and open the rear door while the station wagon is in motion.

Thus, the agency is amending Standard No. 401 by adding a definition of “back door,” changing the definition of “trunk lid,” and excluding vehicles with a back door from the standard as noted above in the section on hatchback models.

3. Interior Storage Compartments

The Alliance expressed concern regarding the applicability of Standard No. 401 to interior storage compartments in convertibles. The Alliance stated:

It is conceivable that if a convertible top is down, a vehicle interior compartment door could be opened from outside the vehicle. In some vehicles, the interior storage compartment could accommodate a 3-year-old dummy.

For example, the Toyota MR2-Spyder, a two-seat convertible, has two interior storage compartments, one behind each of the seats. In this vehicle, in order to open the compartment doors, the driver's seat and/or passenger's seat would have to be inclined forward. Otherwise, the seat in front of the interior compartment would block the compartment door. The Alliance argued that, in this case, even if a trunk release were required and installed in the interior compartment, the compartment doors would not open enough to allow egress from the compartment, unless the seats are inclined forward. Thus, the Alliance asked the agency to confirm that Standard No. 401 does not apply to interior storage compartments.

NHTSA agrees with this interpretation. The agency does not consider interior storage compartments to be “trunk compartments.” The lids of interior storage compartments do not provide access from outside a motor vehicle to a trunk compartment. The agency did not intend for interior storage compartments to be subject to the requirements of Standard No. 401. To address this, the agency is revising the definition of “trunk lid” to read as follows:

Trunk lid means a moveable body panel that is not designed or intended as a vehicle entry point for passengers and that provides access from outside a motor vehicle to a trunk compartment. It does not mean the lid of a storage compartment located inside the passenger compartment of the vehicle.

4. Sub-Compartments

The Alliance stated that some convertible models are equipped with a power top that folds down into the vehicle trunk, thereby partitioning the trunk space into sub-compartments. There may be sufficient room for a three-year-old child to become trapped in such a sub-compartment when the top is stowed. However, for this to happen, the child would have to access a sub-compartment during the short time when the power top is actively being stowed. Further, stowing the power top requires the vehicle key to be actuated and a button to be continuously pressed, indicating that an adult is present. In addition, for the sub-compartment to be accessible during this time, a child would have to be in the trunk compartment already. Based upon these circumstances, the Alliance asked NHTSA to confirm its understanding that the interior trunk release need not be accessible to children trapped in the sub-compartments created by stowing a convertible power top in the vehicle's trunk compartment.

The Alliance's understanding is correct. The agency believes that it is highly unlikely that a child could become trapped in such a sub-compartment under the circumstances described in the Alliance letter. Thus, the interior trunk release in convertible models with power tops that stow in the trunk compartment need not be accessible to a child trapped in the sub-compartments created by stowing the power top.

The trunk compartment of a convertible model with a power top that stows in the trunk still must have an interior trunk release. A person may become trapped in the trunk compartment while the power top is up. The agency is only stating that the interior trunk release in such a model need not be accessible to a child trapped in the sub-compartments created in the trunk compartment by stowing the power top.

To address this, the agency is revising the definition of “trunk compartment” to add the following at the end:

(b) does not include a sub-compartment within the trunk compartment.

5. Small Trunks

Standard No. 401 requires a trunk compartment to have an interior trunk release mechanism if the trunk compartment “[i]s large enough so that the three-year-old child dummy described in Subpart C of Part 572 can be placed inside the trunk compartment

and, with the test dummy in the trunk compartment, the trunk lid can be closed and latched.”

In its letter, the Alliance stated:

Alliance member companies have evaluated this space requirement on some vehicles and found cases where the trunk lid could not close and latch if the trunk lid is rested on the dummy in the trunk compartment. However, if the trunk lid were “slammed” or pushed down, squeezing the dummy into the compartment with the lid, the trunk lid could be latched. If a child was actually in this situation, we believe no movement would be afforded to allow the child to operate a trunk release nor would the child be expected to be able to “slam” down the trunk lid onto themselves.

The Alliance asked the agency to confirm its understanding that trunk lids that contact the dummy before latching are not required to have an interior release mechanism.

NHTSA disagrees with this understanding. The agency notes that while the three-year-old child dummy used in the evaluation of the size of the trunk compartment is not pliable, children are. A child may bend and squeeze him/herself into a space in which a dummy would not be able to fit due to its inflexibility. Moreover, although a child in such a trunk compartment may not be able to pull down and close the trunk lid, a second child may be able to push the trunk lid down, trapping the first child in the trunk compartment. In addition, many vehicles manufactured by members of the Alliance have closure assisting devices as part of the trunk latch design. These provide the closure force that is necessary to perform latching, without the need for slamming. Thus, the agency believes that if the trunk lid can be closed with the three-year-old child dummy in the trunk compartment, the trunk lid is required to have an interior release.

The Alliance's argument that a child trapped in such a small trunk would not have enough room to operate a manual trunk release is not persuasive because the standard allows vehicles to be equipped with automatic trunk releases as well as manual releases.

Since NHTSA disagreed with this portion of the Alliance letter, the agency treated it as a petition for reconsideration. That part of the Alliance petition is denied.

B. Performance Requirements

1. Complete Unlatching of Front-Opening Trunk Lids

§4.3 of Standard No. 401 requires the trunk release mechanism to “completely release the trunk lid from all latching positions of the trunk lid latch,

notwithstanding the requirements of any other" Federal motor vehicle safety standards. Standard No. 113, Hood Latch System, requires front opening hoods which, in any open position, partially or completely obstruct a driver's forward view through the windshield to be provided with a second latch position on the hood latch system or with a second hood latch system. The purpose of Standard No. 113 is to prevent front opening hoods from flying open and obstructing the driver's view while the vehicle is in motion.

Porsche manufactures several passenger car models with front opening hoods. In its petition for reconsideration, Porsche maintained that having a trunk release mechanism that unlocks or opens a front opening hood from all latching positions or latches while the vehicle is in motion results in risk of injuring the driver, passenger, and other motorists whether the release functions as intended or inadvertently. Thus, Porsche requested that the agency "modify S4.3 of the final rule to indicate that, for front-opening hoods, only the primary latch need be completely released."

Porsche requested that if NHTSA denied this recommendation, the agency provide manufacturers the option of disabling the interior trunk release system when the passenger car is in motion. Porsche stated that it currently deactivates the standard electro-mechanical hood release on its passenger cars when they have obtained a speed of $5 \text{ km/h} \pm 2 \text{ km/h}$.

NHTSA is granting Porsche's request to amend Standard No. 401 to indicate that for front opening hoods, only the primary latch need be completely released. As NHTSA stated in the preamble to the final rule, the agency believes that allowing a trapped person to get out of the trunk is paramount. However, NHTSA recognizes the significant additional risk of completely releasing a front opening hood while the passenger car is in motion. The release of both the primary and secondary latches when the passenger car is in motion could result in the hood flying open and obstructing the driver's forward view through the windshield. In addition, if the driver were to apply the brakes in such a situation, the trapped person could be ejected from the trunk compartment.

The agency agrees with Porsche that if only the primary latch is released when the passenger car is in motion, the hazard of collision and possible ejection of the trapped person would be greatly reduced. In addition, release of the primary latch would at least provide the

trapped person with access to outside air and increase the possibility of the trapped person being noticed by others.

The agency notes that this change would not favor victims of intentional entrapment. Such victims would not be able to completely release the trunk lid and escape, at least not while the passenger car was in motion. To address this, the agency is requiring that the trunk lid open completely when the passenger car is stationary or moving at a speed of less than 3 km/h .

Thus, the agency is adding a paragraph (b) to S4.3 of Standard No. 401, to read as follows:

S4.3(b) For passenger cars with a front trunk compartment that has a front opening hood required to have a secondary latch position, actuation of the release mechanism required by paragraph S4.1 of this standard when the passenger car is in motion (at a speed of 3 km/h or more) must release the primary latch position, but not the secondary latch position. At all other times, actuation of the release mechanism required by paragraph S4.1 of this standard must completely release the trunk lid from all latching positions of the trunk lid latch. The passenger cars described in this paragraph are excluded from the requirements of this standard until September 1, 2002.

The agency notes that the amended text requires actuation of the release mechanism when the passenger car is stationary or moving at a speed of less than 3 km/h to release the latch completely from all latch positions, regardless of the previous state of the latches or whether the primary latch has been released during passenger car movement. Since NHTSA is granting this request, the agency does not have to address Porsche's request to provide manufacturers the option of disabling the interior trunk release system when the vehicle is in motion.

The agency realizes that this amendment adds some complexity to the design of trunk release systems for passenger cars with a trunk compartment located in the front. It also imposes an additional performance requirement associated with the speed of the passenger car. However, the agency has not estimated the costs of this additional burden. The agency believes that very few passenger cars have a trunk compartment located in the front. Moreover, the agency notes that Porsche stated that it currently deactivates the standard electro-mechanical hood release on its passenger cars when they have obtained a speed of $5 \text{ km/h} \pm 2 \text{ km/h}$. Thus, the requirement that the front hood lid only release the primary latch when the passenger car has obtained a speed of 3 km/h should not be a substantial burden.

2. Operation of Automatic Systems While the Vehicle Is in Motion

Standard No. 401 permits passenger car manufacturers to install an automatic trunk release system which detects the presence of a person in the trunk and automatically unlatches the trunk lid. S4.2(b) of the standard requires such systems to "unlatch the trunk lid within 5 minutes of when the lid is closed with a person inside the trunk compartment." The standard does not specify that the automatic trunk release system must operate only when the passenger car is stationary.

In its petition for reconsideration, GM stated that it has designed an automatic trunk release system that senses a combination of motion and a difference in temperature in the trunk compartment, *i.e.*, a difference in the temperature of the trunk compartment and the temperature of an object in the trunk compartment. However, the system is not designed to operate while the passenger car is in motion because unsecured cargo (such as a basketball) often moves in the trunk while the passenger car is in motion. If automatic trunk release systems are required to operate while the passenger car is in motion, GM argued, motion detectors, even when used in combination with a temperature sensor, could not be used without the risk of causing unwanted trunk releases and possible adverse safety consequences.

GM also stated that motion sensors could not be used if automatic trunk release systems are required to operate while the passenger car is stationary for a short time, such as when the passenger car is in gear but stopped at a stop light. GM said that there are two reasons for this:

First, motion is imminent when the ignition is on, and an unwanted trunk release could occur. [We take this to mean the trunk lid could open right before the vehicle resumes motion.] Second, the vehicle's ability to measure the speed at which it is moving has poor resolution at very low speeds. Therefore, a vehicle that is inching forward in a parking lot or at a stop light will not register motion, but the motion sensor in the trunk will register the motion of the cargo that is moving as a result of the vehicle's motion.

GM claimed that its testing has demonstrated that a truck passing a stopped passenger car can generate movement inside the trunk compartment of the stopped car that could mimic human-like motion. In addition, GM stated that persons moving inside the passenger compartment can cause motion to be registered inside the trunk compartment

even though the passenger car is stationary.

Either of these occurrences could cause the trunk lid to open while the passenger car is in motion. GM also stated that it is not aware of any child trunk entrapment incident involving a passenger car that was in motion shortly after the child become trapped.

For these reasons, GM's automatic trunk release system is designed to operate only when the passenger car is stationary and the ignition is off. GM stated:

GM believes that requiring a passive [automatic] system to work when the vehicle is in motion or when motion is imminent will impose a significant and unwarranted design restriction that may preclude manufacturers from introducing passive systems. GM believes that such a restriction is not necessary to achieve the purposes of FMVSS 401, and that the final rule should allow manufacturers the flexibility to determine optimal design solutions, including the use of motion detectors in passive trunk release systems.

To address this issue, GM recommended that language such as "a stationary vehicle with the key off" be added to S4.2(b) of Standard No. 401.

NHTSA is denying GM's request to amend S4.2(b) so that automatic trunk release systems do not have to operate while the passenger car is in motion. NHTSA understands GM's concerns with respect to inanimate objects moving in the trunk compartment causing the trunk lid to open while the passenger car is in motion. However, the agency has concluded that the conditions suggested by GM are not suitable.

GM stated that it was not aware of a child entrapment incident involving a passenger car that was in motion shortly after the child became entrapped.

NHTSA is aware of at least two possible such incidents. An Associated Press account of the five children who died in Utah in August 1998, reported that a relative of two of the five children who died in the trunk compartment drove the vehicle around the neighborhood searching for the children, unaware that their bodies were in the vehicle's trunk compartment. The newspaper account stated that this situation was similar to another incident in New Mexico, where four children died in July 1998 after climbing into the trunk compartment of a vehicle. Relatives searching for the children drove the vehicle for nearly an hour before finding their bodies in the trunk compartment.

In neither case is it clear how long the children had been trapped in the trunk compartments before their relatives began driving the car. Consequently,

NHTSA considers the 5 minute time limit in S4.2(b) a reasonable safety requirement for all automatic trunk release systems, whether or not the passenger car is moving.

NHTSA also believes that the suggested requirement that the key that controls activation of the passenger car's engine be in the "off" position before the automatic trunk release system will operate could preclude possible escape from the trunk compartment by trapped persons. Individuals trapped in the trunk compartment (as a result of criminal entrapment or inadvertent trunk locking) would be unable to escape if the key or controlling device were intentionally or inadvertently left by the driver in some position other than the "off" position. Thus, the agency is denying the GM request to amend the standard to require that the key be in the "off" position for the automatic trunk release system to operate.

3. Operation of Automatic Systems When Trapped Person Is Stationary

GM also stated that its automatic trunk release system cannot detect a person in the trunk compartment if that person remains stationary. The system requires some motion to activate the trunk release. If automatic systems are required to open the trunk when a person, whether stationary or moving, is inside the trunk compartment for five minutes, the GM system will be precluded. Thus, GM recommended that language be added to S4.2(b) requiring automatic trunk release systems to unlatch the trunk lid only when the trapped person is moving and attempting to escape.

GM suggested revising S4.2(b) as follows:

S4.2(b) Each automatic release mechanism installed pursuant to S4.1 of this section must unlatch the trunk lid within 5 minutes when all of the following conditions are met:

- (1) the vehicle is stationary;
- (2) the key that controls activation of the vehicle's engine is in the "off" position;
- (3) the lid is closed; and
- (4) a person inside the trunk compartment is simulating an attempt to escape by continually reaching for two or more of the interior sides of the trunk by gross arm(s) and/or leg(s) motion for three minutes.

NHTSA is denying GM's request to amend the standard by requiring that an automatic trunk release system may unlatch the trunk lid only when a person inside the trunk compartment is moving. The agency has determined that such a requirement would result in an ineffective system. According to GM's study, and a child psychologist who testified before the Expert Panel on

Trunk Entrapment, many children who become trapped in trunk compartments simply "shut down" and passively wait for rescue. An automatic trunk release system that depends on the occupant continually moving around for three minutes appears to require greater effort by the trapped person than a manual trunk release system, which simply requires the trapped person to pull a lever.

NHTSA wishes to accommodate as broad an array of technologies as possible. The agency agrees with GM that an automatic trunk release system offers some conceptual advantages for helping trapped persons escape from the trunk, especially young children who may have trouble activating a manual trunk release system. However, the conditions suggested by GM for activation of its automatic system would result in trunk release systems that would not effectively accomplish the safety purpose of Standard No. 401. In the near term, GM may equip its vehicles with a manual trunk release system until some of the difficulties associated with automatic trunk release systems can be worked out. NHTSA will work with GM and other manufacturers to understand the capabilities and limitations of current automatic trunk release systems and attempt to develop performance criteria that would ensure that those systems effectively accomplish the safety purpose of the standard and would be feasible for current automatic systems.

4. Temporarily Disabling the System

GM also stated that drivers may occasionally want to disable the automatic trunk release system so that the motion of the passenger car or items in the trunk will not cause the trunk to open. GM would like to provide a means of temporarily disabling the system without affecting the safety benefits of the system. Accordingly, GM requested that the agency add an additional paragraph to Standard No. 401 as follows:

S4.2(c) An automatic release mechanism may be capable of being deactivated only if all of the following conditions are met:

- (1) the key that controls activation of the vehicle's engine is in the "on" position;
- (2) the deactivation switch is located away from the driver's position or the deactivation process requires multiple deliberate actions;
- (3) the system is automatically reactivated when the trunk is opened; and
- (4) the system can manually be reactivated from inside the trunk or otherwise can unlatch the trunk.

NHTSA is denying GM's request to amend the standard to allow for temporary disabling of automatic trunk

release systems. As a general rule, NHTSA does not permit the overriding of a safety device required by a Federal motor vehicle safety standard unless there are significant safety issues involving potential risks to individuals if the safety device is not disabled. For example, the agency permits the disabling or deactivation of passenger side air bags only under certain limited circumstances. The agency does not believe that safety devices should be disabled simply for purposes of operational convenience. GM has not cited any significant safety issues involving potential risks to individuals if the automatic trunk release system is not disabled.

C. Test Conditions for Trunk Size Determination

The Alliance noted that in the preamble to the Standard No. 401 final rule, NHTSA stated its intention to require manufacturers to conduct the evaluation to determine whether the three-year-old child dummy can fit inside the trunk compartment with all standard equipment in the trunk compartment (e.g., spare tire, wheel jack, tools, etc.). In fact, the agency stated in the preamble that "[s]uch an evaluation must be conducted with all standard equipment in the trunk (i.e., spare tire, wheel jack, tools, etc.)." (65 FR 63018). However, this test specification was inadvertently omitted from the regulatory text. The Alliance petitioned NHTSA to revise the regulatory text to include this specification.

The agency is granting this request. The agency is revising paragraph (d) in the definition of "trunk compartment" to read as follows:

(d) Is large enough so that the three-year-old child dummy described in Subpart C of Part 572 can be placed inside the trunk compartment, and the trunk lid can be closed and latched, with all removable equipment furnished by the passenger car manufacturer stowed in the trunk compartment in accordance with label(s) on the passenger car or information in the passenger car owner's manual, or, if no information is provided, as located when the passenger car is delivered. (Note: For purposes of this standard, the Part 572 Subpart C test dummy need not be equipped with the accelerometers specified in Part 572.21.)

D. Irrevocable Election

Standard No. 401 allows manufacturers the option of installing a manual or automatic trunk release. Over the past five years, when NHTSA has allowed such a compliance option in a Federal motor vehicle safety standard, the agency has required that manufacturers irrevocably elect which

option they will use to comply with the standard. Thus, when NHTSA officials conduct compliance testing of vehicles, they will know which requirements the vehicle must meet. For example, S6.1 of Standard No. 201, "Occupant Protection in Interior Impact," allows manufacturers different compliance options. It also requires manufacturers to irrevocably select which compliance option they will employ at the time they certify their vehicles.

This requirement was inadvertently omitted from the final rule establishing Standard No. 401. Accordingly, the agency is revising S4.1 to read as follows:

S4.1 Each passenger car with a trunk compartment must have an automatic or manual release mechanism inside the trunk compartment that unlatches the trunk lid. Each trunk release shall conform, at the manufacturer's option, to either S4.2(a) and S4.3, or S4.2(b) and S4.3. The manufacturer shall select the option by the time it certifies the vehicle and may not thereafter select a different option for the vehicle.

E. Lead-Time

Standard No. 401 applies to new passenger cars manufactured on or after September 1, 2001. In its letter, the Alliance requested an additional year (until September 1, 2002) of lead-time if NHTSA interprets the standard as applying to hatchback or station wagon models, interior storage compartments, sub-compartments within the trunk compartment, or vehicles with trunk lids that contact the three-year-old child dummy before latching. As a result of the amendments discussed above, the standard does not apply to hatchback or station wagon models, interior storage compartments, or sub-compartments within the trunk compartment. Thus, the agency need not address the issue of additional lead-time for these vehicles.

The standard does apply to passenger cars with trunk lids that can be closed despite contacting the dummy before latching. The agency notes that the NPRM and final rule preambles did not state or imply that trunk compartments with trunk lids that contact the dummy before latching would be excluded from the standard. Nor was this issue addressed in any comments to the NPRM. The agency is unaware of any technical challenges that such trunk compartments pose to the development and manufacture of interior trunk release mechanisms. Therefore, the Alliance's request for additional lead-time beyond the September 1, 2001 effective date of the standard is denied.

Porsche requested that the agency grant additional lead-time of at least one year from the date the agency grants or

denies its recommended changes with regard to passenger cars with front opening trunk lids.

In response to the Porsche petition, NHTSA is amending the standard to allow passenger cars with front opening trunk lids to unlatch only the primary latch position when the passenger car is in motion. The agency notes that this amendment adds some complexity to the design of trunk release systems for passenger cars with trunk compartments located in the front. It also imposes an additional performance requirement associated with the speed of the passenger car. Because this amendment represents an increase in burden to manufacturers of passenger cars with trunk compartments located in the front, NHTSA has decided to extend the effective date for these passenger cars by one year. Thus, the effective date for passenger cars with trunk compartments which are located at the front and have a front opening hood required to have a secondary latch position is September 1, 2002.

GM stated that if NHTSA adopted GM's requested changes, GM would be able to meet Standard No. 401's current effective date of September 1, 2001. However, GM said that if the agency did not adopt GM's requested changes, it would need additional development, tooling, and validation time to incorporate complying systems. Thus, GM requested that the agency grant an additional year of lead-time for passenger cars equipped with automatic trunk release systems. In subsequent communications with the agency, GM withdrew that request.

The agency realizes that manufacturers may have experienced some difficulties in designing an automatic trunk release system that complies with the standard. As noted above, NHTSA will work with GM and other manufacturers to understand the capabilities and limitations of current automatic trunk release systems and attempt to develop performance criteria that would ensure that those systems effectively accomplish the safety purpose of the standard and would be feasible for current automatic systems. NHTSA does not wish to discourage the use of automatic systems because the agency believes that automatic systems may have some advantages over manual systems in certain situations. For example, young children may have some trouble operating a manual release, especially if they are frightened and disoriented, as one would expect a young child trapped in a trunk to be. Also, as stated above, many children who become trapped in trunk compartments simply "shut down" and

passively wait for rescue. Finally, a person who is intentionally placed in a trunk, i.e., by a criminal, may be unconscious or physically restrained, and thus unable to operate a manual release. Since an automatic trunk release system opens the trunk lid without requiring a trapped person to take any action, it may provide a better chance of escape than a manual trunk release system in these types of situations.

III. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "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.

This rulemaking document was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. The only additional burden it imposes is on manufacturers of vehicles with trunk compartments located at the front of the vehicle. These vehicles must release only the primary latch when the interior trunk release mechanism is actuated while the vehicle is in motion.

The agency has no evidence that this requirement will significantly increase the costs of complying with Standard No. 401 for such vehicles. Further, the agency believes that very few vehicles have trunk compartments located at the front of the vehicle. Moreover, the agency notes that Porsche, in its petition for reconsideration, stated that it currently deactivates the standard

electro-mechanical hood release on its vehicles when the vehicle has obtained a speed of 5 km/h $\pm$ 2 km/h. Thus, the requirement that the front hood lid only release the primary latch when the vehicle has obtained a speed of 3 km/h should not be a substantial burden. The agency believes that this impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

As noted above, the agency has not estimated the costs associated with this rulemaking. The sole additional requirement imposed by this rulemaking is on vehicles with trunk compartments located at the front. The agency believes that very few such vehicles are manufactured. Moreover, the only manufacturer of such vehicles that the agency is aware of is Porsche, which does not qualify as a small entity. Based on this analysis, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA 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, the agency may not issue a regulation with 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, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with 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.

The agency has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132. NHTSA has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Accordingly, a Federalism Assessment has not been prepared.

E. Civil Justice Reform

This final rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

This rule does not have any requirements that are considered to be information collection requirements as defined by the Office of Management and Budget (OMB) in 5 CFR part 1320.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in our regulatory activities unless doing 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, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

There are no voluntary consensus standards available at this time. NHTSA will consider any such SAE recommended practices if they become available.

H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. This final rule will not have any such impacts on those parties. As noted above, the agency has not estimated expects the costs associated with this rule. However, the agency believes that they will be minimal, as the only additional burden imposed by this final rule will affect very few vehicles. Consequently, no Unfunded Mandates assessment has been prepared.

I. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this

document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber products, tires.

In consideration of the foregoing, NHTSA is amending 49 CFR chapter V as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 21411, 21415, 21417, and 21466; delegation of authority at 49 CFR 1.50.

2. Section 571.401 is revised to read as follows:

§ 571.401 Standard No. 401; Interior trunk release.

S1. Purpose and scope. This standard establishes the requirement for providing a trunk release mechanism that makes it possible for a person trapped inside the trunk compartment of a passenger car to escape from the compartment.

S2. Application. This standard applies to passenger cars that have a trunk compartment. This standard does not apply to passenger cars with a back door.

S3. Definitions.

Back door means a door or door system on the back end of a passenger car through which cargo can be loaded or unloaded. The term includes the hinged back door on a hatchback or a station wagon.

Trunk compartment. (a) Means a space that:

(1) Is intended to be used for carrying luggage or cargo,

(2) Is wholly separated from the occupant compartment of a passenger car by a permanently attached partition or by a fixed or fold-down seat back and/or partition,

(3) Has a trunk lid, and

(4) Is large enough so that the three-year-old child dummy described in Subpart C of Part 572 can be placed inside the trunk compartment, and the trunk lid can be closed and latched with all removable equipment furnished by the passenger car manufacturer stowed in accordance with label(s) on the passenger car or information in the passenger car owner's manual, or, if no information is provided, as located when the passenger car is delivered. (Note: For purposes of this standard, the Part 572 Subpart C test dummy need not be equipped with the accelerometers specified in § 572.21.)

(b) Does not include a sub-compartment within the trunk compartment.

Trunk lid means a moveable body panel that is not designed or intended as a passenger car entry point for passengers and that provides access from outside a passenger car to a trunk compartment. The term does not include a back door or the lid of a storage compartment located inside the passenger compartment of a passenger car.

S4. Requirements.

S4.1 Each passenger car with a trunk compartment must have an automatic or manual release mechanism inside the trunk compartment that unlatches the trunk lid. Each trunk release shall conform, at the manufacturer's option, to either S4.2(a) and S4.3, or S4.2(b) and S4.3. The manufacturer shall select the option by the time it certifies the vehicle and may not thereafter select a different option for the vehicle.

S4.2(a) Each manual release mechanism installed pursuant to S4.1 of this standard must include a feature, like lighting or phosphorescence, that allows the release mechanism to be easily seen inside the closed trunk compartment.

(b) Each automatic release mechanism installed pursuant to S4.1 of this section must unlatch the trunk lid within 5 minutes of when the trunk lid is closed with a person inside the trunk compartment.

S4.3(a) Except as provided in paragraph S4.3(b), actuation of the release mechanism required by S4.1 of this standard must completely release the trunk lid from all latching positions of the trunk lid latch.

(b) For passenger cars with a front trunk compartment that has a front opening hood required to have a secondary latch position, actuation of the release mechanism required by paragraph S4.1 of this standard when the passenger car is in motion (at a speed of 3 km/h or more) must release the primary latch position, but not the secondary latch position. At all other times, actuation of the release mechanism required by paragraph S4.1 of this standard must completely release the trunk lid from all latching positions of the trunk lid latch. The passenger cars described in this paragraph are excluded from the requirements of this standard until September 1, 2002.

Issued: August 7, 2001.

L. Robert Shelton,
Executive Director.

[FR Doc. 01-20831 Filed 8-15-01; 11:07 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328-1066-03; I.D. 081001B]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Connecticut

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

ACTION: Closure; commercial quota harvested for Connecticut.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the State of Connecticut has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Connecticut for the remainder of calendar year 2001, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the State of Connecticut that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in Connecticut.

DATES: Effective 0001 hours, August 17, 2001, through 2400 hours, December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281-9273.

SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2001 calendar year was set equal to 10,747,535 lb (4,875,000 kg) (66 FR 16151, March 23, 2001). The percent allocated to vessels landing summer flounder in Connecticut is 2.25708 percent, or 242,580 lb (110,032 kg). This allocation was adjusted due to an underage in 2000, as provided in § 648.100(e)(4), for a final allocation of 247,037 lb (112,054 kg).

Section 648.101 (b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota is harvested. NMFS then publishes notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based

upon dealer reports and other available information, that the State of Connecticut has attained its quota for 2001.

The regulations at § 648.4 (b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, August 17, 2001, further landings of summer flounder in Connecticut by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2001 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, August 17, 2001, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in Connecticut for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: August 10, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service
[FR Doc. 01-20824 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register

Vol. 66, No. 160

Friday, August 17, 2001

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

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket Number: EE-RM/STD-01-375]

RIN: 1904-AB06

Energy Efficiency Program for Consumer Products: Energy Conservation Standards for Commercial Unitary Air Conditioners and Heat Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public workshop and availability of the framework document for commercial unitary air conditioner and heat pump efficiency standards.

SUMMARY: The Department of Energy (DOE or Department) will hold an informal public workshop to discuss and receive comments on issues it will address and initiate the data collection process for the commercial unitary air conditioner and heat pump efficiency standards. The data collected will be used in considering the adoption of American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE)/Illuminating Engineering Society of North America (IESNA) Standard 90.1-1999 or initiating amended energy conservation standards for commercial unitary air conditioners and heat pumps. This effort is based on the recommendations as addressed in the May 2001, National Energy Policy report which supports the appliance standards program for covered products, setting higher standards where technologically feasible and economically justified. The Department also encourages written comments on these subjects. To facilitate this process, the Department has prepared a Framework Document, a draft of which was made available on June 18, 2001.

DATES: The public workshop will be held on Wednesday, September 12, 2001, from 9:00 a.m. to 5:00 p.m. Written comments should be submitted by October 12, 2001.

ADDRESSES: The workshop will be held at the U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue, SW, Washington, DC 20585. (Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. If you are a foreign national and wish to participate in the workshop, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards-Jones at (202) 586-2945 so that the necessary procedures can be completed.)

On June 18, 2001, the draft Framework Document was placed on the DOE website at: http://www.eren.doe.gov/buildings/codes_standards/index.htm

Written comments are welcome, especially following the workshop. Please submit written comments to: Ms. Brenda Edwards-Jones, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Energy Conservation Program for Consumer Products: Energy Conservation Standards for Commercial Unitary Air Conditioners and Heat Pumps, Docket Number: EE-RM/STD-01-375, EE-41, 1000 Independence Avenue, SW, Washington, DC 20585-0121. Telephone: (202) 586-2945; Telefax: (202) 586-4617. You should label comments both on the envelope and on the documents and submit them for DOE receipt by October 12, 2001. Please submit one signed copy and a computer diskette (WordPerfect 8) or 10 copies (no telefacsimiles). The Department will also accept electronically-mailed comments, e-mailed to Brenda.Edwards-Jones@ee.doe.gov, but you must supplement such comments with a signed hard copy.

Copies of the transcript of the public workshop, the public comments received, the Framework Document, and this notice may be read at the Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-3142, between the hours of 9 a.m. and 4 p.m.,

Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-41, 1000 Independence Avenue, SW, Washington, DC 20585-0121, (202) 586-0371, email:

bryan.berringer@ee.doe.gov, or Francine Pinto, U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW, Washington, DC 20585-0103, (202) 586-7432, email: francine.pinto@hq.doe.gov

SUPPLEMENTARY INFORMATION: The May 2001, National Energy Policy report by the National Energy Policy Development Group (NEPD Group) recommends support for the appliance standards program for covered products, setting higher standards where technologically feasible and economically justified. The Energy Policy and Conservation Act, Pub. L. 94-163, as amended by the Energy Policy Act of 1992 (EPACT), Pub. L. 102-486, establishes energy efficiency standards for certain commercial heating and air conditioning equipment which includes commercial unitary air conditioners and heat pumps. On October 29, 1999, the efficiency standards found in American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE)/Illuminating Engineering Society of North America (IESNA) Standard 90.1-1999 (ASHRAE/IESNA Standard 90.1-1999) were amended for these products. On March 1, 2000, the Department published a notice of preliminary screening analysis to decide which of the ASHRAE/IESNA Standard 90.1-1999 standards should be adopted immediately and which to analyze further. 65 FR 10984. On January 12, 2001, the Department published a final rule adopting the ASHRAE/IESNA Standard 90.1-1999 level for 18 product categories and made a decision to further evaluate other products. 66 FR 3336. In the final rule, DOE determined that further analysis was warranted for commercial unitary air conditioners and heat pumps. This conclusion was based on DOE's screening analysis. The Department is considering more stringent standards than those adopted by ASHRAE/IESNA Standard 90.1-1999.

Today's notice, the subject Framework Document, and workshop

mark the next steps in collecting additional data to determine whether to adopt ASHRAE/IESNA Standard 90.1-1999 or amend the energy conservation standards for commercial unitary air conditioners and heat pumps covered by the statute.

The Department has prepared the Framework Document to explain and discuss the process, analyses, and issues concerning the development of such standards. For many of the issues and analyses, the Framework Document sets forth approaches that the Department is considering.

The main focus of the workshop will be to discuss the analyses and issues contained in various sections of the Framework Document. For each item listed, the Department will make a presentation with discussion to follow. In addition, the Department will also make a brief presentation on the rulemaking process for commercial unitary air conditioners and heat pumps. The Department encourages those who wish to participate in the workshop to obtain the Framework Document and be prepared to discuss its contents. However, workshop participants need not limit their discussions to these topics. The Department is also interested in receiving views concerning other issues that participants believe would affect energy conservation standards for commercial unitary air conditioners and heat pumps. The Department also welcomes all interested parties, whether or not they participate in the workshop, to submit in writing by October 12, 2001, comments and information on the matters addressed in the Framework Document and on other matters relevant to consideration of standards for commercial unitary air conditioners and heat pumps.

The workshop will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by the U.S. antitrust laws.

After the workshop and expiration of the period for submitting written statements, the Department will begin collecting data and conducting the analyses as discussed at the workshop and in consideration of the comments received.

If you would like to participate in the workshop, receive workshop materials, or be added to the DOE mailing list to receive future notices and information regarding commercial unitary air conditioners and heat pumps, please

contact Ms. Brenda Edwards-Jones at (202) 586-2945.

Issued in Washington, DC, on August 13, 2001.

David K. Garman,

Assistant Secretary for Energy Efficiency and Renewable Energy.

[FR Doc. 01-20771 Filed 8-16-01; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-208-AD]

RIN 2120-AA64

Airworthiness Directives; Fokker Model F.28 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Fokker Model F.28 series airplanes. This proposal would require replacing the main landing gear (MLG) torque link dampers with modified and reidentified dampers. This action is necessary to prevent degradation of the dampers, which could result in MLG high amplitude oscillation in a lateral torsional mode, and consequent MLG damage or separation of the MLG from the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-208-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-208-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from

Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-208-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate,

ANM-114, Attention: Rules Docket No. 2001-NM-208-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on all Fokker Model F.28 series airplanes. The RLD advises that it has received a report of an incident involving a main landing gear (MLG) separation after landing on a Fokker F.28 Mark 0100 series airplane. Investigation revealed that performance degradation of a damper resulted in loss of damping capability. Further investigation revealed that the degradation was due to a combination of damper anomalies, i.e., a broken retainer ring, and a shim between housing and the cap, which was too thick. However, performance degradation of dampers is not detectable during normal operations. Such performance degradation of a damper, if not corrected, could result in MLG high amplitude oscillation in a lateral torsional mode, and consequent MLG damage or separation of the MLG from the airplane.

Explanation of Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF28/32-157 (for Model F.28 Mark 1000 through 4000 series airplanes) and Fokker Service Bulletin SBF100-32-114 (for Model F.28 Mark 0070/0100 series airplanes), both dated October 1, 1999, which describe procedures for replacing MLG torque link dampers having part number (P/N) 23700-1 or -3 with modified and reidentified dampers having P/N 23700-5. Dampers having P/N 23700-5 have stronger retainers to achieve an improved fatigue life, modified poppet springs for improved performance, and deletion of shims between housing and cap and increased torque value on assembly nuts, to ensure proper damping characteristics. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The RLD classified these service bulletins as mandatory and issued Dutch airworthiness directive 1999-138, dated October 29, 1999, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

These airplane models are manufactured in the Netherlands and are type certificated for operation in the United States under the provisions of

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 147 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$1,910 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$333,690, or \$2,270 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action"

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket 2001-NM-208-AD.

Applicability: All Model F.28 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the main landing gear (MLG) from the airplane, due to performance degradation of the torque link damper; accomplish the following:

Modification and Reidentification

(a) Replace MLG torque link dampers having part numbers (P/N) 23700-1 or -3 with dampers having P/N 23700-5, in

accordance with the Accomplishment Instructions of Fokker Services SBF28/32-157 (for Models F.28 Mark 1000 through 4000 series airplanes) and Fokker Service

Bulletin SBF100-32-114 (for Model F.28 Mark 0070/0100 series airplanes), both dated October 1, 1999, as applicable; at the times specified in the following table:

TABLE 1.—COMPLIANCE TIMES

Fokker F.28 model (mark) designation	MLG manufactured by	MLG mod. status	Compliance required after the effective date of this AD
Mk.0100	Dowty Aerospace; MD	Pre-Mod SB F100-32-50	Within 15 months.
Mk.0100	Dowty Aerospace; MD	Post-Mod SB F100-32-50	Within 21 months.
Mk.0100	Menasco Aerospace	[Reserved]	Within 24 months.
Mk.0070	Menasco Aerospace	[Reserved]	Within 24 months.
Mk.1000 through Mk.4000 series	Dowty Aerospace; MD	[Reserved]	Within 24 months.

Spares

(b) As of the effective date of this AD, no person shall install torque link damper having P/N 23700-1 or -3, on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Dutch airworthiness directive 1999-138, dated October 29, 1999.

Issued in Renton, Washington, on August 13, 2001.

Vi L. Lipski,

Manager, Transport Airplane

Directorate, Aircraft Certification Service.

[FR Doc. 01-20808 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2001-NM-175-AD]

RIN 2120-AA64

Airworthiness Directives; Short Brothers Model SD3 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Short Brothers Model SD3 series airplanes. This proposal would require an inspection to find discrepancies of the hydraulic pipelines of the 7P panel and adjacent electrical wiring harnesses, and corrective action, if necessary. This action is necessary to find and fix such discrepancies, which could result in electrical arcing between the hydraulic lines and adjacent wiring and a potential fire. This action is intended to address the identified unsafe condition. **DATES:** Comments must be received by September 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-175-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-175-AD" in the subject line and need not be submitted

in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:**Comments Invited**

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.

- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-175-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-175-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain Short Brothers Model SD3 series airplanes. The CAA advises that investigation of these airplanes by the manufacturer revealed that, in certain areas, clearance between the hydraulic lines and electrical wiring must be ensured. Inadequate clearance may lead to chafing of the cables and damage to the hydraulic pipelines. This condition, if not corrected, could result in electrical arcing between the hydraulic lines and adjacent wiring and a potential fire.

Explanation of Relevant Service Information

The manufacturer has issued Shorts Service Bulletins SD3 SHERPA-24-5; SD330-24-29; SD360-24-25; and SD360 SHERPA-24-4; all dated April 30, 2001. The service bulletins describe procedures for an inspection to find discrepancies of the hydraulic pipelines of the 7P panel and adjacent electrical wiring harnesses, and corrective action, if necessary. The discrepancies include inadequate clearance between certain hydraulic pipelines of the 7P panel and adjacent electrical wiring harnesses, chafing between the electrical wires and hydraulic line, or damage to the hydraulic pipelines or wiring harnesses.

The corrective action includes rerouting for adequate clearance, clipping or sleeving of the wiring harness and/or replacement of damaged pipelines with new pipelines. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

The CAA classified these service bulletins as mandatory and issued British airworthiness directives 006-04-2001, 007-04-2001, 008-04-2001, and 009-04-2001, in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Difference Between This Proposed AD and Service Bulletins

The referenced service bulletins do not define the type of inspection to be used to find discrepancies of the hydraulic pipelines of the 7P panel and adjacent electrical wiring harnesses. However, the FAA has determined that a detailed visual inspection would be required to find such discrepancies. A note has been added that defines a detailed visual inspection.

Cost Impact

The FAA estimates that 75 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S.

operators is estimated to be \$4,500, or \$60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Short Brothers, PLC: Docket 2001–NM–175–AD.

Applicability: This AD applies to the airplanes listed in Table 1 of this AD, certificated in any category:

TABLE 1.—APPLICABILITY

Short Brothers model	Description
SD3–SHERPA series airplanes	On which Short Brothers Modification K2239 has not been accomplished.
SD3–60 SHERPA series airplanes	On which Short Brothers Modification K6109 has not been accomplished.
SD3–60 series airplanes	On which Short Brothers Modification A8684 has not been accomplished.
SD3–30 series airplanes	On which Short Brothers Modification P4810 has not been accomplished.

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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix discrepancies of the hydraulic pipelines of the 7P panel and adjacent electrical wiring harnesses, which could result in electrical arcing between the hydraulic lines and adjacent wiring and a potential fire, accomplish the following:

Inspection/Corrective Action

(a) Within 90 days after the effective date of this AD, do a detailed visual inspection to find discrepancies (inadequate clearance, chafing, or damage) of the hydraulic pipelines of the 7P panel and adjacent electrical wiring harnesses, per the Accomplishment Instructions of Shorts Service Bulletins SD3 SHERPA–24–5, SD330–24–29, SD360–24–25, or SD360 SHERPA–24–4, all dated April 30, 2001; as applicable. Before further flight, fix any discrepancies found, per the applicable service bulletin.

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.”

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall

submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: 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

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

Note 4: The subject of this AD is addressed in British airworthiness directives 006–04–2001, 007–04–2001, 008–04–2001, and 009–04–2001.

Issued in Renton, Washington, on August 13, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20809 Filed 8–16–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2001–NM–110–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposal would require modifying or replacing flight data recorders (FDR) of a certain model. This action is prompted by

reports of a number of incidents in which flight data has been lost from the FDR. This action is necessary to prevent loss of flight data from the FDR, which could hamper discovery of the cause of an accident, preventing the Federal Aviation Administration from developing and mandating actions to prevent additional accidents caused by the same unsafe condition.

DATES: Comments must be received by September 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain “Docket No. 2001–NM–110–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

Information pertaining to the proposed AD may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Rosanne Ryburn, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2139; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as

they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-110-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket Number 2001-NM-110-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received reports of a number of incidents of loss of flight data on SAAB Model SF340A and SAAB 340B series airplanes equipped with Loral F800 flight data recorders (FDRs). These FDRs are subject to rapid tape movements or jitter, which causes loss or distortion of flight data transmitted to them. Investigation of accidents involving airplanes equipped with these FDRs has revealed that, in a number of cases, the loss of flight data has prevented determination of the cause of the accident.

FAA's Determination of Unsafe Condition

This action is necessary to prevent the loss of flight data from the Loral F800 FDRs. Such loss of data does not directly affect the safety of the airplane on which the FDR is located. However, should an airplane equipped with a malfunctioning FDR also have an unrelated unsafe condition that results in an incident or accident, the data retrieved from the FDR may be distorted or missing. This lack of reliable data could hamper discovery of the unsafe condition that caused the incident or accident and prevent the FAA from developing and mandating actions to prevent additional incidents or accidents caused by that same unsafe condition. Therefore, the FAA has determined that the proposed AD is necessary.

It should be noted that the purpose of this proposed AD is not to enhance the safety of Model SAAB SF340A and SAAB 340B series airplanes, but rather to restore the level of safety provided by the originally approved FDR. Therefore, this AD is the appropriate regulatory vehicle to achieve this purpose.

U.S. Type Certification of the Airplanes

These airplane models are manufactured in Sweden and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Explanation of Requirements of Proposed Rule

The proposed AD would require inspection of the FDR to determine whether it is a Loral F800 having a certain part number. If it is found that the FDR is a Loral F800 having the certain part number, the FDR must be modified or replaced.

Cost Impact

The FAA estimates that 267 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 hour to inspect the FDR to determine whether it is a Loral F800 model having a certain part number, and the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be \$16,020, or \$60 per airplane.

Since the manufacturer of the FDR has not yet developed a specific modification commensurate with the requirements of this proposed AD, the FAA is unable to provide information as

to the number of work hours or the cost of parts that may be required to accomplish the proposed modification. As indicated earlier in this preamble, the FAA specifically invites the submission of comments and other data regarding this economic aspect of the proposed AD.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB AIRCRAFT AB: Docket 2001-NM-110-AD.

Applicability: All Model SAAB SF340A and SAAB 340B series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of flight data from the flight data recorder (FDR), which could hamper discovery of the cause of an accident, preventing the FAA from developing and mandating actions to prevent additional accidents caused by the same unsafe condition, accomplish the following:

Modification or Replacement

(a) Within 6 months after the effective date of this AD: Inspect the FDR to determine whether it is a Loral F800 model having part number (P/N) 17M800-261, and if the FDR is a Loral F800 model having P/N 17M800-261, modify the FDR or replace it with a different model, in accordance with a method approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. 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

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

Issued in Renton, Washington, on August 13, 2001.

Vi L. Lipski,

*Manager, Transport Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 01-20810 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-91-AD]

RIN 2120-AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposal would require a one-time review of records to determine whether an airplane has been repainted since its delivery from the factory; and a one-time inspection to detect damage associated with improper preparation for the repainting, and corrective action, if necessary. This action is prompted by mandatory continuing airworthiness information from a foreign civil airworthiness authority. This action is necessary to detect and correct damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket Number 2001-NM-91-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-91-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S-581.88, Linköping, Sweden. This information may be

examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-91-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket Number 2001-NM-91-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on Saab Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that, on a number of airplanes that were repainted after being delivered from the factory, the preparation for such repainting was performed using unapproved methods, including sanding the aluminum skin down to bare metal. These unapproved methods may have damaged the skin by removing its anodized and primed protective coat, causing pitting corrosion, or reducing the thickness of the skin to less than the minimum allowable. This condition, if not corrected, could result in damage to the aluminum skin of the airplane, with consequent weakening of the structure of the airplane.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 340-51-020, Revision 01, dated May 16, 2001, which describes procedures for a one-time inspection of repainted airplanes for damage caused by use of unapproved methods during preparation for repainting. Such damage includes removal of the skin's protective coating of bonding primer, pitting corrosion of the skin, or reduction of the thickness of the skin to less than the minimum allowable. The service bulletin also describes corrective action to be taken, if it is found that an unapproved method was used. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive 1-161 R1, dated March 5, 2001, in order to assure the continued airworthiness of these airplanes in Sweden.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions that are detected during the inspection, this proposed rule would require the repair of those conditions to be accomplished by a method approved by the FAA or the LFV (or its designated agent).

FAA's Conclusions

These airplane models are manufactured in Sweden and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness

agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

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

Cost Impact

The FAA estimates that 288 airplanes of U.S. registry would be affected by this proposed rule.

It would take 1 work hour per airplane to accomplish the proposed review of records, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the proposed review of records on U.S. operators is estimated to be \$17,280, or \$60 per airplane.

For those airplanes which have been repainted, it would take 20 to 45 work hours per airplane to accomplish the proposed inspection, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be \$1,200 to \$2,700 per airplane.

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

Regulatory Impact

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

would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB AIRCRAFT AB: Docket 2001-NM-91-AD

Applicability: Model SAAB SF340A series airplanes having serial numbers -004 through -159 inclusive, and SAAB 340B series airplanes having serial numbers -160 through -459 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) 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 damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane, accomplish the following:

Review of Records

(a) Within 200 flight hours or 1 year after the effective date of this AD, whichever occurs first: Perform a review of records to determine whether an airplane subject to this AD has been repainted since its delivery from the factory. If the airplane has not been repainted, no further action is needed.

Inspection and Corrective Action

(b) If an airplane has been repainted since its delivery from the factory: Within 200 flight hours or 1 year after the effective date of this AD, whichever occurs first, perform chemical stripping of local areas of the skin and inspection to detect damage to (or removal of) the protective coat of bonding primer, in accordance with Saab Service Bulletin 340-51-020, Revision 01, dated May 16, 2001.

(1) If no damage to the protective coat of bonding primer is detected: Prior to further flight, repaint the stripped areas, in accordance with the service bulletin.

(2) If damage to (or removal of) the protective coat of bonding primer is detected: Prior to further flight, perform additional chemical stripping and inspection of the skin for pitting corrosion, in accordance with the service bulletin.

(i) If pitting corrosion is detected: Prior to further flight, perform corrective action in a manner approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, or the Luftfartsverket (or its designated agent).

(ii) If no pitting corrosion is detected: Prior to further flight, measure the thickness of the skin of the airplane, in accordance with the service bulletin.

(A) If a reduction in skin thickness is detected: Prior to further flight, perform corrective action in a manner approved by the Manager, International Branch, ANM-116, or the Luftfartsverket (or its designated agent).

(B) If no reduction in skin thickness is detected: Prior to further flight, check records to determine whether the airplane was repainted using an approved paint system.

(1) If the airplane was repainted using an approved paint system: Prior to further flight, repaint the stripped areas of the airplane, in accordance with the service bulletin.

(2) If the airplane was painted using an unapproved paint system: Prior to further flight, chemically strip the entire airplane and repaint it, in accordance with the service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Swedish airworthiness directive 1-161R1, dated May 5, 2001.

Issued in Renton, Washington, on August 13, 2001.

Vi L. Lipski,

*Manager, Transport Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 01-20811 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00-ANM-30]

Proposed Revision to Class D and Class E Airspace, Medford, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This action proposes to revise the Class D and Class E Airspace Area Descriptions at Medford, OR. A legal name change from Medford-Jackson Airport to Rogue Valley International-Medford Airport and a revision to Class E airspace areas made this action necessary. Additional Class E 700-foot airspace is required to contain IFR approaches to the airport when the Air Traffic Control Tower is closed. The intended effect of this proposal is to correct the official Airport name and provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Rogue Valley International-Medford Airport, Medford, OR.

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM-520, Federal Aviation Administration, Docket No. 00-ANM-30, 1601 Lind Avenue SW, Renton, Washington 98055-4056.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Brian Durham, AND-520.7, Federal Aviation Administration, Docket No. 00-ANM-30, 1601 Lind Avenue SW, Renton, Washington 980554056; telephone number: (425) 227-2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit, with those comments, as self-addressed stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 00-ANM-30." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM-520, 1601 Lind Avenue SW, Renton, Washington 98055-4056. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising the Class D and Class E legal

descriptions and revising Class E airspace at Medford, OR. In 1992 the official name of the Medford Airport was changed from Medford-Jackson County Airport to Rogue Valley International-Medford Airport. This change was reflected in a number of aeronautical publications, but not officially changed in 14 CFR 71.1. This proposed action would correct the legal description of the Medford Airport to reflect its current designation and revise the Class E Airspace Class E5 700-foot airspace is required to contain IFR approaches to the airport when the Air Traffic Control Tower is closed. The intended effect of this rule is designed to revise the airspace legal descriptions to reflect the current name designation of the Rogue Valley International-Medford Airport, Medford Airport, Medford, OR, and to provide safe and efficient use of the navigable airspace to promote safe flight operations under Instrument Flight Rules (IFR) and Visual Flight Rules (VFR) at Rogue Valley International-Medford Airport, and between the terminal and en route transition states.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class D surface airspace areas are published paragraph 5000, Class E airspace areas designated as surface areas are published in Paragraph 6002, Class E airspace consisting of airspace extending upward from the surface designated as an extension of Class D airspace area are published in Paragraph 6004, and Class E airspace areas extending upward from 700-feet or more above the surface of the earth are published in Paragraph 6006, of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by references in 14 CFR 71.1. The Class D & E airspace designations listed in this document would be published subsequently in the order.

The FAA has determined that this proposed regulation only involves and established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11013; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule,

when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 General

* * * * *

ANM OR D Medford, OR [REVISED]

Rogue Valley International-Medford Airport, OR
(lat. 42°22'27"N., long. 122°52'25"W.)

That airspace extending upwards from the surface to and including 3,800 feet MSL within a 4.1-mile radius of the Rogue Valley International-Medford airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace designated as surface area for an airport

* * * * *

ANM OR E2 Medford, OR [REVISED]

Rogue Valley International-Medford Airport, OR
(lat. 42°22'27"N., long. 122°52'25"W.)

Within a 4.1-mile radius of Rogue Valley International-Medford airport. This Class E airspace is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace consisting of airspace extending upward from the surface designated as an extension of Class D airspace

* * * * *

ANM OR E4 Medford, OR [REVISED]

Rogue Valley International-Medford Airport, OR

(lat. 42°22'27"N., long. 122°52'25"W.)

Rogue Valley VORTAC

(lat. 42°27'47"N., long. 122°54'47"W.)

Pumie LOM

(lat. 42°27'03"N., long. 122°54'48"W.)

That airspace extending upward from the surface within 1.8 miles west and 2.7 miles east of the Medford ILS localizer north course extending from the 4.1-mile radius to 2.7 miles north of the Pumie LOM and within 2.7 miles each side of the Rogue Valley VORTAC 352° radial extending from the Rogue Valley VORTAC to 11 miles north of the VORTAC, and within 4 miles each side of the Rogue Valley VORTAC 164° radial extending from the 4.1-mile radius to 19.3 miles south of the Rogue Valley International-Medford Airport. This Class E airspace is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ANM OR E5 Medford, OR [REVISED]

Rogue Valley International-Medford Airport, OR

(lat. 42°22'27"N., long. 122°52'25"W.)

That airspace extending upward from 700 feet above the surface bounded by a line from lat. 42°45'00"N., long. 123°10'54"W.; to lat. 42°48'54"N., long. 122°57'06"W.; to lat. 42°44'00"N., long. 122°44'36"W.; to lat. 42°04'00"N., long. 122°30'00"W.; to lat. 41°56'30"N., long. 123°00'00"W.; to the point of origin; that airspace extending upward from 1,200 feet above the surface bounded by a line from lat. 43°00'00"N., long. 123°30'00"W.; to lat. 42°00'00"N., long. 122°10'30"W.; to lat. 41°43'40"N., long. 123°14'36"W.; to lat. 43°00'00"N., long. 123°10'00"W.; to the point of origin; excluding that airspace within Federal Airway areas, and the Klamath Falls, OR and Grants Pass, OR Class E airspace areas.

* * * * *

Issued in Seattle, Washington, on August 3, 2001.

Dan A. Boyle,

*Assistant Manager, Air Traffic Division,
Northwest Mountain Region.*

[FR Doc. 01–20818 Filed 8–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 01-ANM-04]

Proposed Establishment of Class E airspace, Kanab, UT**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish the Class E airspace at Kanab, UT. Newly developed Area navigation (RNAV) Standard Instrument Approach Procedures (SIAP) and Departure Procedure (DP) at the Kanab Municipal Airport have made this proposal necessary. Class E 700-foot, and 1,200-foot controlled airspace, above the surface of the earth is required to contain aircraft executing the RNAV SIAPs and DP at Kanab Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Kanab Municipal Airport, Kanab, UT.

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM-520, Federal Aviation Administration, Docket No. 01-ANM-04, 1601 Lind Avenue SW, Renton, Washington 98055-4056.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM-520.7, Federal Aviation Administration, Docket No. 01-ANM-04, 1601 Lind Avenue SW, Renton, Washington 98055-4056; telephone number: (425) 227-2527.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the

airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit, with those comments, a self-addressed stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 01-ANM-04." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM-520, 1601 Lind Avenue SW, Renton, Washington 98055-4056. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class E airspace at Kanab, UT. Newly developed RNAV approach and departure procedures at the Kanab Municipal Airport have made this proposal necessary. Class E 700-foot, and 1,200 foot controlled airspace, above the surface of the earth is required to contain aircraft executing the RNAV SIAP and DP, at Kanab Municipal Airport. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide for the safe and efficient use of the navigable airspace. This proposal would promote safe flight operations under IFR at the Kanab Municipal Airport and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11013; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ANM UT E5 Kanab, UT [NEW]

Kanab Municipal Airport, UT

(lat. 37°00'40"N., long. 112°31'52"W.)

That airspace extending upward from 700 feet above the surface within the 8-mile radius of the Kanab Municipal Airport; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 36°32'10"N., long. 112°00'00"W., to lat. 36°32'10"N., long. 112°52'00"W., to lat. 37°15'00"N., long. 112°52'00"W., to lat. 37°15'00"N., long. 112°16'00"W., to lat. 37°09'00"N., long. 112°15'00"W., to lat. 37°09'00"N., long. 111°50'00"W., to lat. 36°45'00"N., long. 112°00'00"W.; thence to the point of origin; and excluding that airspace within Federal airways.

* * * * *

Issued in Seattle, Washington, on August 3, 2001.

Dan A. Boyle,

*Assistant Manager, Air Traffic Division,
Northwest Mountain Region.*

[FR Doc. 01-20819 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 010712175-1175-01]

RIN 0648-XA71

Fair Market Value Analysis for a Submarine Cable Permit in National Marine Sanctuaries

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of Availability; reopening of opportunity for public comment.

SUMMARY: Notice is hereby given that NOAA is reopening its request for comments on the draft report "Fair Market Value Analysis for a Submarine Cable Permit in National Marine Sanctuaries." However, in re-opening the comment period, NOAA has removed the recommended fee amount from the report and, rather, seeks comment on the methodology presented in the report or suggestions of other appropriate methodologies for determining the fair market value for the presence of a submarine cable in a national marine sanctuary. NOAA is reopening the public comment period for 45 days.

DATES: Comments must be received by October 1, 2001.

ADDRESSES: Address all comments regarding this notice to Helen Golde,

Chief, Conservation Policy and Planning Branch, Office of National Marine Sanctuaries, 1305 East-West Highway, 11th Floor, Silver Spring, MD 20910, Attention: Fair Market Value Analysis. Comments may also be submitted by email to: submarine.cables@noaa.gov, subject line "Fair Market Value Analysis." The report is available for download at <http://www.sanctuaries.nos.noaa.gov> or by requesting an electronic or hard copy. Requests can be made by sending an email to submarine.cables@noaa.gov (subject line "Request for Fair Market Value Analysis") or by calling Matt Brookhart at the number below.

FOR FURTHER INFORMATION CONTACT: Matt Brookhart, (301) 713-3125 x140.

SUPPLEMENTARY INFORMATION: Section 310 of the National Marine Sanctuaries Act, 16 U.S.C. 1441, authorizes the issuance of special use permits to establish conditions of access to and use of any sanctuary resource or to promote public use and understanding of a sanctuary resource. Section 310 also authorizes the assessment of fees for issuance of special use permits, including a fee that represents the fair market value of the use of sanctuary resources. NOAA's National Marine Sanctuary Program has issued two special use permits for the presence of submarine fiber optic cables in two national marine sanctuaries, one in the Olympic Coast Sanctuary National Marine Sanctuary (NMS) and the second in the Stellwagen Bank NMS.

NOAA has committed that the process for determining the fair market value of any special use permit issued for the presence of submarine cables will allow for input from the permit holders as well as other stakeholders and interested persons.

An interim final version of a report, "Fair Market Value Analysis for Submarine Cable Permit in National Marine Sanctuaries," was completed in December 2000. The report presents an assessment of fair market value for the presence of a submarine cable in a National Marine Sanctuary. The content of this report is based on dozens of industry and government sources and draws on the collaboration with and review by numerous experts in the business, legal and technical arenas. NOAA published a notice in the **Federal Register** on January 5, 2000 initiating a public comment period on the report, that ended on January 18, 2001. Copies of the report and two peer reviews were also posted on the National Marine Sanctuary Program's website. A total of 21 responses were received. Of these responses, one generally supported the

report's methodology and conclusions, four argued it undervalued fair market fees in Sanctuaries, three argued it overvalued fair market fees in sanctuaries, and thirteen requested additional time to comment. Following the closure of the initial comment period, NOAA informally notified all commenters, the two existing permit holders, and all known interested parties that the public comment period would be reopened at some point in the future before a final determination on fair market value would be made. This notice reopens that comment period.

Since the initial comment period, NOAA has updated the report by making a number of editorial and clarifying changes, and including some updated information. Further, NOAA has removed the recommended fee amount and now seeks comments on the methodology described in the report or suggestion of an appropriate alternative methodology.

Once the current comment period closes, NOAA will evaluate the comments and make any necessary revisions to the methodology used in determining fair market value. NOAA will then work with the existing special use permit holders, utilizing such methodology, to assess the fair market value fee for their permits. NOAA will publish a final notice that summarizes all comments and presents a final fee methodology to be applied to any future cable projects within national marine sanctuaries that may be authorized pursuant to a special use permit.

In a separate process, NOAA will continue developing its policy on submarine cables within national marine sanctuaries, following up on the August 23, 2000, Advance Notice of Proposed Rulemaking (ANPR) on Installing and Maintaining Commercial Submarine Cables in National Marine Sanctuaries (65 FR 51264). The ANPR included a draft set of proposed principles for laying submarine cables in the marine and coastal environment. Through this separate process, NOAA will consider whether to issue regulations or a policy statement on submarine cables within sanctuaries including whether the issuance of special use permits is necessary or appropriate.

Dated: August 9, 2001.

Alan Neuschatz,

Chief Financial Officer/Chief Administrative Officer, Ocean Services and Coastal Zone Management.

[FR Doc. 01-20833 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-08-M

SOCIAL SECURITY ADMINISTRATION**20 CFR Parts 404 and 422****RIN 0960-AF52****Filing of Applications and Related Forms****AGENCY:** Social Security Administration (SSA).**ACTION:** Proposed rules.

SUMMARY: We propose to make revisions to our rules relating to the filing of an application for social security benefits. These changes will explain that SSA-approved Internet applications completed on SSA's website and submitted to SSA are prescribed applications for filing social security benefits. We propose to add cross-references to several sections to describe what makes an application a claim; and we plan to update the list of Related forms with other forms that are currently used in the application process. These proposed rules will inform the public that they have the option of filing an Internet application on SSA's website for all types of social security benefits.

DATES: We will consider your comments if we receive them no later than October 16, 2001.

ADDRESSES: Submit comments in writing to the Commissioner of Social Security, PO Box 17703, Baltimore, MD 21235-7703, send by telefax to (410) 966-2830, send by E-mail to regulations@ssa.gov, or deliver to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Lola Doyle, Social Insurance Specialist, Office of Program Benefits, Social Security Administration, 3-R-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-5899 or TTY (410) 966-5609 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778 or visit our Internet website, SSA Online at <http://www.ssa.gov/>.

SUPPLEMENTARY INFORMATION:**Background**

An individual must file an application in order to receive benefits

under title II of the Social Security Act (the Act). In part 404 of our regulations, we establish rules for filing a claim for old-age, disability, dependents', and survivors' insurance benefits, which define the criteria for determining when an application is a claim for benefits. Similarly, we include the names of places where you can file an application, and explain what makes an application form acceptable as a claim for benefits. Our rules state that individuals must either sign the application or have someone who can act on their behalf sign for them. Except in limited situations, individuals must be alive at the time the application is filed.

In part 404, we further state that a claim filed with the Railroad Retirement Board for an annuity on one of its forms is an application for title II benefits, unless the individual states otherwise. We state that a claim filed with the Department of Veterans Affairs on one of its forms for survivors' dependency and indemnity compensation is also an application for social security dependents' and survivors' benefits (except for the lump sum death payment).

The types of applications currently prescribed by SSA are described in part 422. SSA's application process has evolved from its primary use of the traditional pre-printed application form for claims-taking to SSA employees who input information provided by the applicant into a computer terminal for processing. Computer printouts of the data are generated for the applicant to review the information and to sign the application.

SSA is committed to providing the public with the option to conduct business electronically by adding more Internet services on SSA's website, SSA Online <http://www.ssa.gov/>.

Toward this objective, we developed an Internet retirement insurance benefit application for national implementation in the fall of 2000. Statistics confirm that Internet usage has increased among older Americans and as a result, they have requested that more online services be made available to them. Internet applications for other benefit categories will be developed in the future. As applications become available on SSA's website, we will incorporate an explanation of SSA's approved signature method for each application as part of the Internet application process.

The main purpose of the proposed revisions is to inform the public that they have the option of filing an Internet application on SSA's website for all types of social security benefits. The proposed revisions include updating the

list of Related forms in § 422.505(b) to reflect only those forms that are currently in use in the application process. The proposed revisions add cross-references to related sections to ensure that all necessary information for filing an application is available to the public. Finally, the proposed revisions make the regulations more readable, thus enabling the public to better understand the contents of the sections.

The following is a summary of the proposed revisions and our reasons for proposing these changes.

Explanation of Proposed Revisions

We are proposing to add a cross-reference in § 404.610(a) to related § 422.505(a), which explains the types of prescribed applications to be used by the public when filing for social security benefits. In § 404.610(b), we are proposing to add a cross-reference to related § 404.614, which lists the places where a social security application may be filed. We are also proposing to revise the language in the section for clarity. In § 404.611 we are proposing to revise the heading as part of reformatting the section. In addition, we are proposing to add a cross-reference in § 404.611(a) to related § 422.505(a), which, as noted above, explains the types of prescribed applications. We are proposing to change the heading in § 404.611(b) as part of the new format and to revise the text to make the section clearer. Similarly, in § 404.611(c) we are proposing a change in the heading and the text as part of the format change. We are proposing changing the heading in § 422.505 and revising the language in § 422.505(a) to make the contents of the section clearer. We are also proposing to revise § 422.505(a) to include language to state that Internet applications on SSA's website are prescribed applications. In § 422.505(b) we are proposing to revise the list of Related forms to delete the forms which are obsolete.

Clarity of These Regulations

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. We invite your comments on how to make these proposed rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings,

paragraphing) make the rules 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 rules easier to understand?

Electronic Versions

The electronic file of this document is available on the Internet at http://www.aces.gpo.gov/su_docs/aces/aces140.html. It is also available on the Internet site for SSA (i.e., "SSA Online") at <http://www.ssa.gov/>.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed regulations do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed regulations would not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed regulations would impose no additional reporting or recordkeeping requirements requiring OMB clearance. The SSA forms completed by the public listed in section 422.505 have previously been cleared by the Office of Management and Budget as necessary.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; and 96.004 Social Security-Survivors Insurance.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 422

Administrative practice and procedure, Freedom of Information, Organization and functions (government agencies), Social Security.

Dated: May 10, 2001.

Larry G. Massanari,

Acting Commissioner of Social Security.

For the reasons set forth in the preamble, we are proposing to amend part 404, subpart G, and part 422, subpart F of chapter III of title 20 of the Code of Federal Regulations as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart G—[Amended]

1. The authority citation for subpart G of part 404 continues to read as follows:

Authority: Secs. 202(i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 402(i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 902(a)(5)).

2. Section 404.610 is revised to read as follows:

§ 404.610 What makes an application a claim for benefits?

We will consider your application a claim for benefits if it generally meets all of the following conditions:

(a) You must file on a prescribed form as stated in § 404.611. See § 422.505(a) of this chapter for the types of prescribed applications you can file.

(b) You must complete and file the application with us, as stated in § 404.611 and § 404.614.

(c) You, or someone described in § 404.612 who may sign an application for you, must sign the application.

(d) You must be alive at the time you file (unless one of the limited exceptions in § 404.615 applies).

3. Section 404.611 is revised to read as follows:

§ 404.611 How do I file an application for social security benefits?

(a) *General rule.* You must apply for benefits on an application that we prescribe. See § 422.505(a) of this chapter for the types of applications we will accept. See § 404.614 for places where you can file your application for benefits.

(b) *What if I file a claim with the Railroad Retirement Board?* If you file an application with the Railroad Retirement Board on one of its forms for an annuity under section 2 of the Railroad Retirement Act, as amended, we will consider this as an application for title II social security benefits which you may be entitled to, unless you tell us otherwise.

(c) *What if I file a claim with the Department of Veterans Affairs (DVA)?* If you file an application with the DVA on one of its forms for survivors'

dependency and indemnity compensation (see section 3005 of title 38 U.S.C.), we will consider this an application for social security dependents' and survivors' benefits, except for the lump sum death payment.

PART 422—ORGANIZATION AND PROCEDURES

Subpart F—[Amended]

4. The authority citation for subpart F of part 422 continues to read as follows:

Authority: Secs. 205 and 702(a)(5) of the Social Security Act (42 U.S.C. 405 and 902(a)(5)). Section 422.512 is also issued under 30 U.S.C. 901 *et seq.*

5. Section 422.505 is revised to read as follows:

§ 422.505 What types of applications and related forms are used to apply for retirement, survivors, and disability insurance benefits?

(a) *Applications.* Prescribed applications include our traditional pre-printed forms, and applications our employees complete on computer screens based on information you give us, and which we then print on paper and process electronically. You may also use SSA's Internet website to submit SSA-approved applications to us. You can complete Internet applications on a computer (or other suitable device, such as an electronic Kiosk) and electronically transmit the form to us using an SSA-approved electronic signature. If, however, we do not have an approved electronic signature established when you file your Internet application, you may print and sign the completed application and deliver the form to us.

(b) *Related forms.* The following are some related forms:

SSA-3—Husband's Certification. (For use in connection with Application for Wife's Insurance Benefits, Form SSA-2.)

SSA-11—Application to be Selected as Payee. (For use when the individual proposing to be substituted for current payee files application to receive payment of benefits on behalf of himself, a disabled child or child under age 22, a student beneficiary, or an incompetent beneficiary.)

SSA-21—Supplement to Claim of Person Outside of the United States. (To be completed by or on behalf of a person who is, was, or will be outside the United States.)

SSA-25—Certificate of Election for Reduced Wife's Benefits. (For use by a wife age 62 through 64 who has an entitled child in her care and elects to receive reduced benefits for months during which she will not have a child in her care.)

SSA-721—Statement of Death by Funeral Director. (This form may be used as evidence of death (see § 404.704 of this chapter).)

SSA-760—Certificate of Support (Parent's, Husband's, or Widower's).

SSA-766—Statement of Self-Employment Income. (For use by a claimant to establish insured status based on self-employment income in the current year.)

SSA-787—Medical Officer's Statement. (For use in requesting medical evidence of a beneficiary's capacity to manage benefits from an institution.)

SSA-824—Report on Individual With Mental Impairment. (For use in obtaining medical evidence from medical sources when the claimant has been treated for a mental impairment.)

SSA-827—Authorization for Source to Release Information to the Social Security Administration (SSA). (To be completed by a disability claimant to authorize release of medical information.)

SSA-1002—Statement of Agricultural Employer. (For use by an employer to provide evidence of annual wage payments for agricultural work.)

SSA-1323—Report on Individual With Childhood Impairment. (For use in obtaining information from schools or agencies on how an impairment affects the individual's progress in school and to get the results and dates of any psychometric testing.)

SSA-1372—Student's Statement Regarding School Attendance. (For use in connection with a request for payment of child's insurance benefits for a child who is age 18 through 19 and a full-time student.)

SSA-1388—Report of Student Beneficiary at End of School Year. (For use in confirming continuing eligibility to benefits or indicating the need for suspension or termination action.)

SSA-1724—Claim for Amounts Due in the Case of a Deceased Beneficiary. (For use in requesting amounts payable under title II to a deceased beneficiary.)

SSA-3368—Disability Report—Adult. (For use in recording information about the claimant's condition, sources of medical evidence, and other information needed to process the claim to a decision.)

SSA-3369—Work History Report. (For use in recording work history information.)

SSA-3826-F4—Medical Report—General. (For use in helping disability claimants in obtaining medical records from their doctors or other medical sources.)

SSA-3827—Medical Report—Individual with Childhood Impairment.

(For use in requesting information to determine if an individual's impairment meets the requirements for payments of childhood disability benefits.)

SSA-4111—Certificate of Election for Reduced Widow(er)'s Benefits. (For use by applicants for certain reduced widow's or widower's benefits.)

SSA-7156—Farm Self-Employment Questionnaire. (For use in connection with claims for benefits based on farm income to determine whether the income is covered under the Social Security Act.)

SSA-7160—Employment Relationship Questionnaire. (For use by an individual and the alleged employer to determine the individual's employment status.)

SSA-7163—Questionnaire About Employment or Self-Employment Outside United States. (To be completed by or on behalf of a beneficiary who is, was, or will be employed or self-employed outside the United States.)

[FR Doc. 01-20156 Filed 8-16-01; 8:45 am]

BILLING CODE 4191-02-U

DEPARTMENT OF DEFENSE

National Reconnaissance Office

32 CFR Part 326

NRO Privacy Act Program

AGENCY: National Reconnaissance Office, DOD.

ACTION: Proposed rule.

SUMMARY: The National Reconnaissance Office (NRO) is proposing to exempt Privacy Act systems of records. The systems of records are QNRO-10, Inspector General Investigative Records and QNRO-15, Facility Security Files. The exemptions are intended to increase the value of the system of records for law enforcement purposes, to comply with prohibitions against the disclosure of certain kinds of information, and to protect the privacy of individuals identified in the systems of records.

DATES: Comments must be received by October 16, 2001 to be considered by the agency.

ADDRESSES: National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151-1715.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Freimann at (703) 808-5029.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, "Regulatory Planning and Review"

The Director of Administration and Management, Office of the Secretary of

Defense, hereby determines that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

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

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

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

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

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

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rules for the Department of Defense do not have federalism

implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 326

Privacy.

PART 326—[AMENDED]

1. The authority citation for 32 CFR part 326 continues to read as follows:

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

2. Section 326.17 is proposed to be amended by adding paragraphs (f) and (g) to read as follows:

§ 326.17 Exemptions.

* * * * *

(f) *QNRO–10, Inspector General Investigative Files.*

(1) *Exemption:* This system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Any portion of this system which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g).

(2) *Authority:* 5 U.S.C. 552a(j)(2).

(3) *Reasons:* (i) From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede the NRO IG's criminal law enforcement.

(ii) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy.

(iii) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, due to NRO IG's close liaison and working relationships with other Federal, state, local and

foreign country law enforcement agencies, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(iv) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(v) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

(vi) From subsection (e)(4) (G) through (I) because this system of records is exempt from the access provisions of subsection (d).

(vii) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(viii) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

(ix) From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself provide an answer to that individual relating to an on-going investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

(x) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

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

(ii) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(iii) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(5) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(6) *Reasons:* (i) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by the NRO or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(ii) From subsections (d) and (f) because providing access to investigatory records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant

to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(iii) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(iv) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigatory purposes and is exempt from the access provisions of subsections (d) and (f).

(v) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NRO will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(vi) Consistent with the legislative purpose of the Privacy Act of 1974, the NRO will grant access to nonexempt material in the records being maintained. Disclosure will be governed by NRO's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(g) *QNRO-15, Facility Security Files.*

(1) *Exemptions:* (i) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5

U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(ii) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(iii) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(2) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(3) *Reasons:* (i) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by the NRO or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(ii) From subsections (d)(1) through (d)(4), and (f) because providing access to investigatory records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or

impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(iii) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(iv) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigatory purposes and is exempt from the access provisions of subsections (d) and (f).

(v) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NRO will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(vi) Consistent with the legislative purpose of the Privacy Act of 1974, the NRO will grant access to nonexempt material in the records being maintained. Disclosure will be governed by NRO's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

August 7, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-20367 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE**Department of the Navy****32 CFR Part 701**

[Secretary of the Navy Instruction 5211.5]

Privacy Act; Implementation**AGENCY:** Department of the Navy, DoD.**ACTION:** Proposed rule.

SUMMARY: The Department of the Navy is proposing to exempt those records contained in these Privacy Act/FOIA systems of records when an exemption has been previously claimed for the records in another Privacy Act system of records. The exemption is intended to preserve the exempt status of the record when the purposes underlying the exemption for the original records are still valid and necessary to protect the contents of the records.

DATES: Comments must be received on or before October 16, 2001 to be considered by this agency.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B10), 2000 Navy Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685-6545 or DSN 325-6545.

SUPPLEMENTARY INFORMATION: Executive Order 12866, "Regulatory Planning and Review". The Director of Administration and Management, Office of the Secretary of Defense, hereby determines that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

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

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense

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

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

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

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

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 701

Privacy.

PART 701—[AMENDED]

1. The authority citation for 32 CFR part 701, Subpart G continues to read as follows:

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

2. Section 701.118 is amended by adding paragraphs (v) and (w) as follows:

§ 701.118 Exemptions for specific Navy record systems.

* * * * *

(v) *System identifier and name:*

(1) N05211-1, Privacy Act Files and Tracking System.

(2) *Exemption:* During the processing of a Privacy Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests), exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Navy hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part. Therefore, information within this system of records may be exempt pursuant to 5 U.S.C. 552a, subsection (d).

(3) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(4) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Navy will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Navy's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(w) *System identifier and name:*

(1) N05720-1, FOIA Request Files and Tracking System.

(2) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Navy hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part. Therefore, information within this system of records may be exempt

pursuant to 5 U.S.C. 552a, subsection (d).

(3) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(4) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Navy will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Navy's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

Dated: August 7, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-20366 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63, 264, 265, 266, and 270

[FRL-7039-5]

RIN-2050-AE79

NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors—Proposed Amendments; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In response to several commenters' request for more time to respond to issues, the Environmental Protection Agency is extending the comment period on its proposed amendments to NESHAP: Final Standards for Hazardous Air Pollutants Waste Combustors. On July 3, 2001 (66

FR 35126), EPA proposed potential revisions to several compliance, testing, and monitoring provisions of the final rule that established emissions standards for hazardous waste burning cement kilns, lightweight aggregate kilns, and incinerators. The comment period announced in the proposed rule was scheduled to end on August 17. Today's action extends the comment period for 60 days. Stakeholders, however, have not requested an extension of the comment period for two other actions (see 66 FR 35087 and 66 FR 35124) also published in the **Federal Register** on July 3, 2001. Today's action does not change the date by which comments must be submitted for those two actions.

DATES: The comment period for this NPRM is extended from the original closing date of August 17, 2001 to October 16, 2001.

ADDRESSES: If you wish to comment on the NPRM, you must send an original and two copies of the comments referencing docket number F-2001-RC5P-FFFFF to: RCRA Information Center (RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA HQ), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002; or, (2) if using special delivery, such as overnight express service: RIC, Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. You may also submit comments electronically following the directions in the **SUPPLEMENTARY INFORMATION** section below.

You may view public comments and supporting materials in the RIC. The RIC is open from 9 am to 4 pm Monday through Friday, excluding Federal holidays. To review docket materials, we recommend that you make an appointment by calling 703-603-9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost \$ 0.15 per page. **FOR FURTHER INFORMATION CONTACT:** For general information, call the RCRA Call Center at 1-800-424-9346 or TDD 1-800-553-7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). The RCRA Call Center is open Monday-Friday, 9 am to 4 pm, Eastern Standard Time. For more information on this extension notice, contact Rhonda Minnick at 703-308-8871, minnick.rhonda@epa.gov, or write her at the Office of Solid Waste, 5302W, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: On September 30, 1999, the NESHAP: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors was promulgated (64 FR 52828). On July 3, 2001, EPA proposed potential revisions to several compliance, testing, and monitoring provisions of the final rule (66 FR 35126). On July 24, 2001, the Court of Appeals for the District of Columbia decided *Cement Kiln Recycling Coalition, et al., v. EPA, et al.*, (D.C. Cir. No. 99-1457 (and consolidated cases)). This case decided several issues related to the September 30, 1999 final rule. In response to several commenters' requests for more time to respond to issues in the proposed rule considering the recent court decision, EPA is extending the proposed rule's comment period. This document extends the comment period for 60 days. Stakeholders, however, have not requested an extension of the comment period for two other actions (see 66 FR 35087 and 66 FR 35124) also published in the **Federal Register** on July 3, 2001. Today's action does not change the date by which comments must be submitted for those two actions.

List of Subjects

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: August 14, 2001.

Michael H. Shapiro,

Acting Assistant Administrator, Solid Waste and Emergency Response.

[FR Doc. 01-20897 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7035-3]

Indiana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Indiana has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is proposing to authorize the State's changes through this proposed final action.

DATES: Written comments must be received on or before September 17, 2001.

ADDRESSES: Send written comments to Gary Westefer, Indiana Regulatory Specialist, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please refer to Docket Number IN ARA18. We must receive your comments by September 17, 2001. You can view and copy Indiana's application from 9:00 am to 4:00 pm at the following addresses: Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana (mailing address P.O. Box 6015, Indianapolis, Indiana 46206) contact Lynn West (317) 232-3593, and EPA Region 5, contact Gary Westefer at the following address.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7450.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must

maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in this Rule?

We conclude that Indiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant Indiana Final authorization to operate its hazardous waste program with the changes described in the authorization application. Indiana has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Indiana, including issuing permits, until the State is granted authorization to do so.

C. What is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Indiana subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Indiana has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and

- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Indiana is being authorized by today's action are already effective, and are not changed by today's action.

D. What Happens if EPA Receives Comments that Oppose this Action?

If EPA receives comments that oppose this authorization, we will address all public comments in a later **Federal Register**. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

E. What has Indiana Previously been Authorized for?

Indiana initially received Final authorization on January 31, 1986, effective January 31, 1986 (51 FR 3955) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on October 31, 1986, effective December 31, 1986 (51 FR 39752); January 5, 1988, effective January 19, 1988 (53 FR 128); July 13, 1989, effective September 11, 1989 (54 FR 29557); July 23, 1991, effective September 23, 1991 (56 FR 33717); July 24, 1991, effective September 23, 1991 (56 FR 33866); July 29, 1991, effective September 27, 1991 (56 FR 35831); July 30, 1991, effective September 30, 1991 (56 FR 36010); August 20, 1996, effective October 21, 1996 (61 FR 43018); September 1, 1999, effective November 30, 1999 (64 FR 47692), and January 4, 2001 effective January 4, 2001 (66 FR 733).

F. What Changes are We Authorizing with Today's Action?

On March 16, 2001, Indiana submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision, subject to receipt of written comments that oppose this action, that Indiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we propose to grant Indiana Final authorization for the following program changes:

Description of Federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous State authority
Hazardous and Used Oil Fuel Criminal Penalties Checklist CP.	November 8, 1984, SWDA 3006(h), 3008(d), 3014.	IC 13-30-6, Effective 1996, previously codified at IC 13-17-13-4, Effective 1985, IC 13-17-13-3, Effective 1986.
Hazardous Waste, Management System; Testing and Monitoring Activities Checklist 158.	June 13, 1997, 62 FR 32452	329 IAC 3.1-1-7; 3.1-9-1; 3.1-10-1; 3.1-11-1, Effective April 5, 2000.
Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions Checklist 159.	June 17, 1997, 62 FR 32974	329 IAC 3.1-6-1; 3.1-6-2(17); 3.1-6-2(18); 3.1-6-2(19); 3.1-6-2(20); 3.1-12-1; 3.1-12-2(10); 3.1-12-2(12), Effective April 5, 2000.
Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance Checklist 160.	July 14, 1997 62 FR 37694	329 IAC 3.1-12-1; 3.1-12-2(10), Effective April 5, 2000.
Organic Air Emission, Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment Checklist 163.	December 8, 1997, 62 FR 64636	329 IAC 3.1-9-1; 3.1-10-1; 3.1-13-1; 3.1-13-2(8),(9), Effective April 5, 2000.
Kraft Mill Steam Stripper Condensate Exclusion Checklist 164.	April 15, 1998, 63 FR 18504	329 IAC 3.1-6-1, Effective April 5, 2000.
Recycled Used Oil, Management Standards; Technical Correction and Clarification Checklist 166 as amended Checklist 166.1.	May 6, 1998, 63 FR 24963; July 14, 1998, 63 FR 37780.	329 IAC 3.1-6-1; 3.1-6-2(4); 13-1-1; 13-1-2; 13-3-1; 13-3-1(b)(2); 13-4-3; 13-6-6; 13-7-5; 13-8-5; 13-9-5, Effective April 5, 2000.
Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes Checklist 167A.	May 26, 1998, 63 FR 28556	329 IAC 3.1-12-1; 3.1-12-2(6); 3.1-12-2(10); 3.1-12-2(12); 3.1-12-2(13), Effective April 5, 2000.
Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions Checklist 167B.	May 26, 1998, 63 FR 28556	329 IAC 3.1-12-1; 3.1-12-2(1)(D); 3.1-12-2(2)(D); 3.1-12-2(3); 3.1-12-2(6), Effective April 5, 2000.
Land Disposal Restrictions Phase IV—Corrections Checklist 167C as amended Checklist 167C.1.	May 26, 1998, 63 FR 28556, June 8, 1998, 63 FR 31266.	329 IAC 3.1-12-1; 3.1-12-2(1)(C); 3.1-12-2(2)(C); 3.1-12-2(3); 3.1-12-2(12), 3.1-12-2(13), Effective April 5, 2000.
Bevill Exclusion Revisions and Clarification Checklist 167E.	May 26, 1998, 63 FR 28556	329 IAC 3.1-6-1, Effective April 5, 2000.
Exclusion of Recycled Wood Preserving Wastewaters Checklist 167F.	May 26, 1998, 63 FR 28556	329 IAC 3.1-6-1, Effective April 5, 2000.
Hazardous Waste Combusters Revised Standards Checklist 168.	June 19, 1998, 63 FR 33782	329 IAC 3.1-6-1; 3.1-13-1, Effective April 5, 2000.
Petroleum Refining Process Checklist 169 as amended Checklist 169.1.	August 6, 1998, 63 FR 42110, October 9, 1998, 63 FR 54356.	329 IAC 3.1-6-1; 3.1-6-2(4); 3.1-6-2(17); 3.1-6-2(19); 3.1-11-1; 3.1-12-1; 3.1-12-2(12), Effective April 5, 2000.
Land Disposal Restrictions, Phase IV Checklist 170	August 31, 1998, 63 FR 46332	329 IAC 3.1-12-1; 3.1-12-2(12), Effective April 5, 2000.
Emergency Revisions of LDR Treatment Standards (Carbanate Production) Checklist 171.	September 4, 1998, 63 FR 47409	329 IAC 3.1-12-1; 3.1-12-2(12); 3.1-12-2(13), Effective April 5, 2000.
Emergency Revisions of LDR Treatment Standards (Characteristic Slags) Checklist 172.	September 9, 1998, 63 FR 48124	329 IAC 3.1-12-1; 3.1-12-2(10), Effective April 5, 2000.
Land Disposal Restrictions Treatment Standards (Spent Potliners) Checklist 173.	September 24, 1998, 63 FR 51254	329 IAC 3.1-12-1; 3.1-12-2(10); 3.1-12-2(12), Effective April 5, 2000.
Standards Applicable to Owners and Operators of Closed/Closing Facilities Checklist 174.	October 22, 1998, 63 FR 56710	329 IAC 3.1-9-1; 3.1-9-2(9); 3.1-10-1; 3.1-10-2(11); 3.1-10-2(12); 3.1-10-2(13); 3.1-10-2(14); 3.1-13-1; 3.1-13-2(1),(2),(3),(4); 3.1-13-2(8),(9); 3.1-13-3; 3.1-13-4; 3.1-13-5; 3.1-13-6; 3.1-13-7; 3.1-13-8; 3.1-13-9; 3.1-13-10; 3.1-13-11; 3.1-13-12; 3.1-13-13; 3.1-13-14; 3.1-13-15; 3.1-13-16; 3.1-13-17; 3.1-14; 3.1-15, Effective April 5, 2000.
Hazardous Remediation Waste Management Requirements (HWIR Media) Checklist 175.	November 30, 1998, 63 FR 65874	329 IAC 3.1-4-1; 3.1-4-1(b); 3.1-6-1; 3.1-9-1; 3.1-9-2(1),(2); 3.1-10-1; 3.1-10-2(1),(2),(3),(4); 3.1-12-1; 3.1-12-2(6); 3.1-13-1; 3.1-13-2(15), Effective April 5, 2000.
Universal Waste Rule; Technical Amendment Checklist 176.	December 24, 1998, 63 FR 71225	329 IAC 3.1-11-1; 3.1-11-2(3); 3.1-16-1; 3.1-16-2(3), Effective April 5, 2000.
Organic Air Emission Standards Checklist 177	January 21, 1999, 64 FR 3381	329 IAC 3.1-7-1; 3.1-9-1, Effective April 5, 2000.
Petroleum Refining Process Wastes Checklist 178	February 11, 1999, 64 FR 6806	329 IAC 3.1-6-1, Effective April 5, 2000.

G. Where Are the Revised State Rules Different From the Federal Rules?

Indiana has excluded the non-delegable Federal requirements at 40 CFR 268.5, 268.6, 268.42(b), 268.44, and 270.3 in their Incorporation by Reference at 3.1-12-2 and 3.1-13-2(4).

EPA will continue to implement those requirements.

H. Who Handles Permits After the Authorization Takes Effect?

Indiana will issue permits for all the provisions for which it is authorized

and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more

new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Indiana is not yet authorized.

I. What Is Codification and Is EPA Codifying Indiana's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart P for this authorization of Indiana's program changes until a later date.

J. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not

make decisions based on environmental health or safety risks.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 2, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01-20790 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AH73

Endangered and Threatened Wildlife and Plants; Re-opening of Comment Period on the Sacramento Splittail Final Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; re-opening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the re-opening of the comment period for the final rule on the Sacramento splittail (*Pogonichthys macrolepidotus*). Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this re-opened comment period, and will be fully considered in the final rule. We are re-opening the comment period to invite comments and to obtain peer-review on the statistical analysis completed by the Service to re-analyze the available splittail abundance data. We are also inviting additional comments on the status of the species, as first solicited in the January 12, 2001 to February 12, 2001 (66 FR 2828) comment period and in the May 7, 2001 to June 7, 2001 reopening of same.

DATES: We will accept public comments until October 1, 2001.

ADDRESSES: *Comment Submission:* If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may submit written comments and information by mail to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W-2605, Sacramento, California 95825.

2. You may send comments by electronic mail (e-mail) to: fw1splittail@fws.gov. See the Public Comments Solicited section below for file format and other information about electronic filing.

3. You may hand-deliver comments to our Sacramento Fish and Wildlife Office, during normal business hours, at the address given above.

Comments and materials received will be available for inspection, by appointment, during normal business hours at the address under (1) above.

FOR FURTHER INFORMATION CONTACT: For general information, Stephanie Brady, at the above address (telephone 916/414-6600; facsimile 916/414-6713).

SUPPLEMENTARY INFORMATION:

Background

The Sacramento splittail (hereafter splittail) represents the only extant species in its genus in North America. For a detailed description of the species, see the Recovery Plan for the Sacramento/San Joaquin Delta Native Fishes (Service 1996) and references within that plan.

Splittail are endemic to certain waterways in California's Central Valley, where they were once widely distributed (Moyle 1976). Sacramento splittail occur in Suisun Bay, Suisun Marsh, the San Francisco Bay-Sacramento-San Joaquin River Estuary (Estuary), the Estuary's tributaries (primarily the Sacramento and San Joaquin rivers), the Napa River and Marsh, and the Petaluma River and Marsh. The Sacramento splittail no longer occurs throughout a significant portion of its former range.

Pursuant to the Endangered Species Act of 1973, as amended (Act), the splittail was listed as a threatened species on February 8, 1999 (64 FR 5963). In this previous listing determination, the Service found that changes in water flows and water quality resulting from export of water from the Sacramento and San Joaquin rivers, periodic prolonged drought, loss of shallow water habitat, and the effect of agricultural and industrial pollutants were significant factors in the species decline.

Subsequent to the publication of the final rule, plaintiffs in the cases *San Luis & Delta-Mendota Water Authority v. Anne Badgley, et al.* and *State Water Contractors, et al. v. Michael Spear, et al.* commenced action in Federal Eastern District Court of California, challenging the listing of the splittail as threatened, alleging various violations of the Act and of the Administrative Procedure Act (5 U.S.C 551 *et seq.*). The Service, as directed by the court, and pursuant to the Act, provided notice of the opening of a comment period regarding the threatened status for the splittail, from January 12, 2001 to February 12, 2001 (66 FR 2828). In addition, the Service re-opened the comment period again from May 7, 2001 to June 7, 2001. The Service is now re-opening the comment period to obtain peer-review and public comment on the statistical analysis used to analyze the abundance data available for splittail, and to seek public comment on the status of the species (see 66 FR 2828). Upon the close of this comment period, the Service will make its determination whether the splittail warrants the continued protection of the Act.

The approach used by the Service to analyze the best scientifically and commercially available splittail data differs from methods employed previously. Within the context of gaining insights into the "status" of a species' abundance, the fundamental statistical issue is one of temporal pattern recognition. Two central statistical questions are posed: (1) Are there any permutations of the data for which the independent variable of *time* (in any one or more of its common units) explains a significant proportion of the variation in abundance measures, and (2) are there any statistically distinct directional trends?

Two recent attempts to statistically examine trends in splittail abundance (Meng and Moyle 1995; Sommer *et al.* 1997) relied primarily on Mann-Whitney U-tests for the nonparametric comparison of two "independent" samples. The two samples in each case were defined by temporal cut points (pre-1985 vs post-1984 for Meng and Moyle (1995); pre-1987 vs post-1986 in Sommer *et al.* 1997) that made sense based on water management (Meng and Moyle 1995) or climatological (Sommer *et al.* 1997) criteria, but are nonetheless statistically arbitrary. Remembering that the basic statistical issue here is temporal pattern recognition, simply dividing a *continuous temporal data set* at some statistically arbitrary point in order to recast the data as categorical data with two categories ("before" and "after") is a statistically crude way to approach temporal pattern recognition. Therefore, the Mann-Whitney U-test approach has low statistical power.

However, even if one were committed to the Mann-Whitney U-test approach owing to considerations of prior precedence (e.g., a final rule on a species listing) and maintaining direct comparability between different studies across time, there are at least two ways the Mann-Whitney U-testing done by Meng and Moyle (1995) and by Sommer *et al.* (1997) can be improved upon. First, the test statistic probabilities known as "p-values" can be derived via exact probability methods such as permutation tests as opposed to relying on asymptotic inference (as all nonparametric textbooks do). Second, stratified Mann-Whitney U-testing can be employed to account for the major influence of water year type on splittail abundance, independent of time. Especially for small sample statistical testing with unbalanced sample sizes, asymptotic estimates of p-values are just that, estimates, and sometimes crucially poor estimates (StatXact-4 User Manual, Cytel Software Corp., 1998). To remedy the mismatch between statistical testing

of small, unbalanced samples using p-values derived from an assumption of very large, balanced samples, exact p-value permutation methods only recently available through advances in computer technology can be utilized (StatXact-4; Cytel Corp., 1998).

Two objectives are addressed below: (1) To present updated and statistically improved Mann-Whitney U-testing results through the application of stratified analyses, exact p-values; and (2) to present a statistical pattern recognition analysis that does not try to force the inherently continuous temporal abundance data into statistically arbitrarily defined categories established as "before" and "after" some chosen temporal cut point used to separate data.

Updated and Improved Mann-Whitney U-Testing

Background

The Mann-Whitney U-testing conducted by Meng and Moyle (1995) was based on measures of total abundance (i.e., all age classes), for sets of data that covered the time span of 1980–1992. The Mann-Whitney U-testing conducted by Sommer *et al.* (1997) was conducted separately for "age 0" splittail and "adult" splittail for sets of data that covered variable time spans within the overall time span of 1975 to 1995. The analyses presented here are updated to include data that cover variable time spans within the overall time span of 1975 to 2000.

The analyses presented here focus on five sets of splittail abundance data, (1) CDFG fall midwater trawl, (2) UCD Suisun Marsh Survey, (3) USFWS Chipps Island Survey, (4) CDFG Bay Study midwater trawl, and (5) CDFG Bay Study otter trawl. These sources of data have been described in detail in the draft Sacramento splittail "White Paper" (Moyle *et al.*) as well as more briefly in Meng and Moyle (1995) and in Sommer *et al.* (1997). These are the core data sets that were previously included in both the Meng and Moyle paper and the Sommer *et al.* paper (although Meng and Moyle pooled data from the two CDFG Bay Study data sets and treated it as a single set of data).

Additionally, here, the abundance data within each data set are also standardized to a 0.0–1.0 scale, by dividing all abundance measures within a particular data set by the maximum value for that data set. The "standardized" scores were summed across data sets to produce a new composite score data set reflecting the entirety of the various different survey programs. For example, if all the

abundance data sets were completely in phase with each other and peaked during the same year, the composite standardized score for that year would be 5.0. These composite scores are only calculated for years with entries for all five underlying data sets (only 12 of the 26 years between 1975 and 2000).

The analyses presented here also focus on the abundance data for non-age 0 splittail. From the perspective of species persistence, age 0 fish (YOY fish) do not really "count" biologically until they become recruited into the "adult" population. A species can produce an unlimited supply of age 0 individuals and still fail to persist if few or none of those individuals successfully recruit into the adult population. Thus, from a species persistence perspective, it is the temporal pattern in abundance of non-age 0 splittail that is the pertinent biological, and therefore statistical, issue.

The analyses presented here are for stratified Mann-Whitney U-testing. The stratification factor used is the intensity of flooding of the Yolo Bypass, as a surrogate measure of water year that is specifically relevant to splittail biology, e.g., Sommer *et al.* 1997; draft splittail "White Paper". Flooding of the Yolo Bypass was evaluated based on U.S. Geological Survey flow data for the lower Sacramento River gage at Verona. When flows exceed 55,000 cubic feet per second (cfs) at that gage, water is diverted from the lower Sacramento River into the Yolo Bypass. Flooding of the Yolo Bypass during the period from February through May is significant to the biology of the splittail (e.g., Sommer *et al.* 1997; draft splittail "White Paper"). Splittail are adapted to spawn in late winter through late spring. When flooded during this period, the Yolo Bypass becomes available as a significantly large splittail spawning area. The vegetated shallow water areas of the Yolo Bypass provide pre-spawn foraging habitat for adults, substrates for egg attachment, and shelter for larval fish. The rearing habitat is of high quality (Sommer *et al.* 2001), provided inundation is of sufficient duration.

Post-spawn adult and juvenile splittail emigrating from the Yolo Bypass have ready access to the western Delta and Suisun Marsh and Bay. The Yolo Bypass is likely responsible for a good portion of the juvenile splittail production in wet years. Three "strata" were designated, using years in which flows exceeded 55,000 cfs for: (1) less than 20 days, (2) for 20 to 44 days, and (3) for 45 or more days, during the period of February through May.

Finally, the outcomes of stratified Mann-Whitney U-testing are presented for both the Meng and Moyle (1995) cut point of 1984–85 and for the Sommer *et al.* (1997) cut point of 1986–87.

Outcomes

The raw data utilized for stratified Mann-Whitney U-testing are contained in the Administrative Record for this project, and are available upon request (see Addresses section). The exact two-tailed p-values for the various data sets and cut point are presented in Table 1 below. Two-tailed p-values are presented for the sake of consistency and easy comparison with the statistical treatments presented by Meng and Moyle (1995) and Sommer *et al.* (1997). It is important to note here, however, that the precise statistical question of relevance to a "listing decision" is whether there is statistical evidence for a significant decline in splittail abundance after the cut point as compared to before the cut point dates. Consequently, statistical significance is more properly evaluated for this directional alternative hypothesis using one-tailed p-values. For that reason, Table 1 also presents exact one-tailed p-values.

The abundance data from the UCD Suisun Marsh Survey and the USFWS Chipps Island Survey provide statistically significant evidence for declines in mean abundance of adult splittail between the "before" and "after" temporal categories. All of the CDFG data sets (fall midwater trawl, bay midwater trawl, and bay otter trawl) yielded non-significant Mann-Whitney U-test p-values and provide no statistically confirmable evidence for

declines in mean abundance of adult splittail before and after the cut point dates (see Table 1 below).

Because each set of survey data is related to overall abundance of adult splittail in a unique, and probably at least partially non-overlapping manner (see draft splittail "White Paper"), the composite score data set is likely the most useful set of data for decision making. The one-tailed stratified Mann-Whitney U-test exact p-values for the composite scores were 0.24 and 0.40 respectively (Table 1). This outcome corresponds to a 60 to 76 percent chance that the 17 to 18 percent decline in mean composite scores for adult splittail since 1986 and 1984 respectively are biologically real.

Another factor meriting serious consideration when evaluating the Mann-Whitney U-test statistical outcomes is the fact that the available data sets have inherently low statistical power due to small sample sizes and high variability. For example, considering the "composite" abundance scores, and the 1984–85 cut point, the power of this data set to detect a "true" decline of 18 percent (i.e., one-tailed test) is only 14.5 percent (i.e., the type-II error rate associated with the test is excessive at 85.5 percent). In other words, while we have a 24 percent chance (Table 1) of falsely concluding that the apparent 18 percent decline is real, we have an 85.5 percent chance of falsely concluding that the apparent 18 percent decline is not real. Thus, despite the lack of a statistically significant Mann-Whitney test for the composite abundance scores, overall the statistical odds are still very strongly in favor of concluding that the apparent 18 percent decline is biologically real.

The power analysis presented above was conducted using Statistica (StatSoft Corp.) software (Steiger 1999) for calculating power of a two-sample t-test, the parametric analog of a Mann-Whitney U-test. Because t-tests are categorically more powerful than U-tests (e.g., Siegel 1956:126), the power analysis presented above slightly overestimates the true power of the U-test.

TABLE 1.—EXACT TWO-TAILED AND ONE-TAILED P-VALUES FOR UPDATED, AND STRATIFIED MANN-WHITNEY U-TESTS OF ADULT SPLITTAIL ABUNDANCE

[italicized values are significant at the $p < 0.05$ level and before/after sample sizes are in parentheses]

	1984–85 Cut Point	1986–87 Cut Point
CDFG fall MWT (2-tailed)	0.88 (9,16)	0.43 (11,14)
CDFG fall MWT (1-tailed)	0.44	0.22
UCD Suisun (2-tailed)	0.03 (6,15)	0.04 (8,13)
UCD Suisun (1-tailed)	0.014	0.02
USFWS Chipps (2-tailed)	0.004 (7,9)	0.03 (9,7)
USFWS Chipps (1-tailed)	0.0035	0.02

TABLE 1.—EXACT TWO-TAILED AND ONE-TAILED P-VALUES FOR UPDATED, AND STRATIFIED MANN-WHITNEY U-TESTS OF ADULT SPLITTAIL ABUNDANCE—Continued

[italicized values are significant at the p<0.05 level and before/after sample sizes are in parentheses]

	1984–85 Cut Point	1986–87 Cut Point
CDFG Bay MWT (2-tailed)	0.78 (5,15)	0.90 (7,13)
CDFG Bay MWT (1-tailed)	0.39	0.45
CDFG Bay OT (2-tailed)	0.91 (5,16)	0.65 (7,14)
CDFG Bay OT (1-tailed)	0.46	0.33
Composite Score (2-tailed)	0.44 (5,7)	0.76 (7,5)
Composite Score (1-tailed)	0.24	0.40

Note that the 1-tailed p-values are not simply one-half of the 2-tailed p-values because the exact permutation distribution of “U” is often asymmetric for small, unbalanced data sets. This is one of the reasons why standard textbook tabled critical values of “U” can be substantively inaccurate.

Temporal Pattern Recognition Analyses of Splittail Abundance Data

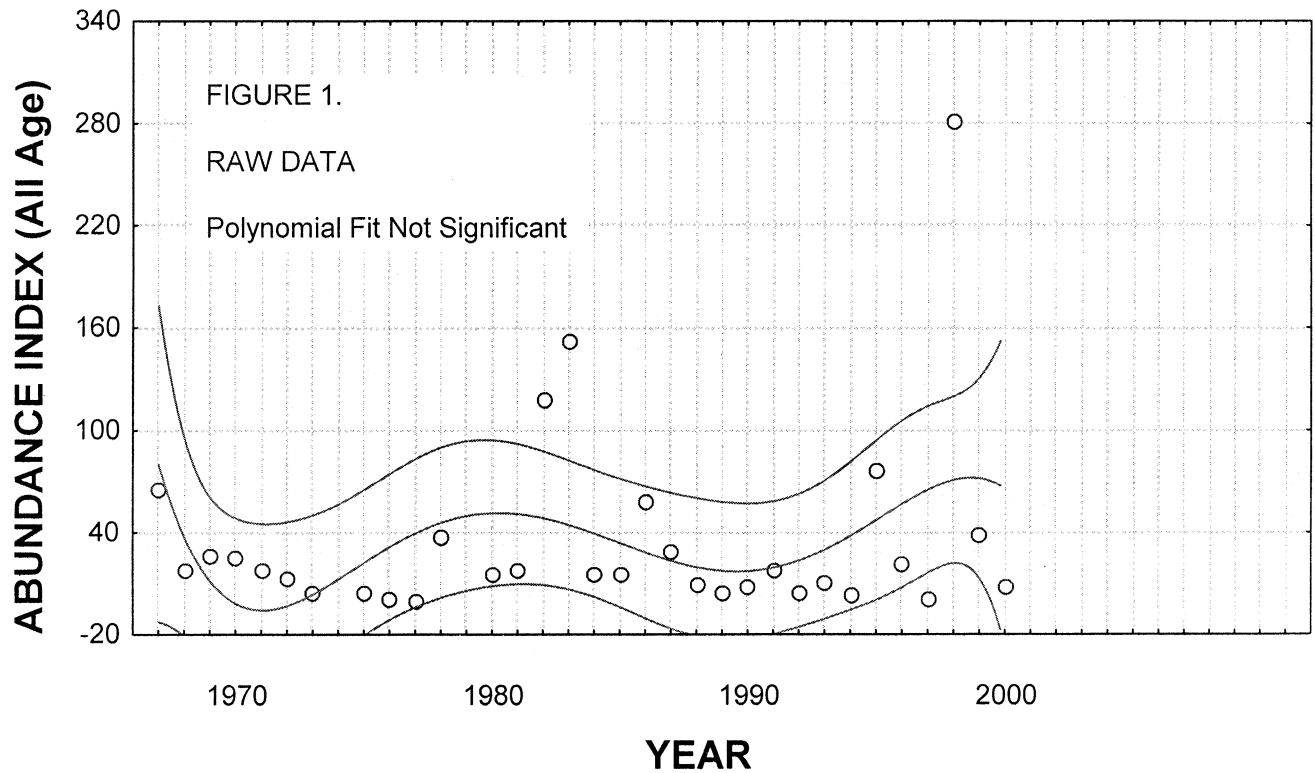
If a species were experiencing a constant linear rate of increase or decline over time, a simple linear plot

of the data would reveal a temporal pattern that could be described by regressing measures of abundance against time. The slope of such a regression would quantify the rate of change in abundance. Taking a similar statistical approach with the splittail abundance data would be the more conventional way to address the issue of temporal pattern recognition. Such an approach is relatively data intensive, so here the regression approach is applied first to the longest running set of

abundance data, the CDFG fall midwater trawl.

There are no linear regressions of the raw data that produce a distinctive pattern recognition. Because splittail abundance (especially age 0 abundance) may be related loosely to events, such as floods, that are periodic, polynomial regression was viewed as an approach worth examining. However, no significant polynomial pattern in the raw data for CDFG fall midwater trawl was evident (Figure 1 below).

Polynomial Regression: CDFG Fall midwater trawl 1967-2000
 $y=143.199-75.199*x+12.82*x^2-0.87*x^3+0.026*x^4-2.704e-4*x^5+eps$



Because splittail are a relatively long lived species, with a maximum life span of about nine years (Moyle *et al.* 2001 in prep.), temporal patterns in

abundance are not necessarily going to be discernible based on yearly grouping of data. Given the high year to year variability in reproductive performance

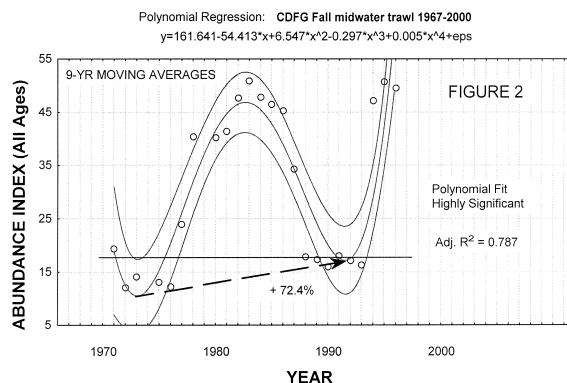
noted for splittail by Sommer *et al.* (1997), the Service explored a polynomial regression on transformed splittail abundance data. The

transformation chosen was a nine year moving average, based on the reasoning that it is variations in abundance over the splittail life span window of nine years that may be most relevant to splittail population dynamics. By using

a nine year moving average, the resiliency of the species due to long life span is incorporated into the analysis.

This approach resulted in a highly significant polynomial fit to the data. Using a fourth order polynomial fit to

nine year moving averages of splittail abundance, time explained 78.7 percent of variation in abundance measures and the regression fit recognized a highly cyclic temporal pattern (Figure 2 below).



There are only enough data to illustrate one full iteration of the cyclicity. That iteration is from trough to trough (only one peak is included in the limited data set). To evaluate overall trends in cyclic data, the proper comparison is from peak to peak and/or from trough to trough in the oscillation cycles. The single trough to trough

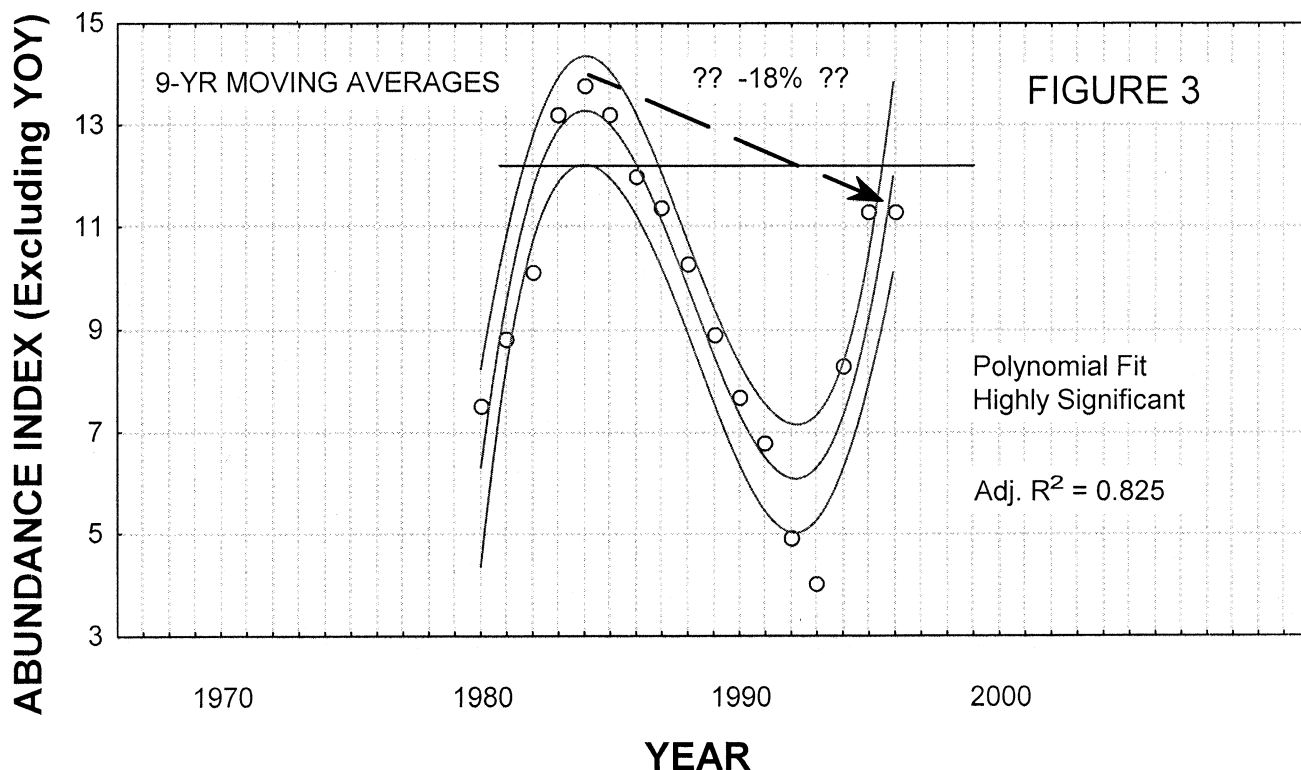
oscillation evident in Figure 2 suggests a nominal 72.4 percent increase between the nine year average centered on 1973 and the nine year average centered between 1991–92. However, that nominal increase is not enough to raise the second trough above the upper 95 percent confidence boundary of the first trough (see the horizontal line in

Figure 2). Thus, statistically, the two troughs are not significantly different.

Conducting a similar regression analysis of the non-age 0 data for the CDFG fall midwater trawl data set yields a similarly strong polynomial fit, this time to a 3rd order regression model (Figure 3 below).

Polynomial Regression: CDFG Fall midwater trawl 1975-2000

$$y = -247.578 + 37.563x - 1.759x^2 + 0.027x^3 + \text{eps}$$



The temporal pattern recognized is again highly cyclic, and time explains 82.5 percent of the variation in abundance data for non-age 0 ("adult") splittail. Because even the CDFG fall midwater trawl survey did not separate catch data into age classes until about 1975, there is not enough data to illustrate either a complete trough to trough or peak to peak iteration of the oscillation cycle. However, if the two "flat" data points at the end of the data set are indeed the top of a second peak, then the nominal change from the nine-year moving average centered on 1984 and the putative peak centered on 1994–95, is about negative 18 percent, and the second peak would be low enough to be below the lower 95 percent confidence interval of the first peak (see horizontal dashed line in Figure 3) indicating a statistically significant decline between peaks. None of the other sets of abundance data yet cover a long enough time span to allow productive use of polynomial regression pattern recognition.

Summary of the Service's New Analysis

Focusing on Abundance Data for Non-age 0 Splittail

Updated, and improved Mann-Whitney U-testing of a composite scores data set, that equally incorporates data from five different splittail survey programs, suggests a 60 to 76 percent chance that the observed 17 to 18 percent decrease in average composite scores post-1986 and post-1984, respectively, are biologically real (as opposed to statistical artifacts). Statistical power analysis reveals that due to extraordinary low power, the odds (85.5 percent) of type II error (falsely rejecting the declining trend in the data) are much greater than the odds (24 percent) of type I error (falsely accepting the declining trend in the data).

Temporal pattern recognition via polynomial regression reveals that splittail abundance data, transformed to nine year moving averages, strongly fit 3rd and 4th order polynomial models and are highly cyclic. One regression highly influenced by age 0 data exhibited a nominal 74.2 percent trough to trough increase in splittail abundance, but that increase was not enough to be statistically significant, as data sets including age 0 fish are highly variable. Another regression, of non-age 0 fish, putatively suggests a significant nominal 18 percent peak to peak decline for the same CDFG fall MWT data that did not test out significantly via the statistically low power Mann-Whitney U-test approach. If the observed pattern holds true as more data are collected, it

would suggest a decline on the order of about 20 percent over about a 10 year period (e.g., a mean exponential annual rate of decline of about 2.2 percent).

Perhaps the most important conclusion to note from the polynomial regression analyses is that although time can be shown to explain a very high proportion of the variability in splittail abundance, on the order of 80 percent, the splittail populations have not been monitored long enough through time (relative to the species life span) to make a statistically strong argument one way or the other regarding the presence or absence of directional temporal trends.

In addition to the aforementioned analysis, the Service, in response to comments received by California Division of Water Resources (CDWR) and California Department of Fish and Game (CDFG) analyzed the data presented in their comments using a simple exponential decay model (i.e., $N_t = N_0 e^{-kt}$; see Paveglio et al. (1997) for a similar application). CDWR recognizes CDFG as the pre-eminent compilers of the "official" abundance indices, and CDFG's submitted comments revealed apparent trends of decline for adult splittail (age 2+) abundance in 5 of 6 surveys ranging from negative 15 percent to negative 69 percent and averaging negative 35.8 percent (including data from Central Valley Project pump salvage counts [negative 26 percent] and State Water Project pump salvage counts [negative 68 percent] not considered above by the Service). Until enough abundance monitoring has been completed to provide adequately powerful statistical testing, the above apparent trends constitute best available information regarding splittail population status. An average apparent trend of negative 35.8 percent over approximately 15 years corresponds to an average annual exponential rate of decline of 2.9 percent, which in turn suggests that 90 percent decline of the population (from mid-1980's levels) would be reached in about 63 years from present. Similar exponential decay rates associated with the five surveys reported by CDFG as exhibiting apparent declines yield times to 90 percent decline ranging from 14 to 198 years from present with a median estimate of 20 years from present (i.e., 3 of the 5 projections estimate 90 percent decline in 20 years or less from present).

The Service recognizes that projections based on a simple exponential decay model represent a fairly crude first cut at a "population depletion" analysis. However, given, the relatively undeveloped state of available data series, the Service believes that

simple models currently provide the best available, albeit approximate, guidance.

Public Comments Solicited

We will accept written comments during this re-opened comment period, and comments should be submitted to the Sacramento Fish and Wildlife Office as found in the **ADDRESSES** section.

You may send comments by electronic mail (e-mail) to: fw1splittail@fws.gov. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include "Attn: [RIN number]" and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Sacramento Fish and Wildlife Office at telephone number 916/414-6600, during normal business hours.

Author(s)

The primary authors of this notice are Joseph Skorupa and Stephanie Brady (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, 2001.

Mary Ellen Mueller,

Manager, California/Nevada Operations Office, Region 1, Fish and Wildlife Service.

[FR Doc. 01-20713 Filed 8-16-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 010521133-1133-01 ; I.D. No. 050101B]

RIN 0648-AP17

Endangered and Threatened Species; Proposed Rule Governing Take of Four Threatened Evolutionarily Significant Units (ESUs) of West Coast Salmonids: California Central Valley Spring-run Chinook; California Coastal Chinook; Northern California Steelhead; Central California Coast Coho

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

ACTION: Proposed rule; request for comments.

SUMMARY: Under the Endangered Species Act (ESA), the Secretary of Commerce (Secretary) is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. This proposed ESA 4(d) rule would apply the take prohibitions enumerated in section 9(a)(1) of the ESA in most circumstances to California Central Valley Chinook, California Coastal Chinook and Northern California steelhead that do not currently have 4(d) protective regulations in place. However, for these three threatened ESUs, NMFS is proposing 10 categories of activities for which the take prohibitions would not apply. NMFS believes that these activities contribute to conserving the listed salmonids or are governed by certain programs that adequately limit impacts on the ESUs. For the threatened Central California Coast coho salmon ESU, a 4(d) rule is currently in place which generally applies the take prohibitions enumerated in section 9(a)(1) of the ESA to this ESU. For this ESU, NMFS is proposing to amend its existing regulations to allow the same 10 limits on the application of the take prohibitions which are proposed for the chinook and steelhead ESUs described here.

DATES: Comments on this proposed rule must be received at the appropriate address (see **ADDRESSES**), no later than 5 p.m., Pacific standard time, on October 1, 2001. The dates and locations of public hearings regarding this proposal will be published in a subsequent **Federal Register** document.

ADDRESSES: Written comments and requests for information should be sent to the Assistant Regional Administrator, Protected Resources Division, NMFS, Southwest Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Comments will not be accepted if submitted via e-mail or Internet. For copies of guidance documents see Appendix A to 50 CFR 223.203.

FOR FURTHER INFORMATION CONTACT: Craig Wingert at 562-980-4021, Miles Croom at 707-575-6068, Diane Windham at 916-930-3601, or Chris Mobley at 301-713-1401.

SUPPLEMENTARY INFORMATION:

Background

On September 16, 1999, NMFS published a final rule listing the California Central Valley (CCV) Spring-run Chinook and California Coastal (CC) Chinook ESUs (*Oncorhynchus tshawytscha* or *O. tshawytscha*) as threatened species (64 FR 50394). In a final rule published on June 7, 2000,

NMFS also listed the Northern California (NC) steelhead ESU (*O. mykiss*) as a threatened species (65 FR 36074). These final rules describe the background of the listing actions and provide a summary of NMFS' conclusions regarding the status of these three ESUs. NMFS has not previously proposed any protective regulations, pursuant to section 4(d) of the ESA, for these three ESUs.

On October 31, 1996, NMFS listed the Central California Coast (CCC) coho salmon (*O. kisutch*) ESU as a threatened species (61 FR 56138). The final rule describes the background for this coho salmon listing action and also provides a summary of NMFS' conclusions regarding the status of the ESU. In conjunction with this final listing notice for the CCC coho salmon ESU, NMFS published a final ESA 4(d) rule which put in place the prohibitions of section 9(a)(1) of the ESA for this ESU. The 4(d) rule for this ESU did not contain any of the limitations on the take prohibitions which NMFS included in its July 10, 2000, rule for 14 other threatened ESUs of salmon and steelhead (65 FR 42422).

Section 4(d) of the ESA provides that whenever a species is listed as threatened, the Secretary of Commerce (Secretary) shall issue such regulations as he deems necessary and advisable to provide for the conservation of the species. Such protective regulations may include any or all of the prohibitions that apply automatically to protect endangered species under ESA section 9(a). Those section 9(a) prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any wildlife species listed as endangered, unless with written authorization for incidental take. It is also illegal under section 9 of the ESA to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Section 11 of the ESA provides for civil and criminal penalties for violation of section 9 or of regulations issued under the ESA.

Whether take prohibitions or other protective regulations are necessary or advisable is in large part dependent upon the biological status of the species and potential impacts of various activities on the species. The salmon and steelhead ESUs that are covered by this proposed rule have survived for thousands of years through cycles in ocean conditions and weather;

therefore, NMFS has concluded that they are at risk of extinction primarily because their populations have been reduced by human "take". These ESUs have declined in abundance due to take of fish from harvest, past and ongoing destruction or damage to freshwater and estuarine habitats, hatchery practices, hydropower development, and other causes. Two reports prepared by NMFS (NMFS 1996 and 1998) reviewed the factors which have contributed to the decline of west coast steelhead and chinook populations, including these ESUs, and both conclude that all of the factors identified in section 4(a)(1) of the ESA have played some role in their decline. The reports identify destruction and modification of habitat, over-utilization, and hatchery effects as significant reasons for the species' declines. While the most influential factors differ from species to species and among ESUs depending on their geographic location, loss and degradation of habitat conditions, harvest impacts, and in some instances hatchery impacts are factors that have affected all of the ESUs. Accordingly, NMFS is proposing in most circumstances to apply the section 9 take prohibitions to the threatened ESUs covered in this proposed rule, in order to provide for their conservation.

Although the primary purpose of state, local and other non-Federal programs is generally to further some activity such as maintaining roads, controlling development, ensuring clean water or harvesting trees, rather than conserving salmon or steelhead, some entities have modified one or more of these programs to protect and conserve listed salmonids and protect their habitat. NMFS believes that with appropriate safeguards, many state, local and other non-Federal activities can be specifically tailored to minimize impacts on listed salmonid ESUs such that additional Federal protections are unnecessary for their conservation.

NMFS, therefore, is proposing a mechanism for the salmon and steelhead ESUs covered by this proposed rule whereby state, local and other non-Federal entities can be assured that certain activities they conduct or permit are consistent with ESA requirements and avoid or minimize the risk of take of listed fish. When such a program provides sufficient conservation for these listed salmonid ESUs, NMFS does not find it necessary and advisable to apply take prohibitions to activities governed by those programs. In those circumstances, as described in more detail herein, additional Federal ESA regulation through the section 9(a) take

prohibitions is not necessary and advisable because it would not meaningfully contribute to the conservation of the listed ESUs. In fact, not applying take prohibitions to programs that meet such standards may result in even greater conservation gains for a listed ESU than would the blanket application of take prohibitions, through implementation of the program itself and by demonstrating to similarly situated jurisdictions or entities that practical and realistic salmonid protection measures exist. An additional benefit of this approach is that NMFS can focus its enforcement efforts on activities and programs that have not yet adequately addressed the conservation needs of these threatened ESUs.

Substantive Content of Proposed Regulation

NMFS has not previously proposed any ESA 4(d) protective regulations for the CCV spring chinook salmon, CC chinook salmon or NC steelhead ESUs which are addressed in this proposed rule. However, when the CCC coho salmon ESU was listed in 1996, NMFS did adopt a 4(d) protective regulation which applied the section 9(a) take prohibitions to that ESU, but did not incorporate the take limitations which were recently adopted for 14 other threatened salmonids ESUs (65 FR 42422) and are proposed in this rule. To ensure that the 4(d) rule for the CCC coho salmon ESU is consistent with existing or proposed 4(d) rules for threatened salmonids which have overlapping distributions (i.e., CCC steelhead, NC steelhead, and CC chinook ESUs), NMFS proposes to modify the existing 4(d) rule for CCC coho salmon by incorporating the take limitations which are described in this proposed rule.

NMFS believes that the section 9(a) take prohibitions, which are applicable for endangered species, are necessary and advisable for conservation of the threatened salmon and steelhead ESUs covered by this proposed rule, but that take of listed fish in these ESUs need not be prohibited when it results from the activities described herein if specified conservation standards or criteria are met. Such activities are those which are conducted in a way that contributes to conserving the threatened ESUs, or are governed by a program that limits impacts on the threatened ESUs to an extent that makes added protection through Federal regulation unnecessary and unadvisable for their conservation. NMFS, therefore, proposes to apply ESA section 9(a) prohibitions to the CCV spring chinook, CC chinook, and NC steelhead ESUs,

but not to apply the take prohibitions to the 10 programs, or take limitations, described in this proposed rule that meet the necessary level of protection and conservation. In addition, NMFS is proposing to apply the same 10 take limitations described herein to the CCC coho salmon ESU which currently has all the section 9(a) take prohibitions in place. As an alternative to utilizing the 10 limitations on the take prohibitions described in this proposed rule, responsible entities may choose to seek an ESA section 10 permit from NMFS.

NMFS has identified several programs for which it is not necessary and advisable to impose take prohibitions because they contribute to conserving the threatened ESUs or are governed by a program that adequately limits impacts on listed salmonids. Under specified conditions and in appropriate geographic areas, these include: (1) activities conducted in accord with ESA incidental take authorization; (2) ongoing scientific research activities, for a period of 6 months; (3) emergency actions related to injured, stranded, or dead salmonids; (4) fishery management activities; (5) hatchery and genetic management programs; (6) scientific research activities permitted or conducted by the State of California; (7) state, local, and private habitat restoration activities that are part of approved watershed conservation plans; (8) properly screened water diversion devices (i.e., screening devices per NMFS' guidelines or equivalent configurations); (9) routine road maintenance activities; and (10) municipal, residential, commercial, and industrial (MRCI) development activities. These take limitations are described in more detail in following sections. In most instances, these take limitations and criteria are for future programs where NMFS will limit the application of the ESA section 9(a)(1) take prohibitions. More comprehensive descriptions of each limit are contained in "A Citizen's Guide to the 4(d) Rule" (NMFS, 2000) which can be obtained at the NMFS Southwest Region' web site (<http://swr.nmfs.noaa.gov>). NMFS anticipates that new take limits may be added to these regulations in the future for additional activities that are found to be necessary and sufficient for the conservation of the threatened ESUs.

NMFS emphasizes that these take limits are not prescriptive regulations. The fact that an activity is not conducted within the specified criteria for a take limit does not necessarily mean that the activity violates the ESA or this regulation. Many activities do not affect the threatened ESUs covered by this proposed rule, and, therefore, do

not need to be conducted within any of the ten limits listed previously to avoid section 9 take violations. Nevertheless, an entity can be certain it is not at risk of violating the section 9 take prohibitions or at risk of enforcement actions if it conducts its activities in accordance with the take limits since the take prohibitions would not be applied to programs or activities conducted within the limits. Jurisdictions, entities, and individuals are encouraged to evaluate their practices and activities to determine the likelihood of whether take is occurring. NMFS can provide ESA coverage through section 4(d) rules, section 10 research, enhancement, and incidental take permits, or through section 7 consultation with Federal agencies. If take is likely to occur, then the jurisdiction, entity or individual should modify its practices to avoid the take of these threatened salmonid ESUs or seek protection from potential ESA liability through section 7, section 10, or section 4(d) procedures.

Jurisdictions, entities, and individuals are not required to seek coverage under an ESA 4(d) limit from NMFS. In order to reduce its liability, a jurisdiction, entity, or individual may also informally comply with a limit by choosing to modify its programs to be consistent with the evaluation considerations described in the individual limits. Finally, a jurisdiction, entity, or individual may seek to qualify its plans or ordinances for inclusion under a take limit by obtaining a 4(d) take limit authorization from the NMFS Southwest Region Administrator.

NMFS will continue to work collaboratively with all affected governmental entities to recognize existing management programs that conserve and meet the biological requirements of listed salmonids, and to strengthen other programs toward the conservation of listed salmonids. Any final rule resulting from this proposal may be amended to add new limits on the take prohibitions, or to amend or delete adopted take limits as circumstances warrant.

Following is a section entitled "Notice of Availability" which lists four documents referred to in this proposed regulation. The purpose of making these documents available to the public is to inform governmental entities and other interested parties of the technical components expected to be addressed in programs submitted for NMFS' review. These technical documents provide guidance to entities as they consider whether to submit a program for an ESA 4(d) limit. The documents represent several kinds of guidance, and are not

binding regulations requiring particular actions by any entity or interested party.

For example, NMFS' technical report entitled: "Viable Salmonid Populations (VSP) and the Recovery of ESUs", which is referenced in the fishery and harvest management take limits, provides a framework for identifying populations and their status as a component of developing adequate harvest or hatchery management plans. The proposed rule indicates that Fishery Management and Evaluation Plans (FMEPs) and Hatchery and Genetic Management Plans (HGMPs) utilize the concepts of 'viable' and 'critical' salmonid population thresholds, consistent with the concepts contained in NMFS's VSP technical report. The California Department of Fish and Game, therefore, is put on notice about the technical analysis needed to develop an FMEP or HGMP that NMFS can approve as being within the take limit criteria. Similarly, NMFS' fish screening criteria explicitly recognize that they are general in nature and that site constraints or particular circumstances may require adjustments in design, which must be developed with a NMFS staff member, or authorized officer, to address site specific considerations and conditions. Finally, research involving electrofishing comes within the scientific research limit only if conducted in accordance with NMFS' guidelines for electrofishing. The guidelines recognize that other techniques may be appropriate in particular circumstances, and NMFS can recognize those as appropriate during the approval process.

The Oregon Department of Transportation's (ODOT) road maintenance program for governing routine maintenance activities is an existing program currently being implemented that NMFS has found adequate for threatened ESU conservation, and, therefore, has been established as a take limitation in a previous ESA 4(d) rule (65 FR 42422). Other jurisdictions may come within the road maintenance limit if they use the ODOT program or provide other practices found by NMFS to be more or equally as protective of salmonids.

In sum, where the rule cites a document, a program's consistency with the guidance is "sufficient" to demonstrate that the program meets the particular purpose for which the guidance is cited. However, the entity or individual wishing a program to be accepted as within a particular limit has the latitude to show that its variant or approach is, in the circumstances where it will apply and affect listed fish, equivalent or better.

NMFS will continue to review the applicability and technical content of its own documents as they are used in the future and make revisions, corrections, or additions as needed. NMFS will accept comments on revisions of any of the referenced state programs. If any of these documents are revised and NMFS relies on the revised version to provide guidance in continued implementation of the rule, NMFS will publish in the **Federal Register** a notice of its availability stating that the revised document is now the one referred to in 50 CFR 223.203(b).

Notice of Availability

The following is a list of documents cited in the regulatory text of this proposed rule. Copies of these documents may be obtained upon request (see Appendix A to 50 CFR 223.203).

1. Oregon Department of Transportation (ODOT) Maintenance Management System Water Quality and Habitat Guide (July, 1999).

2. Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act (NMFS, 2000a).

3. Fish Screening Criteria for Anadromous Salmonids, National Marine Fisheries Service, Southwest Region, 1997.

4. Viable Salmonid Populations and the Recovery of Evolutionarily Significant Units. (June 2000).

Copies of all references, reports, related documents and the ESA 4(d) rule supplementary document entitled: "A Citizen's Guide to the 4(d) Rule" (NMFS, 2000) are also available upon request (see **ADDRESSES**). Some of these documents are also available on the Southwest Region's web site (<http://swr.nmfs.noaa.gov>).

The limits on the take prohibitions in this proposed rule do not relieve Federal agencies of their duty under section 7 of the ESA to consult with NMFS if actions they fund, authorize, or carry out may affect the ESUs covered by this proposed rule or any other listed species. To the extent that actions subject to section 7 consultation are consistent with a circumstance for which NMFS has limited the take prohibitions, a letter of concurrence from NMFS will greatly simplify the consultation process, provided the program is still consistent with the terms of the limit.

Take Guidance

The threatened salmonid ESUs addressed in this proposed rule are in danger of becoming extinct in the foreseeable future. They have been

depleted by over-fishing, past and ongoing freshwater and estuarine habitat destruction, hydropower development, hatchery practices, and other causes. It is, therefore, necessary and advisable to put into place ESA section 9(a)(1) prohibitions to aid in their conservation. Section 9(a)(1) prohibitions make it illegal for any person subject to the United States' jurisdiction to "take" these species without written authorization. "Take" is defined to occur when a person engages in activities that harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect a species or attempt to do any of these. Impacts on a protected species' habitat may harm members of that species and, therefore, constitute a "take" under the ESA. Such acts may include significant habitat modification or degradation that actually kills or injures listed fish by significantly impairing essential behavioral patterns including breeding, spawning, rearing, migrating, feeding or sheltering (64 FR 60727, November 8, 1999).

On July 1, 1994 (59 FR 34272), NMFS and the U.S. Fish and Wildlife Service (FWS) published a policy committing both agencies to identify, to the extent possible, those activities that would or would not violate section 9 of the ESA. The intent of this policy is to increase public awareness about ESA compliance and focus public attention on those actions needed to protect species.

Based on available information, NMFS believes the categories of activities listed here are those activities which as a general rule may be most likely to result in injury or harm to listed salmonids. NMFS wishes to emphasize at the outset that whether injury or harm results from a particular activity is entirely dependent upon the facts and circumstances of each case. The mere fact that an activity may fall within one of these categories does not at all mean that the specific activity is causing harm or injury. These types of activities are, however, those that may be most likely to cause harm and thus violate this rule. NMFS' ESA enforcement will, therefore, focus on these categories of activities.

Activities listed in A thru J here are as cited in NMFS' harm rule (64 FR 60727, November 8, 1999).

A. Constructing or maintaining barriers that eliminate or impede a listed species' access to habitat or ability to migrate.

B. Discharging pollutants, such as oil, toxic chemicals, radioactivity, carcinogens, mutagens, teratogens or organic nutrient-laden water including sewage water into a listed species' habitat.

C. Removing, poisoning, or contaminating plants, fish, wildlife, or other biota required by the listed species for feeding, sheltering, or other essential behavioral patterns.

D. Removing or altering rocks, soil, gravel, vegetation or other physical structures that are essential to the integrity and function of a listed species' habitat.

E. Removing water or otherwise altering stream flow when it significantly impairs spawning, migration, feeding or other essential behavioral patterns.

F. Releasing non-indigenous or artificially propagated species into a listed species' habitat or where they may access the habitat of listed species.

G. Constructing or operating dams or water diversion structures with inadequate fish screens or fish passage facilities in a listed species' habitat.

H. Constructing, maintaining, or using inadequate bridges, roads, or trails on stream banks or unstable hill slopes adjacent to or above a listed species' habitat.

I. Conducting timber harvest, grazing, mining, earth-moving, or other operations which result in substantially increased sediment input into streams.

J. Conducting land-use activities in riparian areas and areas susceptible to mass wasting and surface erosion, which may disturb soil and increase sediment delivered to streams, such as logging, grazing, farming, and road construction.

K. Illegal fishing. Harvest in violation of fishing regulations will be a top enforcement concern.

L. Various streambed disturbances may trample eggs or trap adult fish preparing to spawn. The disturbance could be mechanical disruption caused by constructing push-up dams, removing gravel, mining, or other work in a stream channel. It may also take the form of egg trampling or smothering by livestock in the streambed or by vehicles or equipment being driven across or down the streambed (as well as any similar physical disruptions).

M. Interstate and foreign commerce dealing in listed salmonids and importing or exporting listed salmonids may harm the fish unless it can be shown through an ESA permit—that they were harvested in a manner that complies with ESA requirements.

N. Altering lands or waters in a manner that promotes unusual concentrations of predators.

O. Shoreline and riparian disturbances (whether in the riverine, estuarine, marine, or floodplain environment) may retard or prevent the development of certain habitat

characteristics upon which the fish depend (e.g., removing riparian trees reduces vital shade and cover, floodplain gravel mining, development, and armoring shorelines reduces the input of critical spawning substrates, and bulkhead construction can eliminate shallow water rearing areas).

P. Filling or isolating side channels, ponds, and intermittent waters (e.g., installing tide gates and impassable culverts) can destroy habitats that the fish depend upon for refuge areas during high flows.

The list provides examples of the types of activities that could have a high risk of causing take, but it is by no means exhaustive. It is intended to help people avoid violating the ESA and to encourage efforts to save the threatened ESUs addressed in this proposed rule. Determination of whether take has actually occurred depends on the circumstances of a particular case.

Many activities that may kill or injure salmonids such as fill and removal authorities, National Pollutant Discharge Elimination System or other water quality permitting, and pesticide use are regulated by state and/or Federal processes. For those types of activities, NMFS would not concentrate enforcement efforts on those who operate in conformity with current permits. Rather, if the regulatory program does not provide adequate salmonid protection, NMFS intends to work with the responsible agency to make necessary changes in the program.

For instance, concentrations of pesticides may affect salmonid behavior and reproductive success. Current EPA label requirements were developed in the absence of information about some of these subtle but real impacts on aquatic species such as salmonids. Where new information indicates that pesticide label requirements are not adequately protective of salmonids, NMFS will work with EPA through the section 7 consultation process to develop more protective use restrictions and, thereby, provide the best possible guidance to all users. Similarly, where water quality standards or state authorizations lead to pollution loads that may cause take, NMFS intends to work with the state water quality agencies and EPA to bring those standards or permitting programs to a point that does protect salmonids.

Persons or entities concluding that their activity is likely to injure or kill protected fish are encouraged to immediately adjust that activity to avoid take (or adequately limit any impacts on the species) and seek NMFS' authorization for incidental take under: (a) an ESA section 10 incidental take

permit; (b) an ESA section 7 consultation; or (c) a limit on the take prohibitions provided in this proposed rule. The public is encouraged to contact NMFS (see **FOR FURTHER INFORMATION CONTACT**) for assistance in determining whether circumstances at a particular location (involving these activities or any others) would constitute a violation of this rule if finalized.

Impacts on listed salmonids resulting from actions in compliance with a permit issued by NMFS pursuant to section 10 of the ESA would not constitute a violation of this proposed rule if finalized. Section 10 permits may be issued for research activities, enhancement of a species' survival, or to authorize incidental take occurring in the course of an otherwise lawful activity. NMFS consults on a broad range of activities conducted, funded, or authorized by Federal agencies. These include fisheries harvest, hatchery operations, silviculture activities, grazing, mining, road construction, dam construction and operation, discharge of fill material, and stream channelization and diversion. Federally funded or approved activities that affect listed salmonids and for which ESA section 7 consultations have been completed will not constitute violations of this proposed rule provided the activities are conducted in accord with all reasonable and prudent measures and terms and conditions contained in any biological opinion or incidental take statement issued by NMFS.

Aids for Understanding the Limits on the Take Prohibitions

Issue 1: Population and Habitat Concepts

This proposed rule references scientific concepts that NMFS proposes to use in determining whether particular programs would not be subject to the ESA section 9 take prohibitions. One of these concepts allows for identifying populations that may warrant individual management within established ESUs for some activities or programs. The second concept involves identifying relevant biological parameters to evaluate the status of these populations and identifying "critical thresholds" and "viable thresholds" for these populations. NMFS has developed a scientific and policy paper entitled "Viable Salmonid Populations and the Recovery of ESUs" (NMFS, 2000b) that addresses the biological concepts surrounding viable salmonid populations in more detail. This paper will provide additional guidance for entities evaluating their

programs under this proposed rule if it is finalized. A third concept describes the freshwater habitat biological requirements of salmonids in terms of whether habitat is functioning properly.

Identifying Populations within ESUs

NMFS proposes to define populations following Ricker's (1972) definition of "stock": a population is a group of fish of the same species spawning in a particular lake or stream (or portion thereof) at a particular season which to a substantial degree do not interbreed with fish from any other group spawning in a different place or in the same place at a different season. This definition is widely accepted and applied in the field of fishery management. An independent population is an aggregation of one or more local breeding units that are closely linked by exchange of individuals among themselves, but are sufficiently isolated from other independent populations that exchanges of individuals among populations do not appreciably affect the population dynamics or extinction risk of the populations over a 100-year time frame. Such populations will generally be smaller than the whole ESU, and will generally inhabit geographic ranges on the scale of whole river basins or major sub-basins that are relatively isolated from outside migration. Using this definition, it is biologically meaningful to evaluate and discuss the extinction risk of one population independently of other populations within the same ESU.

Several types of information may be used to identify independent salmonid populations within existing ESUs, including: (1) geographic indicators; (2) estimates of adult dispersal; (3) abundance correlations; (4) habitat characteristics; (5) genetic markers; and (6) quantitative traits. States and other groups involved in salmonid management have defined groups of fish for management purposes based on some or all of this information, and many of the definitions already used by managers are similar to the population definitions proposed here. Further, while the types of information identified above may be useful in defining independent populations within ESUs, other methods may exist for identifying biologically meaningful population units consistent with the definitions adopted here. Therefore, NMFS will evaluate proposed population boundaries on a case-by-case basis to determine if such boundaries are biologically supportable and consistent with the population definition in this proposed rule.

NMFS believes it important to identify population units within established ESUs for several reasons. Identifying and assessing impacts on such units will enable greater consideration of the important biological diversity contained within each ESU, a factor considered in NMFS' ESU policy (Waples, 1991). Further, assessing impacts on a population level is typically a more practical undertaking given the scale and complexity of ESUs. Finally, assessing impacts on a population level will help ensure consistent treatment of listed salmonids across a diverse geographic and jurisdictional range.

Assessing Population Status

NMFS proposes to evaluate population status through four primary biological parameters: (1) Abundance; (2) productivity; (3) population substructure; and (4) genetic diversity. A discussion of the relevance of these parameters to salmonid population status may be found in a variety of scientific documents (e.g., Nehlsen *et al.*, 1991; Burgman *et al.*, 1993; Huntington *et al.*, 1996; Caughley and Gunn, 1996; Myers *et al.*, 1998).

Population abundance is important to evaluate due to potential impacts associated with genetic and demographic risks. Genetic risks associated with low population size include inbreeding depression and loss of genetic diversity. Demographic risks associated with low population size include random effects associated with stochastic environmental events. Population size may be assessed and estimated from dam and weir counts, redd counts, spawner surveys, and other means. Viable abundance levels may be determined, based on historic abundance levels or habitat capacity of the population.

Population productivity may be thought of as the population's ability to increase or maintain its abundance. It is important to assess productivity since negative trends in productivity over sustained periods may lead to genetic and demographic impacts associated with small population sizes. However, trends in other parameters such as survival between life stages, age structure, and fecundity may also be useful in assessing productivity. In general, viable population trends should be positive unless the population is already at or above viable abundance levels. In that case, neutral or negative population trends may be acceptable so long as such declines will not lead the population to decline below viable abundance levels in the foreseeable future.

Population structure reflects the number, size and distribution of remaining habitat patches and the condition of migration corridors that provide linkages among these habitat types. Population structure affects evolutionary processes and may impact the ability of populations to respond to environmental changes or stochastic events. Habitat deficiencies, such as loss of migration corridors between habitat types, can lead to a high risk of extinction and may not become readily apparent through evaluating population sizes or productivity. Determining whether viable population structure exists may require comparison of existing and historic habitat conditions.

Population diversity is important because variation among populations is likely to buffer them against short term environmental change and stochastic events. Population diversity may be assessed by examining life history traits such as age, and run and spawn timing distributions. Further, more direct analysis of genetic diversity through DNA analysis may provide an indication of diversity. Viable population diversity will likely be determined through comparisons to historic information or comparisons to other populations existing in relatively undisturbed conditions. Ultimately, population diversity must be sufficient to buffer the population against normal environmental variation.

Establishing Population Thresholds

In applying the concepts discussed in this section to harvest and artificial propagation activities, NMFS relies on two functional thresholds of population status: (1) Critical population threshold, and (2) viable population threshold. The critical population threshold refers to a minimal functional level below which a population's risk of extinction increases exponentially in response to any additional genetic or demographic risks.

The viable population threshold refers to a condition where the population is self-sustaining, and not at risk of becoming endangered in the foreseeable future. This threshold reflects the desired condition of individual populations and of their contribution to recovery of the ESU as a whole. Activities should not preclude populations from attaining this condition.

Evaluating Habitat Conditions

This proposed rule limits application of the take prohibitions for certain categories of activities that are conducted in a way that will help attain or protect properly functioning habitat. Properly functioning habitat conditions

create and sustain the physical and biological features that are essential to conservation of the species, whether important for spawning, breeding, rearing, feeding, migration, sheltering, or other functions. Such features include water quantity; water quality attributes such as temperature, pH, oxygen content, etc.; suitability of substrate for spawning; freedom from passage impediments; and availability of pools and other shelter. These features are not static; the concept of proper function recognizes that natural patterns of habitat disturbance, such as flooding, landslides and wildfires, will continue. Properly functioning habitat conditions are conditions that sustain a watershed's natural habitat-affecting processes (bedload transport, riparian community succession, precipitation runoff patterns, channel migration, etc.) over the full range of environmental variation, and that support salmonid productivity at a viable population level. Specific criteria associated with achieving these conditions are listed with each habitat-related limit on take prohibitions.

Issue 2: Direct and Incidental Take

Section 4(d) of the ESA requires that regulations be adopted as are "necessary and advisable to provide for the conservation of" the listed species. In discussing the limits on the take prohibitions, NMFS does not generally distinguish "incidental" from "direct" take because that distinction is not relevant under section 4(d). The biological impact of take on the ESU is the same, whether a particular number of listed fish are lost as a result of incidental impacts or directed impacts. Hence the following descriptions of harvest and artificial propagation programs for which NMFS does not find it necessary and advisable to impose take prohibitions do not, as a general rule, make the distinction between incidental or direct take. Rather, these descriptions and criteria focus on the impacts of all take associated with a particular activity on the biological status of the listed ESU. (The distinction is retained in the discussion of scientific research targeting listed fish, because the limit on take prohibitions applies in that situation only to research by agency personnel or agency contractors.)

Issue 3: Applicability of Proposed Rule to Specific ESUs

In the regulatory language in this proposed rule, the limits on applicability of the take prohibitions to specific ESUs are accomplished through citation to the Code of Federal Regulations' (CFRs') enumeration of

threatened marine and anadromous species, 50 CFR 223.102. For the convenience of readers of this document, 50 CFR 223.102 refers to the threatened salmonid ESUs covered in this proposed rule through the following designations:

- (a)(3) Central California Coast coho salmon
- (a)(20) Central Valley spring-run chinook salmon
- (a)(21) California Coastal chinook salmon
- (a)(22) Northern California steelhead

Issue 4: Regular Evaluation of Limits on Take Prohibitions

In making a determination that it is not necessary and advisable to impose take prohibitions on certain programs or activities that are adequately covered by one of the take limits in this proposed rule, NMFS recognizes that new information may require a reevaluation of that conclusion at any time. For any of the limits on the take prohibitions described in this proposed rule, NMFS will evaluate on a regular basis the effectiveness of the program in protecting and achieving a level of salmonid productivity and/or of habitat function consistent with conservation of the listed salmonids. If the program is deficient, NMFS will identify ways in which it needs to be altered or strengthened. For habitat-related limits on the take prohibitions, changes may be required if the program is not achieving desired habitat functions, or where even with the habitat characteristics and functions originally targeted, habitat is not supporting population productivity levels needed to conserve the ESU.

If the responsible agency does not make changes to respond adequately to the new information, NMFS will publish notification in the **Federal Register** announcing its intention to impose take prohibitions on activities associated with that program. Such an announcement will provide for a comment period of not less than 30 days, after which NMFS will make a final determination whether to extend all ESA section 9 take prohibitions to the activities.

Issue 5: Coordination with United States Fish and Wildlife Service (FWS)

This proposed rule applies only to listed salmonids under NMFS' jurisdiction. However, as it evaluates any program against the criteria in this rule to determine whether the program is covered under a limitation on take prohibitions, NMFS will coordinate closely with the appropriate FWS office.

Summary of Take Limitations Proposed in This Rule

1. Permit/ESA Limit on the Take Prohibitions

This limit on the ESA section 9 take prohibitions recognizes that those holding permits under section 10 of the ESA or coming within other exceptions under the ESA are free of the take prohibitions so long as they are acting in accord with the permit or applicable law. Examples of activities for which a section 10 permit may be issued are research or land management activities associated with a habitat conservation plan.

2. Continuity of Scientific Research Take Limit

This limit on the take prohibitions would not restrict ongoing scientific research activities affecting listed CCV Spring-run chinook; CC chinook; and NC steelhead for up to 6 months after its effective date, provided that an application for a permit for scientific purposes or to enhance the conservation or survival of the species is received by the Assistant Administrator for Fisheries, NOAA (AA), within 30 days from the effective date of a final rule. This take limit would not be applied to the CCC coho salmon because the ESA section 9 take prohibitions have been in place for this ESU since 1996; therefore, sufficient time has elapsed for entities to obtain section 10 scientific research permits. The ESA section 9 take prohibitions would extend to these activities upon the AA's rejection of the application as insufficient, upon issuance or denial of a permit, or 6 months from effective date of any final rule, whichever occurs earliest. It is in the interest of salmonid conservation not to disrupt ongoing research and conservation projects, some of which are of long-term duration. This limit on the take prohibitions assures there will be no unnecessary disruption of those activities, yet provides NMFS with tools to halt the activity through denial of a permit if the research is judged to have unacceptable impacts on a listed ESU. For these reasons, NMFS does not find imposition of additional Federal protections in the form of take prohibitions necessary and advisable.

3. Limit on the Take Prohibitions for Rescue and Salvage Actions

This limit on the take prohibitions applies to all four threatened ESUs covered by this proposed rule and would relieve certain agency and official personnel or their designees from the take prohibition when they are acting to aid an injured or stranded

salmonid, or to salvage a dead individual for scientific study. Each agency acting under this limitation must annually report to NMFS the numbers of fish handled and their status. This limit on the take prohibitions will result in conservation of the threatened salmonid ESUs by preserving life or furthering our understanding of the species. By the very nature of the circumstances that trigger these actions (the listed fish is injured or stranded and in need of immediate help, or is already dead and may benefit the species if available for scientific study), NMFS concludes that imposition of additional Federal protections through a take prohibition is not necessary and advisable.

4. Fishery Management Limit on the Take Prohibitions

This take limit would apply to all four threatened ESUs covered by this proposed rule. NMFS believes that fisheries for non-listed salmonids and resident game fish species can be managed in a manner that protects listed salmon and steelhead ESUs and allows them to recover. Therefore, this proposed rule provides a mechanism whereby NMFS may limit application of take prohibitions to such fisheries when a state fishery management agency develops and implements, in accordance with a letter of concurrence, a NMFS-approved FMEP. Some benefits of this approach are long-term management planning, more public involvement, a more streamlined administrative process, and more certainty that there will be fishing opportunities in the future.

Process for Developing and Approving FMEPs

Prior to determining that a state's new or amended FMEP is sufficient to eliminate the need for added Federal ESA protection, NMFS must find that the plan is effective in addressing the criteria described in the following section. If NMFS finds that an FMEP meets those criteria, it will approve the plan following public review and comment on the FMEP and after making any revisions resulting from such review and comment. NMFS will communicate its approval to the state fishery agency with a letter of concurrence which will set forth the terms of the FMEP's implementation and the duties of the parties pursuant to the FMEP, including monitoring and reporting requirements.

NMFS recognizes the importance of providing meaningful opportunities for public review of FMEPs. Therefore, prior to approving new or amended FMEPs, NMFS will make such plans

available for public review and comment for a period of not less than 30 days. Notice of the availability of these plans will be published in the **Federal Register**.

Criteria for Evaluating FMEPs

NMFS will approve an FMEP only if it meets the following criteria, which are designed to minimize and adequately limit take and promote the conservation of all life stages of threatened salmonids. Specifically, the FMEP must:

(1) Provide a clear statement of the scope of the proposed action. The statement must include a description of the proposed action, a description of the area of impact, a statement of the management objectives and performance indicators for the proposed action, and anticipated effects of the proposed action on management objectives (including recovery goals) for affected populations. This information will provide objectives and indicators by which to assess management strategies, design monitoring and evaluation programs, measure management performance, and coordinate with other resource management actions in the ESU.

(2) Identify populations within affected listed ESUs, taking into account: (A) spatial and temporal distribution; (B) genetic and phenotypic diversity; and (C) other appropriate identifiable unique biological and life history traits, as discussed under Issue 2. Populations may be aggregated for management purposes when dictated by information scarcity, if consistent with survival and recovery of the listed ESU. In identifying management units, the plan shall describe the reasons for using such units in lieu of population units and describe how such units are defined such that they are consistent with the principles discussed under Issue 2.

(3) Utilize the concepts of viable and critical salmonid population thresholds, consistent with the concepts contained in NMFS' "Viable Salmon Populations and the Recovery of ESUs" technical report (NMFS, 2000b), for any population or management unit intended to be managed separately within the ESU.

Proposed management actions must recognize the significant differences in risk associated with these two thresholds and respond accordingly in order to minimize the risks to the long-term sustainability of the population(s). Harvest actions impacting populations that are functioning at or above the viable threshold must be designed to maintain the population or management unit at or above that level. For populations shown with a high degree

of confidence to be above critical levels but not yet viable, harvest management must not appreciably slow the population's achievement of viable function. Harvest actions impacting populations that are functioning at or below critical threshold must not appreciably increase the genetic and demographic risks facing the population and must be designed to permit the population's achievement of viable function, unless the plan demonstrates that such an action will not appreciably reduce the likelihood of survival and recovery of the ESU as a whole despite any increased risks to the individual population.

(4) Set escapement objectives or maximum exploitation rates for each management unit or population based on its status, and a harvest program that assures not exceeding those rates or objectives. Maximum exploitation rates must not appreciably reduce the likelihood of survival and recovery of the listed ESU. Management of fisheries where artificially propagated fish predominate must not compromise the management objectives for commingled naturally spawned populations (those supported primarily by natural production) by reducing the likelihood that those populations will maintain or attain viable functional status, or by appreciably slowing attainment of viable function.

(5) Display a biologically based rationale demonstrating that the harvest management strategy will not appreciably reduce the likelihood of survival and recovery of the listed ESU. The effects must be assessed over the entire period of time the proposed harvest management strategy would affect the population, including effects reasonably certain to occur after the proposed action ceases.

(6) Include effective monitoring and evaluation programs to assess compliance, effectiveness, and parameter validation. At a minimum, harvest monitoring programs must collect catch and effort data, information on escapements, and information on biological characteristics such as age, fecundity, size and sex data, and migration timing.

(7) Provide for the evaluation of monitoring data and any needed revisions of assumptions, management strategies, or FMEP objectives based on monitoring data that is collected.

(8) Provide for effective enforcement and education. Coordination among involved jurisdictions is an important element in ensuring regulatory effectiveness and coverage.

(9) Include restrictions on resident and anadromous species fisheries that

minimize any take of listed fish, including time, size, gear, and area restrictions.

5. Artificial Propagation Limit on the Take Prohibitions

This take limit would apply to all four threatened ESUs covered by this proposed rule. NMFS believes that artificial propagation, or hatchery programs can be managed in a manner that conserves and recovers listed salmon and steelhead ESUs, including the use of listed salmonids as hatchery broodstock, as long as the programs are managed in accordance with specific criteria. Under such circumstances, NMFS believes it is not necessary and advisable to prohibit the take of listed ESUs in conjunction with these programs. This limit on the take prohibitions proposes a mechanism whereby state or Federal hatchery managers may obtain assurance that a hatchery and genetic management program adequately protects and conserves threatened salmon and steelhead ESUs. In addition, the proposed rule provides a mechanism whereby NMFS may limit the application of take prohibitions to broodstock collection.

Under this take limit, the state or Federal agency develops a Hatchery and Genetic Management Plan (HGMP) containing specific management measures that will minimize and adequately limit impacts on listed fish and promote the conservation of the listed ESU. Following an opportunity for public comment and upon NMFS' approval of the HGMP, NMFS would provide the state or Federal agency with a letter of concurrence specifying implementation requirements, including monitoring and reporting. NMFS believes that with an approved HGMP in place, additional Federal ESA protection through imposition of take prohibitions on artificial propagation activities is unnecessary.

Process for Developing Hatchery and Genetic Management Plans

NMFS will evaluate the effectiveness of state or Federal HGMPs by addressing the criteria described in the following section. If NMFS determines that the evaluation criteria have been adequately addressed in the state HGMP, then it will approve the plan following public comment and any necessary modification, and provide the state agency with a concurrence letter specifying implementation, monitoring and reporting requirements. For Federally operated or funded hatcheries, an ESA section 7 consultation with the Federal agency will achieve this

purpose and that ensure implementation, monitoring and reporting requirements are met.

NMFS recognizes the importance of providing meaningful opportunities for public review of draft HGMPs. Therefore, prior to approving new or amended HGMPs, NMFS will make such plans available for public review and comment for a period of not less than 30 days. Notice of the availability of such draft plans will be published in the **Federal Register**.

Criteria for Evaluating Hatchery and Genetic Management Plans

NMFS will evaluate salmonid HGMPs on the basis of criteria that are designed to minimize and adequately limit take and promote the conservation of the listed species. The criteria by which draft HGMPs will be evaluated include the following:

(1) *Goals and Objectives for the Propagation Program.* Each hatchery program HGMP must have clearly stated goals, performance objectives, and performance indicators that indicate the purpose of the program, its intended results, and measurements of its performance in meeting those results. Goals should address whether the program is intended to meet conservation objectives, contribute to the ultimate sustainability of natural spawning populations, and/or intended to augment tribal, recreational, or commercial fisheries. Objectives should enumerate the results desired from the program that will be used to measure the program's success or failure.

(2) The HGMP utilizes the concepts of viable and critical salmonid population threshold, consistent with the concepts contained in NMFS' technical document report entitled: "Viable Salmonid Populations and the Recovery of ESUs" (NMFS, 2000b). Listed salmon or steelhead may be taken for broodstock purposes only if: (A) the donor population is currently at or above viable thresholds and the collection will not impair the population's function, (B) the donor population is not currently viable but the sole current objective of the collection program is to enhance the propagation or survival of the listed ESU; or (C) the donor population is shown with a high degree of confidence to be above critical threshold but not yet viable, and the collection will not appreciably slow the attainment of viable status for that population.

(3) The HGMP considers the health, abundance and trends in the donor population in establishing broodstock collection priorities. The primary purpose of broodstock collection of listed salmon or steelhead is to

reestablish indigenous populations for conservation purposes. Such programs include restoration of similar, at-risk populations within the same ESU and reintroduction of at-risk populations to underseeded habitat. After salmonid ESU conservation needs are met and when consistent with survival and recovery of the listed ESU, broodstock collection programs may be authorized by NMFS for secondary purposes such as to sustain tribal, recreational or other fisheries.

(4) The HGMP includes protocols to address fish health, broodstock collection, broodstock spawning, rearing and release of juveniles, deposition of hatchery adults, and catastrophic risk management.

(5) The HGMP evaluates, minimizes and accounts for the artificial propagation program's genetic and ecological effects on natural populations, including disease transfer, competition, predation, and genetic introgression caused by straying of hatchery fish.

(6) The HGMP describes interrelationships and interdependencies with fisheries management. The combination of artificial propagation programs and harvest management must be designed to provide as many benefits and as few biological risks as possible for the listed ESUs. HGMPs for programs whose purpose is to sustain fisheries must not compromise the ability of FMEPs or other management plans to achieve management objectives for associated listed populations.

(7) Adequate artificial propagation facilities exist to properly rear progeny of naturally spawned and listed broodstock to maintain population health, maintain population diversity, and to avoid hatchery-influenced selection or domestication.

(8) Adequate monitoring and evaluation exist to detect and evaluate the success of the hatchery program and any risks potentially impairing recovery of the listed ESU.

Take of Progeny Resulting from Hatchery/Naturally-Spawned Crosses

NMFS' "Interim Policy on Artificial Propagation of Pacific Salmon Under the Endangered Species Act," (58 FR 17573, April 5, 1993) provides guidance on the treatment of hatchery stocks in the event of a listing. Under this policy, "progeny of fish from listed species that are propagated artificially are considered part of the listed species and are protected under the ESA." According to the interim policy, the progeny of such hatchery/naturally spawned crosses or naturally spawned-

naturally spawned crosses would also be listed.

In its final listing decisions for the CCV Spring-run chinook salmon, CC chinook salmon and NC steelhead ESUs that are covered by this proposed rule, NMFS determined that it was not necessary to consider the artificially propagated progeny of intentional hatchery/naturally spawned and naturally spawned/naturally spawned crosses to be listed fish (except in cases where NMFS has listed the hatchery population as well) when the collection and use of listed fish as broodstock was part of an approved conservation plan such as an HGMP. NMFS believes it may be desirable to incorporate naturally spawned (i.e., listed) fish into hatchery populations in these ESUs to ensure that their genetic and life history characteristics do not diverge significantly from the naturally spawned populations; however, prior to any intentional use of threatened salmon or steelhead for hatchery broodstock, an approved HGMP must be in place to ensure that native, naturally spawned populations are conserved.

6. Limits on the Take Prohibitions for Scientific Research

This take limit applies to all four threatened ESUs covered by this proposed rule. In carrying out their fishery management responsibilities, the California Department of Fish and Game (CDFG) conducts or permits a wide range of scientific research activities on various fisheries, including monitoring and other studies which occur within the geographic areas occupied by the four threatened salmon and steelhead ESUs considered in this proposed rule. NMFS finds these activities: (1) vital for improving our understanding of the status and risks facing these threatened ESUs, as well as non-listed salmonids and other species that occur within these geographic areas; and (2) provide critical information for assessing the effectiveness of current and future management practices. In general, NMFS concludes such activities will help to conserve the threatened ESUs considered in this proposed rule by furthering our understanding of their (and other species) life history and biological requirements, and that state biologists and cooperating agencies carefully consider the benefits and risks of proposed research before approving or undertaking such projects. For these reasons, NMFS concludes that it is not necessary or advisable to impose additional protections on such research through imposition of Federal ESA section 9 take prohibitions.

Research activities that involve the planned sacrifice or manipulation of salmonids or that will necessarily result in the injury or death of salmonids in the threatened ESUs considered in this proposed rule will come within this limitation only if the state submits an annual report listing all scientific research activities involving such activities planned for the coming year to NMFS for review and approval. Such reports shall contain: (1) an estimate of the total take of threatened salmonids anticipated from such research; (2) a description of study designs, including a justification for taking the salmonids; (3) a description of the techniques to be used; and (4) a point of contact. For this type of research to come within the take limitation, it must be conducted by employees or contractors of the CDFG or be part of a coordinated monitoring and research program overseen by that agency. Any research using electrofishing gear in waters known or expected to contain listed salmonids from the threatened ESUs considered in this proposed rule will come within this take limitation only if it complies with "Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act" (NMFS, 2000a). Otherwise, electrofishing research that will affect listed salmonids will require an ESA section 10 research permit from NMFS prior to commencing operations.

CDFG must also annually provide NMFS with the results of their scientific research activities which are directed at the threatened ESUs considered in this proposed rule, including a report of the amount of direct take resulting from the research and a summary of the results of such research.

Research activities conducted by CDFG, or authorized by the CDFG for non-state entities, that may result in incidental take of listed salmonids can be covered under this limit in the following manner. CDFG must submit to NMFS annually, for its review and approval, a report listing all scientific research activities it conducts or permits that may incidentally take listed salmonids from the threatened ESUs covered by this rule for the coming year. In this annual report, CDFG must also report the amount of incidental take of listed salmonids occurring in the previous year's scientific research activities, and provide a summary of the results of such research. Interested parties may request a copy of these annual reports from NMFS (see ADDRESSES).

7. Habitat Restoration Limits on the Take Prohibitions

This take limit applies to all four threatened ESUs covered by this proposed rule. NMFS considers a "habitat restoration activity" to be an activity whose primary purpose is to restore natural aquatic or riparian habitat processes or conditions; it is an activity which would not be undertaken but for its restoration purpose.

Certain habitat restoration activities are likely to contribute to conserving listed salmonids without significant risks, and NMFS concludes that it is not necessary and advisable to impose take prohibitions on those activities when conducted in accordance with appropriate standards and guidelines. Projects planned and carried out based on at least a watershed-scale analysis and conservation plan, and, where practicable, a sub-basin or basin-scale analysis and plan, are likely to be the most beneficial. NMFS strongly encourages local efforts to conduct watershed assessments to identify what problems are impairing watershed function, and to plan for watershed restoration or conservation based on that assessment. Without the overview a watershed-level approach provides, habitat efforts are likely to focus on "fixes" that may prove short-lived, or even detrimental, because the underlying processes that are causing a particular problem have not been addressed.

This proposed rule, therefore, provides that ESA section 9(a) take prohibitions will not apply to habitat restoration activities that are part of, and conducted pursuant to, a watershed conservation plan that the State of California has certified is consistent with State watershed conservation plan guidelines. For this take limitation to apply to habitat restoration activities contained in a watershed conservation plan, NMFS must first find the State of California's watershed conservation plan guidelines will generate plans that: (1) take into account the potential direct, indirect, and cumulative impacts of proposed activities on the threatened salmonids affected by the plan activities; (2) will not reduce the likelihood of either survival or recovery of listed species in the wild; (3) will ensure that any taking of threatened salmonids is incidental to the plan activities; (4) minimize and mitigate any adverse impacts from plan activities; (5) provide effective monitoring and adaptive management; (6) use the best available science and technology, including watershed analysis; (7) provide for public and scientific review

and input; (8) include any measures that NMFS determines are necessary or appropriate; 9) include provisions that clearly identify those activities that are part of plan implementation; and 10) ensure funding and implementation of the plan components listed here.

Before approving any watershed conservation plan guidelines, NMFS will publish a notice in the **Federal Register** announcing the availability of the proposed guidelines for public review and comment. Such an announcement will provide for a comment period of not less than 30 days. NMFS will periodically review the state's watershed conservation plan certifications to ensure they adhere to NMFS' approved guidelines.

8. Water Diversion Screening Limit on the Take Prohibitions

This take limit applies to all four threatened ESUs covered by this proposed rule. A widely recognized cause of mortality among anadromous fish is operation of water diversions without adequate screening. Juveniles may be entrained or attracted into diversions where they later die from a variety of causes, including stranding. Adult and juvenile migration may be impaired by diversion structures, including push-up dams. Juveniles are often injured and killed through entrainment in pumping facilities or impingement on inadequate screens, where water pressure and mechanical forces are often lethal.

State laws and Federal programs have recognized these problems in varying ways, and have encouraged or required adequate screening of diversions to prevent much of the anadromous fish loss attributable to this cause. Nonetheless, many diversions are not adequately screened and remain a threat, particularly to juvenile salmonids, and elimination of that source of injury or death is essential to the conservation of listed salmonids.

For these reasons, this proposed rule encourages all water diverters to move quickly to provide adequate screening or other protections for their diversions by not applying ESA section 9 take prohibitions to any diversion that is screened, maintained, and operated in accordance with NMFS' Southwest Region Fish Screening Criteria for Anadromous Salmonids (see **ADDRESSES**). Compliance with these criteria will address the problems associated with water diversions lacking adequate screening. If a diversion is screened, maintained and operated consistent with these screening criteria, NMFS concludes that adequate safeguards will be in place such that

imposition of the section 9 take prohibitions is neither necessary or advisable for the conservation of the threatened salmonid ESUs considered in this proposed rule. Coverage under this take limitation requires that NMFS' Southwest Region engineering staff, or any resource agency or tribal representative NMFS designates as an authorized officer, agrees in writing that the diversion facility is screened, maintained, and operated in compliance with the screening criteria.

On a case-by-case basis, this take limitation may be applied in situations where NMFS' engineering staff (or a NMFS-authorized officer) have approved a juvenile fish screen design, construction plan, and schedule that a water diverter proposes for screen installation. Such a plan must also describe interim operations measures that will reduce the likelihood of taking the threatened salmonids considered by this proposed rule. NMFS may require a commitment of compensatory mitigation if implementation of the plan is terminated prior to its completion. If the NMFS-approved plan and schedule are not met, or if a schedule modification is made that is not pre-approved, the water diversion would be subject to the section 9 take prohibitions.

Under this take limitation, the proposed take prohibitions would not apply to physical impacts to listed salmonids covered by this rule due to entrainment or similar impacts of the act of diverting, provided the diversion facility has been screened according to NMFS criteria and is being properly maintained. However, this limit does not cover impacts or take resulting from reduced flows resulting from operation of the diversion or impacts caused by construction and/or installation of the diversion structure. Such activities and impacts would be subject to the proposed take prohibitions.

9. Routine Road Maintenance Limit on the Take Prohibitions

This take limit applies to all four threatened ESUs covered by this proposed rule. Routine road maintenance activities, in certain specified circumstances, can be conducted in a manner that will not further degrade or otherwise restrict attainment of properly functioning conditions for threatened salmonids. Specifically, NMFS determined in its July 2000 4(d) rule (65 FR 42422) that routine road maintenance activities conducted in accordance with the Oregon Department of Transportation's (ODOT) Maintenance Management System Water Quality and Habitat

Guide (June, 1999) will contribute to the attainment of properly functioning habitat conditions, and therefore, the conservation of threatened salmonids. Because the ODOT road maintenance program was found to contribute to the attainment of properly functioning habitat conditions and thereby limit impacts on threatened salmonids and their habitat, NMFS concluded in its July 2000 4(d) rule (65 FR 42422) that application of the section 9 take prohibitions to these activities was unnecessary for the conservation of the threatened ESUs covered by that rule.

Under the take limitation in this proposed rule, NMFS does not find it necessary or advisable to apply the ESA section 9 take prohibitions to routine road maintenance activities in California provided that: (1) they are conducted by the employees or agents of the state or any county, city, or port under a program that complies with a program that is substantially similar to that contained in the ODOT Guide and has been determined by NMFS to meet or exceed the protections provided by the ODOT guide, or that (2) they are conducted by employees or agents of the State or any county, city, or port in a manner that has been found by NMFS to contribute to properly functioning habitat conditions for the threatened salmonid ESUs considered in this proposed rule.

NMFS' determination and approval that any state, city, county, or port program is equivalent to the ODOT road maintenance program, and, therefore, qualifies under this take limit, will be in the form of a written approval by the NMFS Southwest Regional Administrator. Any jurisdiction desiring its road maintenance program activities to qualify under this limit based on equivalence to the ODOT program must have adopted road maintenance guidelines equivalent to or better than that of the ODOT program and commit in writing to apply those management practices.

NMFS' determination and approval that any state, city, county, or port program contributes to the attainment and maintenance of properly functioning habitat conditions, and, therefore, qualifies under this take limit, will be in the form of a written approval from the Southwest Regional Administrator. NMFS' determination in this case will be based on an assessment of the extent to which the program contributes to attaining and maintaining properly functioning habitat conditions. For the purposes of this assessment, NMFS will define properly functioning habitat conditions as the sustained presence of natural habitat-forming

processes that are necessary for the long-term survival of salmonids through the full range of environmental variation. In order to contribute to properly functioning habitat conditions, actions that affect salmonid habitat must not impair habitat that is already properly functioning, appreciably reduce the functioning of already impaired habitat, or retard the long-term progress of impaired habitat toward a properly functioning condition. NMFS will periodically evaluate an approved road maintenance program to determine its effectiveness in maintaining and achieving properly functioning habitat conditions.

Prior to approving any state, city, county or port program under this take limit, NMFS will publish a notification in the **Federal Register** announcing the availability of the program or any revisions to the program for public review and comment. Such an announcement will provide for a comment period of not less than 30 days.

10. Municipal, Residential, Commercial and Industrial (MRCI) Development and Redevelopment Limit on Take Prohibitions

This take limit will apply to all four threatened ESUs covered by this proposed rule. MRCI development and redevelopment have a significant potential to injure or kill threatened salmonids or degrade salmonid habitat in a variety of ways. NMFS believes that with appropriate safeguards, new MRCI development and redevelopment can be specifically tailored to minimize impacts on listed salmonids to an extent that makes additional Federal ESA protections unnecessary for the conservation of threatened salmonids. In this rule, NMFS has proposed a mechanism whereby jurisdictions can be assured that development and redevelopment authorized within their areas avoids or minimizes impacts and the risk of taking threatened salmonids, and is thereby consistent with the requirements of the ESA. Both developers and jurisdictions controlling development would benefit from assurances that their approvals and development actions contribute to the conservation of threatened salmonids.

Under this take limitation, NMFS proposes that the ESA section 9 take prohibitions will not be applied to MRCI development and redevelopment governed by and conducted in accord with city, county, or regional government ordinances or plans that have been found to adequately protect the threatened species considered in this proposed rule. In making a

determination whether city, county, or regional government ordinances or plans adequately conserve threatened salmonids covered under this proposed rule, NMFS will assess and evaluate whether the ordinances or plans will contribute to maintaining and restoring properly functioning habitat conditions. For this assessment, NMFS will define properly functioning habitat conditions as the sustained presence of natural habitat-forming processes that are necessary for the long-term survival of salmonids through the full range of environmental variation. In order to contribute to properly functioning habitat conditions, activities that affect salmonid habitat must not impair habitat that is already properly functioning, appreciably reduce the functioning of already impaired habitat, or retard the long-term progress of impaired habitat toward a properly functioning condition.

When making an assessment as to whether or not a MRCI development or redevelopment ordinance or plan adequately conserves threatened salmonids, NMFS will individually apply 12 evaluation considerations. Many of these principles are derived from Spence, *An Ecosystem Approach to Salmonid Conservation* (NMFS, 1996) and citations therein. NMFS recognizes that some of these principles require integrated planning for placement of buildings, transportation or storm water management and that these 12 considerations will have to be applied in the context within which the development is addressed in the ordinance or plan. The 12 evaluation considerations are as follows:

(1) The MRCI development or redevelopment ordinance or plan ensures that development will not take place in inappropriate areas such as unstable slopes, wetlands, areas of high habitat value, and similarly constrained sites.

(2) The MRCI development or redevelopment ordinance or plan adequately avoids stormwater discharge impacts to water quality and quantity or to stream flow patterns (i.e., hydrograph) in the watershed, including peak and base flows in perennial streams. Stormwater management programs should require development activities to avoid impairing water quality and quantity, and should preserve or enhance flow patterns so that they mimic historic stream flow patterns (e.g. peak flows, base flows, durations of flow, volumes and velocities. This can be accomplished by reducing impervious surfaces and maintaining natural vegetation cover

and soils to the maximum extent possible.

(3) The MRCI development or redevelopment ordinance or plan provides adequate protective riparian area management requirements in order to attain or maintain properly functioning habitat conditions adjacent to all rivers, streams, intermittent streams, and estuaries. Where necessary, compensatory mitigation is provided to offset unavoidable impacts to properly functioning habitat conditions in riparian habitat areas resulting from MRCI development or redevelopment.

Limiting development activities in riparian areas helps protect or restore the condition and quality of soil and ensure that a diversity of vegetation is well distributed within a riparian area. Such conditions contribute to natural vegetation succession and help protect the water quality and flow conditions necessary to meet salmonid habitat requirements. The available scientific evidence indicates that the essential habitat functions of the riparian zone are affected to varying degrees by stream side development activities that occur within a distance equal to the height of the tallest tree that can grow on that site. This distance, however, can vary substantially and should be determined on a site-specific basis which takes into account the conditions of the site and the type of habitat that may be affected by the development.

(4) The MRCI development or redevelopment ordinance or plan avoids stream crossings by road, utilities and other linear development whenever possible, and where such crossings must be provided, impacts are minimized. Where crossings are unavoidable, ordinances or plans should consider minimizing their impacts by indicating a preference for bridges rather than culverts, and design both bridges and culverts to pass at least the 100-year flow level and debris associated with a 100-year flood event. In addition, the ordinance or plan should indicate that crossings and culverts meet NMFS' Southwest Region Guidelines for Salmonid Passage at Stream Crossings, May 2000. The ordinance or plan should also assure that all crossings are regularly monitored and maintained.

(5) The MRCI development or redevelopment ordinance or plan should adequately protect historic stream meander patterns and channel migration zones, and avoid hardening stream banks and shorelines wherever possible. Development activities should be designed to protect conditions that allow for gradual bank erosion, flooding, and channel meandering within the zone where meandering would naturally

occur. This more natural channel promotes gravel recruitment, geomorphic diversity, and habitat development. When bank erosion must be controlled, it should be accomplished through vegetation or bioengineered solutions wherever possible. Rip-rap blankets or other hardening techniques should be limited to those situations where vegetation and bioengineering solutions are not possible.

(6) The MRCI development or redevelopment ordinance or plan should adequately protect wetlands, wetland buffers, and wetland function. Protection of wetlands and the vegetation surrounding them will avoid or minimize soil, vegetation, and hydrology disturbances which can affect wetland succession and function, and, therefore, salmonid habitat and food availability.

(7) The MRCI development or redevelopment ordinance or plan adequately preserves the hydrologic capacity of permanent and intermittent streams to pass peak flows. Preserving hydrologic capacity provides conditions on the landscape necessary for maintaining essential habitat processes such as water quantity and quality, stream bank and channel stability, groundwater flows, and riparian vegetation succession.

(8) The MRCI development or redevelopment ordinance or plan includes adequate provisions for landscaping with native vegetation to reduce the need for watering and the application of herbicides, pesticides, and fertilizer. These provisions will maintain essential habitat processes by helping to conserve water and reduce demands on instream flows that compete with fish needs. In addition, they will reduce the amount of chemicals that contribute to water pollution.

(9) The MRCI development or redevelopment ordinance or plan includes provisions that prevent run-off during and after construction, thereby preventing sediment and pollutant discharges to streams and other water bodies that support salmonids. These provisions may include detention of flow, stabilizing soils, protecting slopes, stabilizing channels and outlets, protecting drain inlets, controlling pollutants, and maintaining best management practices.

(10) The MRCI development or redevelopment ordinance or plan ensures that water supply demands can be met without impacting instream flows needed for salmonids, and that any new water diversions are sited and

screened in a manner that prevent injury and death of salmonids.

(11) The MRCI development or redevelopment ordinance or plan includes mechanisms to ensure that funding, enforcement, implementation monitoring, and reporting occur as the ordinance or plan is implemented, and that the ordinance or plan is re-evaluated at least once every 5 years.

(12) The MRCI development or redevelopment ordinance or plan demonstrates that it is in compliance with all other state and Federal environmental and natural resource laws and permits.

NMFS' determination that city, county, or regional jurisdictional MRCI development or redevelopment ordinances or plans contribute to the attainment and maintenance of properly functioning habitat conditions, and thereby fall within this take limitation, will be in the form of a written approval from the Southwest Regional Administrator. As a condition of approval and to continue within this take limitation, city, county, or regional jurisdictions with approved ordinances or plans must provide NMFS with annual reports regarding the implementation and effectiveness of the ordinances or plans. NMFS will review these reports and evaluate approved ordinances or plans for their effectiveness in maintaining and achieving habitat conditions and function that provide for the conservation of threatened salmonids. As necessary, NMFS will work with the jurisdiction to modify ordinances or plans to achieve the desired habitat conditions.

Prior to approving a city, county, or regional government ordinance or plan for development or redevelopment under this take limitation, NMFS will publish a notification in the **Federal Register** announcing the availability of the ordinance or plan for public review and comment. Such an announcement will provide for a comment period of not less than 30 days.

Public Comments Solicited

NMFS is soliciting comments, information, and/or recommendations on any aspect of this proposed rule from all concerned parties (see **DATES** and **ADDRESSES**). NMFS will consider all information, comments, and recommendations received before reaching a final decision on 4(d) protections for the threatened salmonid ESUs covered in this proposed rule.

Public Hearings

In a forthcoming **Federal Register** notification, NMFS will announce the

dates and locations of public hearings on this proposed rule to provide the opportunity for the public to give comments and to permit an exchange of information and opinion among interested parties. NMFS encourages the public's involvement in such ESA matters.

References

A list of references cited in this proposed rule is available upon request (see **ADDRESSES**).

Classification

Regulatory Flexibility Act

When an agency proposes regulations, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) requires the agency to prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) that describes the impact of the proposed rule on small businesses, nonprofit enterprises, local governments, and other small entities, unless the agency is able to certify that the action will not have a significant impact on a substantial number of small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. The RFA was designed to ensure that agencies carefully assess whether aspects of a proposed regulatory scheme (record keeping, safety requirements, etc.) can be tailored to be less burdensome for small businesses while still achieving the agency's statutory responsibilities.

In accordance with the requirements of the RFA, therefore, NMFS has prepared an IRFA for this proposed ESA 4(d) rule. The IRFA is available upon request (see **ADDRESSES**). A summary of the IRFA follows.

This proposed ESA 4(d) rule has no specific requirements for regulatory compliance; instead, it essentially sets an enforceable performance standard (i.e., do not take listed fish) that applies to all entities and individuals within the ESU unless that activity is within a carefully circumscribed set of activities on which NMFS proposes not to impose the take prohibitions. Hence, the universe of entities reasonably expected to be directly or indirectly impacted by the prohibition is potentially broad.

The number of entities potentially affected by imposition of the ESA section 9 take prohibitions contained in the proposed rule is large and covers a large geographic which includes the Sacramento River basin in California's central valley, as well as coastal watersheds ranging from just north of the Russian River to Redwood Creek.

Activities potentially affecting salmon and steelhead ESUs covered by the proposed rule are those associated with agriculture, fishing, hatcheries, mining, heavy construction, highway and street construction, logging, wood and paper mills, electric services, water transportation, and other industries. As many of these activities involve local, state, and Federal oversight, including permitting, governmental activities from the smallest towns or planning units to the largest cities may potentially be impacted. The activities of some nonprofit organizations may also be affected by these regulations.

NMFS examined the potential impact of the regulation on a sector-by-sector basis. Unavailable or inadequate data leaves a high degree of uncertainty surrounding both the numbers of entities likely to be affected, and the characteristics of any impacts on particular entities. The problem is complicated by differences among entities even in the same sector as to the nature and size of their current operations, contiguity to waterways, individual strategies for dealing with the take prohibitions, etc. Finally, many of the activities that would be subject to the take prohibitions in the proposed rule are already subject to the take prohibitions imposed by existing 4(d) rules that protect other salmonid ESUs utilizing the same habitat. Thus, determining the incremental cost of this rule would require information concerning regulated entities' response to previous 4(d) rules, some of which have been in effect for only a year.

Examination of the geographical aspects of overlapping ESUs, and consideration of differences in the distribution of the different ESUs within river systems revealed three subareas composing the geographic extent of the four ESUs combined. Subarea 1 consists of that area within which the only change due to the proposed rule would be to allow more take limitations than are presently allowed by the existing 4(d) rule for the threatened Central California coast coho salmon ESU. The section 9 take prohibitions are already in place for this ESU and would not be changed by the proposed rule.

Subarea 2 consists of that area where the proposed take prohibitions for the Northern California steelhead and California coastal chinook ESUs would be superimposed on the existing take prohibitions for portions of two threatened coho salmon ESUs (Central California coast and Southern Oregon/Northern California coho ESUs). Since steelhead are more widely distributed than coho salmon within watersheds in this region, the proposed take

prohibitions are expected to have some impact on a wide variety of activities.

Subarea 3 consists of that area where the proposed take prohibitions for Central Valley spring chinook and California coastal chinook would be superimposed on existing take prohibitions for threatened steelhead and endangered winter-run chinook salmon ESUs. In this region only a small variety of activities involving deliberate take of chinook salmon is expected to be affected.

The largest economic impacts from the proposed rule, therefore, are expected to occur in subarea 2 which lies almost entirely in Humboldt, Trinity, Lake, and Mendocino counties. These four counties account for only 5% of the population and 4% of the personal income from all the counties that occur within the geographic range of the four ESUs covered by this proposed rule.

There are no record keeping or reporting requirements associated with imposition of the take prohibition; therefore, it is not possible to simplify or tailor record keeping or reporting to be less burdensome for small entities. However, some programs for which NMFS may in the future find it is unnecessary to prohibit take because they fall under one of the proposed take limitations would involve recordkeeping and/or reporting to support that continuing determination. NMFS has attempted to minimize any burden associated with these programs.

In formulating this proposed rule, NMFS considered several alternative approaches which are described in the IRFA. These included: (1) Enacting a "global" ESA 4(d) protective regulation for threatened species through which NMFS would automatically apply the section 9 take prohibitions to all threatened species at the time of listing; (2) enacting ESA 4(d) protective regulations that include the take prohibitions, but contain no take limits, or only a few limits, on the application of the take prohibitions for relatively uncontroversial activities such as fish rescue/salvage; (3) enacting ESA 4(d) regulations which include the take prohibitions in combination with detailed prescriptive requirements applicable to one or more sectors of activity; (4) enacting ESA 4(d) protective regulations similar to the existing interim 4(d) protective regulations for Southern Oregon/Northern California coast coho salmon which includes four additional limitations on the extension of the take prohibitions, for harvest plans, hatchery plans, scientific research, and habitat restoration projects, when in conformance with

specified criteria; (5) enacting ESA 4(d) regulations similar to the interim rule for Southern Oregon/Northern California coast coho, but with recognition of more programs and circumstances in which application of take prohibitions is neither necessary or advisable, and (6) enacting no ESA 4(d) protective regulations for the threatened salmonid ESUs. This latter approach would leave the threatened ESUs without any protection other than provided by ESA section 7 consultations for actions with some Federal nexus, and would not be consistent with NMFS' obligation to enact such protective regulations that are "necessary and advisable to provide for the conservation of" threatened salmon and steelhead.

The approach taken in this proposed rule is alternative 5 which would impose the section 9 take prohibition and also create 10 limits to the take prohibitions for specific circumstances or categories of activity (see discussion of take limitations in this proposed rule). This approach is fundamentally the same as that taken in NMFS's July 2000 4(d) rule for 14 threatened salmonids (65 FR 42422). For several of these activity categories (i.e., recreational harvest, artificial propagation, habitat restoration, road maintenance, and municipal, residential, commercial and industrial development) the regulation is structured so that it allows plans or programs developed after promulgation of the rule to be submitted to NMFS for review and approval under criteria described in the rule.

All of the other alternatives which provide take prohibitions for the threatened ESUs, may result in unnecessary impacts on economic activity of small entities, given NMFS' judgment that more limited protections would suffice to conserve the species. NMFS believes the proposed rule provides the greatest latitude for individual entities and regulatory agencies to tailor activities and programs to fit individual circumstances while avoiding or minimizing take of threatened salmonids. At present, NMFS concludes that there are no legally viable alternative rules that would have less impact on small entities and still fulfill the agency's obligations to protect these threatened salmonid ESUs.

If the proposed rule or any of the other alternatives described in the IRFA will impact your economic activity, please comment on whether there is a preferable alternative (including any alternatives not described herein) that would meet the statutory requirements

of ESA section 4(d). Please describe the impact that the alternative would have on your economic activity and why the alternative is preferable.

Executive Order (E.O.) 12866

Pursuant to E.O. 12866 (58 FR 51735, October 4, 1993), NMFS has prepared a draft Regulatory Impact Review (RIR) which considers costs and benefits of the ESA 4(d) regulatory alternatives that were considered, including the approach taken in this proposed rule. Copies of the draft RIR are available for review and comment upon request (see ADDRESSES).

Costs and benefits of the proposed rule and other alternative rule making approaches include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits where estimates cannot be meaningfully made for impacts that are essential to consider. The benefit provided by the proposed rule, as well as each of the 4(d) alternatives considered by NMFS which affords sufficient protection for the threatened ESUs, is its contribution to the recovery of the threatened ESUs. No precise measure of the benefit of recovery is available. NMFS is requesting comments and information (e.g. data sets, studies) that will enable quantification of the benefits of the proposed rule.

Many of the costs of recovering the ESUs addressed by the proposed rule (or alternatives that afford equal protection) are shared jointly with other listed ESUs that have overlapping geographic distributions and must also be recovered. It is not possible to determine what share of these joint

costs is attributable to adoption of the take prohibitions which are in the proposed rule and the alternatives. NMFS is requesting comments and information (e.g. data sets, studies) that will enable disentangling and quantification of the costs of the proposed rule.

Because the proposed rule would limit application of the section 9 take prohibition to those State or local programs or activities that fall within defined take limit criteria, those programs will contribute to the conservation of the threatened ESUs covered by the rule and NMFS' involvement will be more collaborative and less often require enforcement actions. This approach has the greatest probability that compliance burdens will be equally shared, that economic incentives will be employed in appropriate cases, and that practical standards adapted to the particular characteristics of the State or region will aid citizens in reducing the risks of take in an efficient way. For these reasons, it is likely that the proposed rule will minimize the cost to the public of avoiding or minimizing take over the long term among the alternatives considered.

In order to assess the economic effect of this rule, NMFS is seeking to assess the economic effects of the imposition of the take prohibitions contained in the July 2000 4(d) rule. This rule became effective on September 8, 2000, and January 8, 2001 for the steelhead and salmon ESUs respectively, covered by that rule.

In the absence of 4(d) rules, NMFS provided ESA coverage through section 10 research, enhancement, and incidental take permits with private

entities, or through section 7 consultation with Federal agencies. Since implementation of the July 2000 4(d) rule NMFS has received plans from various entities in Oregon, Washington, Idaho and California for approval under the limits to the take prohibitions. States can now send a list of research activities they expect to authorize for the following year instead of sending individual section 10 applications. During promulgation of the July 2000 rule NMFS did not have a complete understanding of the economic impacts entities would incur as a result of imposition of the take prohibitions. To gain some insight as to how entities may have changed their activities in response to implementation of the take prohibitions, we have summarized the numbers of plans submitted and their status under the July 4(d) rule in the following table. While portions of these plans were developed independently of the July 4(d) rule, they may have been modified in order to qualify for the take limits of the rule, as opposed to undergoing ESA section 7 or 10 procedures. Authorization under the rescue/salvage limit, City of Portland, Oregon Parks and Recreation Department's Pest Management Program and Washington's Forest Practices became effective September 8, 2000, and January 8, 2001, for the steelhead and salmon ESUs respectively, and are not listed in the table. Oregon Department of Transportation's (ODOT's) Routine Road Maintenance program also became effective with the effective dates, but other entities can qualify for ESA coverage under this limit if they use ODOT's program or an equivalent program.

Limit	Number of Plans Received to Date	Number of Plans Pending Approval	Number of Plans Approved	Number of Plans Expected in Next Year
Research	3	0	3	4 yearly (Oregon Washington Idaho, California)
Fishery Management Plans	13	12	1	33
Hatchery Genetic Management Plans	9	9	0	61
Joint State/Tribal Plans	2	0	2	12
Habitat Restoration Activities	0	0	0	4
Diversion Screening	20	2	0	100
Oregon Department of Transportation's (ODOT's) Routine Road Maintenance or Equivalent Plan	0	0	0	7-10
Municipal, Residential, Commercial, and Industrial Plans	0	0	0	10

Entities that are now subject to the July 4(d) rule fall into 4 categories: (1)

Those entities who have sought or are actively seeking ESA coverage via the

July 4(d) rule limits; (2) those who are not sure if their activities will harm

salmonids, but are seeking guidance from NMFS; (3) those who are actively seeking ESA coverage via the section 10 or section 7 process; and (4) those entities that are taking salmon but are not seeking ESA coverage.

NMFS believes that among the alternative regulatory approaches that were considered, the approach taken in this proposed rule will be the least costly.

Executive Order 13084—Consultation and Coordination with Indian Tribal Governments

E.O. 13084 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments or the Federal government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. This proposed rule does not impose substantial direct compliance costs on the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this proposed rule.

Nonetheless, NMFS intends to inform potentially affected tribal governments and solicit their input on the proposed rule. NMFS will continue to give careful consideration to all written and oral comments received on the proposed rule and will continue its coordination and discussions with interested tribes as the agency moves forward toward a final 4(d) rule.

Executive Order 13132—Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this proposed rule. In fact, this proposed rule provides a mechanism by which NMFS may defer to state and local government programs, where they provide necessary protections for threatened salmonids.

NMFS' July 2000 4(d) rule for 14 threatened salmonids (65 FR 42422), including three steelhead ESUs in California, was the first instance in California where the agency defined some reasonably broad categories of activities, both public and private, for which take prohibitions were not considered necessary and advisable when specified criteria were met. Since

that rule was promulgated, NMFS has engaged in discussions with various State and local agencies and other organizations in California wishing to pursue development of programs that would qualify under the various take limits contained in that final rule. In addition, NMFS has sought working relationships with other governmental and non-governmental organizations, and endeavored to promote use of the 4(d) rule. Because some of the threatened ESUs addressed in this proposed rule overlap with the ESUs addressed in the July 2000 4(d) rule (65 FR 42422), working relationships have already been established with many agencies and organizations that will be affected by this proposed rule.

In addition to these efforts, NMFS staff have given presentations to interagency forums, community groups, and others, and served on a number of interagency advisory groups or task forces considering conservation measures. Many cities, counties and other local governments have sought guidance and consideration of their planning efforts from NMFS, and staff have met with them whenever possible. Lastly, NMFS staff have continued coordination with CDFG aimed at developing recreational fisheries and artificial propagation management plans and other programs that will be protective of threatened salmonids and ultimately may be recognized within the July 2000 rule or this 4(d) rule.

Paperwork Reduction Act

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule contains additional collection-of-information requirements subject to review and approval by OMB under control number 0648-0399. These requirements have been submitted to OMB for approval.

The public reporting burden per response for these collections of information is estimated to average 5 hours for a submission on screening of a water diversion or for a report on salmonids assisted, disposed of, or salvaged; 20 hours to prepare a road maintenance agreement; 30 hours for an urban ordinance development package; and 10 hours for an urban development annual report.

This proposed rule also contains a collection-of-information requirement

associated with habitat restoration activities conducted under watershed plans that has received PRA approval from OMB under control number 0648-0230. The public reporting burden for the approval of Watershed Plans is estimated to average 10 hours.

These estimates include any time required for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

Public comment is sought regarding whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection, including the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES**), and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503 (Attention: NOAA Desk Officer). Comments must be received by October 1, 2001.

National Environmental Policy Act

NMFS prepared Environmental Assessments (EAs), as defined under the authority of the National Environmental Policy Act (NEPA) of 1969, addressing each threatened ESU covered by this proposed rule. Based on a review and evaluation of the information contained in the EA, NMFS has determined that the proposal to promulgate protective regulations for four threatened salmonid ESUs, including the creation of limitations on the applicability of the prohibition on taking any of those salmonids, would not be a major Federal action that would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of NEPA of 1969. NMFS believes these EAs examined appropriate alternatives, and that preparation of an Environmental Impact Statement is not required. Copies of the EAs are available on request (see **ADDRESSES**).

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: August 10, 2001.

Bruce. C. Morehead,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 223 is proposed to be amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.12 also issued under 16 U.S.C. 1361 *et seq.*

2. In § 223.203, paragraphs (a), (b)(1), and (c) are revised and introductory text to this section, paragraphs (b)(14) through (b)(22), and Appendix A to this section are added to read as follows:

§ 223.203 Anadromous fish.

Available guidance documents cited in the regulatory text are listed in Appendix A to this section.

(a) *Prohibitions.* The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to the threatened species of salmonids listed in § 223.102(a)(1) through (a)(10), and (a)(12) through (a)(22), except as provided in paragraph (b) of this section and § 223.209(a).

(b) *Limits on the prohibitions.* (1) The exceptions of section 10 of the ESA (16 U.S.C. 1539) and other exceptions under the Act relating to endangered species, including regulations in part 222 of this chapter implementing such exceptions, also apply to the threatened species of salmonids listed in § 223.102(a)(1) through (a)(10), and (a)(12) through (a)(22).

* * * * *

(14) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102 (a)(20) through (a)(22) do not apply to activities specified in an application for a permit for scientific purposes or to enhance the conservation or survival of the species, provided that the application has been received by the Assistant Administrator for Fisheries, NOAA (AA), no later than [90 days after date of publication of the final rule in the FEDERAL REGISTER]. The prohibitions of paragraph (a) of this section apply to these activities upon the AA's rejection of the application as insufficient, upon issuance or denial of a permit, or [8 months after date of publication of the final rule in the FEDERAL REGISTER], whichever occurs earliest.

(15) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102

(a)(3), and (a)(20) through (a)(22) do not apply to any employee or designee of NMFS, the United States Fish and Wildlife Service, any Federal land management agency, the California Department of Fish and Game (CDFG), or of any other governmental entity that has co-management authority for the listed salmonids, when the employee or designee, acting in the course of his or her official duties, takes a threatened salmonid without a permit if such action is necessary to:

(i) Aid a sick, injured, or stranded salmonid,

(ii) Dispose of a dead salmonid, or

(iii) Salvage a dead salmonid which may be useful for scientific study.

(iv) Each agency acting under this limit on the take prohibitions of paragraph (a) of this section is to report to NMFS the numbers of fish handled and their status, on an annual basis. A designee of the listed entities is any individual the Federal or state fishery agency or other co-manager has authorized in writing to perform the listed functions.

(16) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102 (a)(3), and (a)(20) through (a)(22) do not apply to fishery harvest activities provided that:

(i) Fisheries are managed in accordance with a NMFS-approved Fishery Management and Evaluation Plan (FMEP) and implemented in accordance with a letter of concurrence from NMFS. NMFS will approve an FMEP only if it clearly defines its intended scope and area of impact and sets forth the management objectives and performance indicators for the plan. The plan must adequately address the following criteria:

(A) Define populations within affected listed ESUs, taking into account spatial and temporal distribution, genetic and phenotypic diversity, and other appropriate identifiably unique biological and life history traits. Populations may be aggregated for management purposes when dictated by information scarcity, if consistent with survival and recovery of the listed ESU. In identifying management units, the plan shall describe the reasons for using such units in lieu of population units, describe how the management units are defined, given biological and life history traits, so as to maximize consideration of the important biological diversity contained within the listed ESU, respond to the scale and complexity of the ESU, and help ensure consistent treatment of listed salmonids across a diverse geographic and jurisdictional range.

(B) Utilize the concepts of “viable” and “critical” salmonid population thresholds, consistent with the concepts contained in NMFS’s technical report entitled “Viable Salmonid Populations and the Recovery of ESUs” (NMFS, 2000b). This report provides a framework for identifying the biological requirements of listed salmonids, assessing the effects of management and conservation actions, and ensuring that such actions provide for the survival and recovery of listed species. Proposed management actions must recognize the significant differences in risk associated with viable and critical population threshold states and respond accordingly to minimize the long-term risks to population persistence. Harvest actions impacting populations that are functioning at or above the viable threshold must be designed to maintain the population or management unit at or above that level. For populations shown with a high degree of confidence to be above critical levels but not yet at viable levels, harvest management must not appreciably slow the population’s achievement of viable function. Harvest actions impacting populations that are functioning at or below critical threshold must not be allowed to appreciably increase genetic and demographic risks facing the population and must be designed to permit the population’s achievement of viable function, unless the plan demonstrates that the likelihood of survival and recovery of the entire ESU in the wild would not be appreciably reduced by greater risks to that individual population.

(C) Set escapement objectives or maximum exploitation rates for each management unit or population based on its status and on a harvest program that assures that those rates or objectives are not exceeded. Maximum exploitation rates must not appreciably reduce the likelihood of survival and recovery of the ESU. Management of fisheries where artificially propagated fish predominate must not compromise the management objectives for commingled naturally spawned populations.

(D) Display a biologically based rationale demonstrating that the harvest management strategy will not appreciably reduce the likelihood of survival and recovery of the ESU in the wild, over the entire period of time the proposed harvest management strategy affects the population, including effects reasonably certain to occur after the proposed actions cease.

(E) Include effective monitoring and evaluation programs to assess compliance, effectiveness, and

parameter validation. At a minimum, harvest monitoring programs must collect catch and effort data, information on escapements, and information on biological characteristics, such as age, fecundity, size and sex data, and migration timing.

(F) Provide for evaluating monitoring data and making any revisions of assumptions, management strategies, or objectives that data show are needed.

(G) Provide for effective enforcement and education. Coordination among involved jurisdictions is an important element in ensuring regulatory effectiveness and coverage.

(H) Include restrictions on resident and anadromous species fisheries that minimize any take of listed species, including time, size, gear, and area restrictions.

(I) Be consistent with plans and conditions established within any Federal court proceeding with continuing jurisdiction over tribal harvest allocations.

(ii) The state monitors the amount of take of listed salmonids occurring in its fisheries and provides to NMFS on a regular basis, as defined in NMFS' letter of concurrence for the FMEP, a report summarizing this information, as well as the implementation and effectiveness of the FMEP. The state shall provide NMFS with access to all data and reports prepared concerning the implementation and effectiveness of the FMEP.

(iii) The state confers with NMFS on its fishing regulation changes affecting listed ESUs to ensure consistency with the approved FMEP. Prior to approving a new or amended FMEP, NMFS will publish notification in the **Federal Register** announcing its availability for public review and comment. Such an announcement will provide for a comment period on the draft FMEP of not less than 30 days.

(iv) NMFS provides written concurrence of the FMEP which specifies the implementation and reporting requirements. NMFS' approval of a plan shall be a written approval by the NMFS' Southwest Regional Administrator. On a regular basis, NMFS will evaluate the effectiveness of the program in protecting and achieving a level of salmonid productivity commensurate with conservation of the listed salmonids. If the program is deficient, NMFS will identify ways in which the program needs to be altered or strengthened. If the responsible agency does not make changes to respond adequately to the new information, NMFS will publish notification in the **Federal Register** announcing its intention to withdraw

the limit for activities associated with that FMEP. Such an announcement will provide for a comment period of not less than 30 days, after which NMFS will make a final determination whether to withdraw the limit so that the prohibitions would then apply to those fishery harvest activities. A template for developing FMEPs is available from NMFS' Southwest Region web site (<http://swr.nmfs.noaa.gov>).

(v) The prohibitions of paragraph (a) of this section relating to threatened species listed in § 223.102 (a)(20) do not apply to fishery harvest activities managed solely by the State of California until [180 days after date of publication of the final rule in the **FEDERAL REGISTER**].

(17) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102 (a)(3) and (a)(20) through (a)(22) do not apply to activity associated with artificial propagation programs provided that:

(i) A state or Federal Hatchery and Genetics Management Plan (HGMP) has been approved by NMFS as meeting the following criteria:

(A) The HGMP has clearly stated goals, performance objectives, and performance indicators that indicate the purpose of the program, its intended results, and measurements of its performance in meeting those results. Goals shall address whether the program is intended to meet conservation objectives, contribute to the ultimate sustainability of natural spawning populations, and/or is intended to augment tribal, recreational, or commercial fisheries. Objectives should enumerate the results desired from the program that will be used to measure the program's success or failure.

(B) The HGMP utilizes the concepts of viable and critical salmonid population threshold, consistent with the concepts contained in NMFS' technical report entitled: "Viable Salmonid Populations and Recovery of ESUs" (NMFS, 2000b). Listed salmonids may be purposefully taken for broodstock purposes only if the donor population is currently at or above the viable threshold and the collection will not impair its function; if the donor population is not currently viable but the sole objective of the current collection program is to enhance the propagation or survival of the listed ESU; or if the donor population is shown with a high degree of confidence to be above critical threshold although not yet functioning at viable levels, and the collection will not appreciably slow the attainment of viable status for that population.

(C) Broodstock collection programs reflect appropriate priorities taking into account health, abundances, and trends in the donor population. The primary purpose of broodstock collection programs of listed species is to re-establish indigenous salmonid populations for conservation purposes. Such programs include restoration of similar, at-risk populations within the same ESU, and reintroduction of at-risk populations to underseeded habitat. After the species' conservation needs are met and when consistent with survival and recovery of the ESU, broodstock collection programs may be authorized by NMFS for secondary purposes such as to sustain tribal, recreational, and commercial fisheries.

(D) The HGMP includes protocols to address fish health, broodstock collection, broodstock spawning, rearing and release of juveniles, deposition of hatchery adults, and catastrophic risk management.

(E) The HGMP evaluates, minimizes, and accounts for the propagation program's genetic and ecological effects on natural populations, including disease transfer, competition, predation, and genetic introgression caused by the straying of hatchery fish.

(F) The HGMP describes interrelationships and interdependencies with fisheries management. The combination of artificial propagation programs and harvest management must be designed to provide as many benefits and as few biological risks as possible for the listed species. For those programs of which the purpose is to sustain fisheries, HGMPs must not compromise the ability of FMEPs or other management plans to conserve listed salmonids.

(G) The HGMP provides for adequate artificial propagation facilities to properly rear progeny of naturally spawned broodstock, to maintain population health and diversity, and to avoid hatchery-influenced selection or domestication.

(H) The HGMP provides for adequate monitoring and evaluation to detect and evaluate the success of the hatchery program and any risks potentially impairing the recovery of the listed ESU.

(I) The HGMP provides for evaluating monitoring data and making any revisions of assumptions, management strategies, or objectives that data show are needed;

(J) NMFS provides written concurrence of the HGMP which specifies the implementation and reporting requirements. For federally operated or funded hatcheries, the ESA

section 7 consultation will achieve this purpose.

(ii) The state monitors the amount of take of listed salmonids occurring in its hatchery program and provides to NMFS on a regular basis a report summarizing this information, and the implementation and effectiveness of the HGMP as defined in NMFS' letter of concurrence. The state shall provide NMFS with access to all data and reports prepared concerning the implementation and effectiveness of the HGMP.

(iii) The state confers with NMFS on a regular basis regarding intended collections of listed broodstock to ensure consistency with the approved HGMP.

(iv) Prior to final approval of an HGMP, NMFS will publish notification in the **Federal Register** announcing its availability for public review and comment for a period of at least 30 days.

(v) NMFS' approval of an HGMP shall be a written approval by NMFS' Southwest Regional Administrator.

(vi) On a regular basis, NMFS will evaluate the effectiveness of the HGMP in protecting and achieving a level of salmonid productivity commensurate with the conservation of the listed salmonids. If the HGMP is not effective, NMFS will identify to the responsible agency ways in which the program needs to be altered or strengthened. If the responsible agency does not make changes to respond adequately to the new information, NMFS will publish notification in the **Federal Register** announcing its intention to withdraw the limit on activities associated with that program. Such an announcement will provide for a comment period of not less than 30 days, after which NMFS will make a final determination whether to withdraw the limit so that take prohibitions would then apply to that program. A template for developing HGMPs is available from NMFS Northwest Region's web site (www.nwr.noaa.gov).

(vii) The prohibitions of paragraph (a) of this section relating to threatened species listed in § 223.102(a)(20) do not apply to artificial propagation programs managed solely by the State of California until [180 days after date of publication of the final rule in the **FEDERAL REGISTER**].

(18) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102(a)(3) and (a)(20) through (a)(22) do not apply to scientific research activities provided that:

(i) Scientific research activities involving purposeful take are conducted by employees or contractors of CDFG or

as a part of a monitoring and research program overseen by or coordinated with CDFG.

(ii) CDFG provides for NMFS' review and approval a list of all scientific research activities involving direct take planned for the coming year, including an estimate of the total direct take that is anticipated, a description of the study design, including a justification for taking the species and a description of the techniques to be used, and a point of contact.

(iii) CDFG annually provides to NMFS the results of scientific research activities directed at threatened salmonids, including a report of the direct take resulting from the studies and a summary of the results of such studies.

(iv) Scientific research activities that may incidentally take threatened salmonids are either conducted by CDFG personnel, or are in accord with a permit issued by the CDFG.

(v) CDFG provides NMFS annually, for its review and approval, a report listing all scientific research activities it conducts or permits that may incidentally take threatened salmonids during the coming year. Such reports shall also contain the amount of incidental take of threatened salmonids occurring in the previous year's scientific research activities and a summary of the results of such research.

(vi) Electrofishing in any body of water known or suspected to contain threatened salmonids is conducted in accordance with NMFS' Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act (NMFS 2000a).

(vii) NMFS' approval of a research program shall be a written approval by NMFS' Southwest Regional Administrator.

(19) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102(a)(3) and (a)(20) through (a)(22) do not apply to habitat restoration activities, as defined in paragraph (b)(19)(iv), provided that the activity is part of a watershed conservation plan, and:

(i) The watershed conservation plan has been certified by the State of California to be consistent with the state's watershed conservation plan guidelines.

(ii) The State's watershed conservation plan guidelines have been found by NMFS to provide for plans that:

(A) Take into account the potential severity of direct, indirect, and cumulative impacts of proposed

activities in light of the status of affected species that are listed as threatened.

(B) Will not reduce the likelihood of either survival or recovery of listed species in the wild.

(C) Ensure that any taking will be incidental.

(D) Minimize and mitigate any adverse impacts.

(E) Provide for effective monitoring and adaptive management.

(F) Use the best available science and technology, including watershed analysis.

(G) Provide for public and scientific review and input.

(H) Include any measures that NMFS determines are necessary or appropriate.

(I) Include provisions that clearly identify those activities that are part of plan implementation.

(J) Control risk to listed species by ensuring funding and implementation of the above plan components.

(iii) NMFS will periodically review State certifications of watershed conservation plans to ensure adherence to approved watershed conservation plan guidelines.

(iv) *Habitat restoration activity* is defined as an activity whose primary purpose is to restore natural aquatic or riparian habitat conditions or processes. *Primary purpose* means the activity would not be undertaken but for its restoration purpose.

(v) Prior to approving state watershed conservation plan guidelines under paragraph (b)(19)(ii) of this section, NMFS will publish notification in the **Federal Register** announcing the availability of the proposed guidelines for public review and comment. Such an announcement will provide for a comment period on the draft guidelines of not less than 30 days.

(20) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102(a)(3) and (a)(20) through (a)(22) do not apply to the physical diversion of water from a stream or lake, provided that:

(i) NMFS' engineering staff or any resource agency or tribe NMFS designates (authorized officer) has agreed in writing that the diversion facility is screened, maintained, and operated in compliance with NMFS' Southwest Region "Fish Screening Criteria for Anadromous Salmonids, January 1997" or with any subsequent revision.

(ii) The owner or manager of the diversion allows any NMFS engineer or authorized officer access to the diversion facility for purposes of inspection and determination of continued compliance with the criteria.

(iii) On a case-by-case basis, NMFS or an Authorized Officer will review and may approve a juvenile fish screen design and construction plan and schedule that the water diverter proposes for screen installation. The plan and schedule will describe interim operation measures to avoid take of threatened salmonids. NMFS may require a commitment of compensatory mitigation if implementation of the plan and schedule is terminated prior to completion. If the plan and schedule are not met, or if a schedule modification is made that is not approved by NMFS or the Authorized Officer, or if the screen installation deviates from the approved design, the water diversion will be subject to take prohibitions and mitigation.

(iv) This limit on the prohibitions of paragraph (a) of this section does not include any impacts or take caused by reduced flows resulting from the diversion or impacts caused during installation of the diversion device. These impacts are subject to the prohibition on take of listed salmonids.

(21) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102 (a)(3) and (a)(20) through (a)(22) do not apply to routine road maintenance activities provided that:

(i) The activity results from routine road maintenance conducted by employees or agents of the State of California, or any county, city or port in California, that complies with a program substantially similar to that contained in the Oregon Department of Transportation's (ODOT) Transportation Maintenance Management System Water Quality and Habitat Guide (July, 1999) or that is determined to meet or exceed the protections provided by the ODOT Guide; or by employees or agents of the State of California or any county, city or port in California that complies with a routine road maintenance program that meets proper functioning habitat conditions as described further in paragraph (a)(21)(ii) of this section. NMFS' approval of state, city, county, or port programs that are equivalent to the ODOT program, or of any amendments, shall be a written approval by NMFS' Southwest Regional Administrator. Any jurisdiction desiring its routine road maintenance activities to be considered within this limit must first commit in writing to apply management practices that result in protections equivalent to or better than those provided by the ODOT Guide, detailing how it will assure adequate training, tracking, and reporting, and describing in detail any dust abatement practices it requests to be covered.

(ii) NMFS finds the routine road maintenance activities of the State of California, or any city, county, or port, to be consistent with the conservation of threatened salmonids' habitat when it contributes to the attainment and maintenance of properly functioning condition (PFC). NMFS defines PFC as the sustained presence of natural habitat-forming processes that are necessary for the long-term survival of salmonids through the full range of environmental variation. Actions that affect salmonid habitat must not impair properly functioning habitat, appreciably reduce the functioning of already impaired habitat, or retard the long-term progress of impaired habitat toward PFC. Periodically, NMFS will evaluate an approved program for its effectiveness in maintaining and achieving habitat function that provides for conservation of the listed salmonids. Whenever warranted, NMFS will identify ways in which the program needs to be altered or strengthened. Changes may be identified if the program is not protecting desired habitat functions, or where even with the habitat characteristics and functions originally targeted, habitat is not supporting population productivity levels needed to conserve the threatened ESUs. If any jurisdiction within the limit does not make changes to respond adequately to the new information in the shortest amount of time feasible, but not longer than one year, NMFS will publish notification in the **Federal Register** announcing its intention to withdraw the limit so that take prohibitions would then apply to the program. Such an announcement will provide for a comment period of no less than 30 days, after which NMFS will make a final determination whether to subject the activities to the ESA section 9(a)(1) prohibitions.

(iii) Prior to implementing any changes to a program within this limit the jurisdiction provides NMFS a copy of the proposed change for review and approval as to being within this limit.

(iv) Prior to approving any State of California, city, county, or port program as being within this limit, or approving any substantive change in a program as being within this limit, NMFS will publish notification in the **Federal Register** announcing the availability of the program or the draft changes for public review and comment. Such an announcement will provide for a comment period of not less than 30 days.

(v) Pesticide and herbicide spraying is not included within this limit, even if in accord with the ODOT guidance.

(22) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102 (a)(3) and (a)(20) through (a)(22) do not apply to municipal, residential, commercial, and industrial (MRCI) development (including redevelopment) activities provided that:

(i) Such development occurs pursuant to city, county, or regional government ordinances or plans that NMFS has determined are adequately protective of threatened species by maintaining or restoring properly functioning habitat conditions. NMFS approval or determinations about any MRCI development ordinances or plans shall be a written approval by the NMFS Southwest Regional Administrator. NMFS will apply the following 12 evaluation considerations when reviewing MRCI development ordinances or plans to assess whether they adequately conserve threatened salmonids by maintaining and restoring properly functioning habitat conditions:

(A) The MRCI development ordinance or plan ensures that development will avoid inappropriate areas such as unstable slopes, wetlands, areas of high habitat value, and similarly constrained sites.

(B) The MRCI development ordinance or plan adequately avoids stormwater discharge impacts to water quality and quantity or to the hydrograph of the watershed, including peak and base flows of perennial streams.

(C) The MRCI development ordinance or plan provides adequately protective riparian area management requirements to attain or maintain PFC around all rivers, estuaries, streams, lakes, deepwater habitats, and intermittent streams. Compensatory mitigation is provided, where necessary, to offset unavoidable damage to properly functioning habitat conditions caused by MRCI development impacts to riparian management areas.

(D) The MRCI development ordinance or plan avoids stream crossings by roads, utilities, and other linear development wherever possible, and, where crossings must be provided, minimizes impacts through choice of mode, sizing, and placement.

(E) The MRCI development ordinance or plan adequately protects historical stream meander patterns and channel migration zones and avoids hardening of stream banks and shorelines.

(F) The MRCI development ordinance or plan adequately protects wetlands and wetland functions, including isolated wetlands.

(G) The MRCI development ordinance or plan adequately preserves the

hydrologic capacity of permanent and intermittent streams to pass peak flows.

(H) The MRCI development ordinance or plan includes adequate provisions for landscaping with native vegetation to reduce need for watering and application of herbicides, pesticides, and fertilizer.

(I) The MRCI development ordinance or plan includes adequate provisions to prevent erosion and sediment run-off during construction.

(J) The MRCI development ordinance or plan ensures that water supply demands can be met without impacting flows needed for threatened salmonids either directly or through groundwater withdrawals and that any new water diversions are positioned and screened in a way that prevents injury or death of salmonids.

(K) The MRCI development ordinance or plan provides necessary enforcement, funding, reporting, and implementation mechanisms and formal plan evaluations at intervals that do not exceed 5 years.

(L) The MRCI development ordinance and plan complies with all other state and Federal environmental and natural resource laws and permits.

(ii) The city, county or regional government provides NMFS with annual reports regarding implementation and effectiveness of the ordinances, including: any water quality monitoring information the jurisdiction has available; aerial photography (or some other graphic display) of each MRCI development or MRCI expansion area at sufficient detail to demonstrate the width and vegetation condition of riparian set-backs; information to demonstrate the success of stormwater management and other conservation measures; and a summary of any flood damage, maintenance problems, or other issues.

(iii) NMFS finds the MRCI development activity to be consistent with the conservation of threatened salmonids' habitat when it contributes

to the attainment and maintenance of properly functioning habitat conditions. For this purpose, NMFS defines properly functioning habitat conditions as the sustained presence of a watershed's habitat-forming processes that are necessary for the long-term survival of salmonids through the full range of environmental variation. To contribute to the attainment and maintenance of properly functioning habitat conditions, activities that affect salmonid habitat must not impair properly functioning habitat, appreciably reduce the functioning of already impaired habitat, or retard the long-term progress of impaired habitat toward achieving properly functioning habitat conditions. Periodically, NMFS will evaluate an approved program for its effectiveness in maintaining and achieving habitat function that provides for conservation of the listed salmonids. Whenever warranted, NMFS will identify to the jurisdiction ways in which the program needs to be altered or strengthened. Changes may be identified if the program is not protecting desired habitat functions, or where even with the habitat characteristics and functions originally targeted, habitat is not supporting population productivity levels needed to conserve the threatened species. If any jurisdiction within the limit does not make changes to respond adequately to the new information in the shortest amount of time feasible, but not longer than 1 year, NMFS will publish notification in the **Federal Register** announcing its intention to withdraw the limit so that take prohibitions would then apply to the program. Such an announcement will provide for a comment period of not less than 30 days, after which NMFS will make a final determination whether to subject the activities to the ESA section 9(a)(1) prohibitions.

(iv) Prior to approving any city, county, or regional government ordinances or plans as being within this

limit, or approving any substantive change in an ordinance or plan as being within this limit, NMFS will publish notification in the **Federal Register** announcing the availability of the ordinance or plan or the draft changes for public review and comment. Such an announcement will provide for a comment period of no less than 30 days.

(c) *Affirmative defense.* In connection with any action alleging a violation of the prohibitions of paragraph (a) of this section with respect to the threatened species of salmonids listed in § 223.102 (a)(3), (a)(5) through (a)(10) and (a)(12) through (a)(22), any person claiming the benefit of any limit listed in paragraph (b) of this section or § 223.209(a) shall have a defense where the person can demonstrate that the limit is applicable and was in force, and that the person fully complied with the limit at the time of the alleged violation. This defense is an affirmative defense that must be raised, pleaded, and proven by the proponent. If proven, this defense will be an absolute defense to liability under section 9(a)(1)(G) of the ESA with respect to the alleged violation.

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Appendix A to § 223.203—List of Guidance Documents

The following is a list of documents cited in the regulatory text. Copies of these documents may be obtained upon request from the Northwest or Southwest Regional Administrators (see Table 1 in § 600.502 of this title).

1. Oregon Department of Transportation (ODOT) Maintenance Management System Water Quality and Habitat Guide (July, 1999).
2. Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act.
3. Fish Screening Criteria for Anadromous Salmonids, National Marine Fisheries Service, Southwest Region, 1997.
4. Viable Salmonid Populations and the Recovery of Evolutionarily Significant Units. (June 2000).

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Notices

Federal Register

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01-046-1]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of international standard-setting activities of the Office International des Epizooties, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

ADDRESSES: Please send four copies of your comments (an original and three copies) to: Docket No. 01-046-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 01-046-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are

available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: For general information on the topics covered in this notice, contact Mr. John Greifer, Director, Trade Support Team, International Services, APHIS, room 1132, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250; (202) 720-7677. For specific information regarding standard-setting activities of the Office International des Epizooties, contact Dr. Michael David, Chief, Sanitary International Standards Team, VS, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737-1231; (301) 734-8093. For specific information regarding the standard-setting activities of the International Plant Protection Convention or the North American Plant Protection Organization, contact Mr. Nancy Klag, Program Manager, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737-1236; (301) 734-8469.

SUPPLEMENTARY INFORMATION: The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103-465), which was signed into law by the President on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreement Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for

consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

“International standard” is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the Office International des Epizooties (OIE) regarding animal health and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. This responsibility was delegated to the United States Department of Agriculture’s (USDA’s) Food Safety and Inspection Service (FSIS) for Codex activities and Animal and Plant Health Inspection Service (APHIS) for OIE, IPPC, and NAPPO activities.

FSIS is responsible for publishing an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing notice of OIE, IPPC, and NAPPO activities related to international standards and for representing the

United States with respect to these standards.

Following are descriptions of the OIE, IPPC, and NAPPO organizations and the standard-setting agenda for each of these institutions. We have described the agenda that each of these organizations will address at their annual general sessions, including standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the OIE, IPPC, and NAPPO.

The agendas for these meetings are subject to change, and the draft standards identified in this notice may not be sufficiently developed and ready for adoption as indicated. Also, while it is the intent of the United States to support adoption of international standards and to participate actively and fully in their development, it should be recognized that the U.S. position on a specific draft standard will depend on the acceptability of the final draft. Given the dynamic and interactive nature of the standard-setting process, we encourage any persons who are interested in the most current details about a specific draft standard or the U.S. position on a particular standard-setting issue, or in providing comments on a specific standard that may be under development, to contact APHIS. Contact information is provided at the beginning of this notice under **FOR FURTHER INFORMATION CONTACT**.

OIE Standard-Setting Activities

The OIE was established in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 157 member nations, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country. The WTO has recognized the OIE as the international forum for setting animal health standards, reporting global animal situations and disease status, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its members. The major functions of the OIE are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that scientifically justified standards govern international trade in animals and animal products. The OIE aims to achieve this through the development and revision of international standards for diagnostic tests, vaccines, and the safe

international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes the free status of member countries for certain diseases, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status, and provides animal disease control guidelines to member countries.

The various OIE commissions and working groups undertake the initial analysis and preparation of draft standards, which are then circulated to member countries for consultation (review and comment). Draft standards are revised accordingly and then presented to the OIE General Session, which meets annually every May, for review and adoption. Adoption, as a general rule, is based on consensus of the OIE membership.

The next OIE General Session is scheduled for the third or fourth week of May 2002 in Paris, France. The Deputy Administrator for APHIS' Veterinary Services is the official U.S. delegate to the OIE. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption.

OIE Code Chapters Up for Adoption

Revisions to the following chapters of the OIE International Animal Health Code are expected to be presented for adoption at the next General Session in May 2002:

1. *Scrapie*: This is a disease of sheep and goats. This will constitute a new chapter in the OIE Code. It will provide guidance for safe trade in sheep and goats, including their products, with respect to scrapie. The United States intends to support adoption of this new Code chapter assuming it is ready for such consideration and is consistent with our scientific knowledge of this disease.

2. *Classical swine fever (CSF)*: This is a disease of hogs. This is not a new chapter in the OIE Code. This chapter is being updated in order to incorporate contemporary scientific knowledge about this disease (e.g., new knowledge regarding surveillance for CSF, testing, etc.). These changes may affect current OIE export certification standards for products affected with CSF. The United States intends to support this revised Code chapter assuming it is ready for such consideration and is consistent with our scientific knowledge of this disease.

3. *Newcastle disease*: This is a poultry disease. This is not a new OIE Code chapter. Changes are being made to this

chapter to reflect contemporary scientific knowledge about Newcastle disease (e.g., new knowledge regarding surveillance for the disease, testing, etc.). These changes may affect current OIE export certification standards for products affected with Newcastle disease. The United States intends to support adoption of this revised Code chapter assuming it is ready for such consideration and is consistent with our scientific knowledge of this disease.

4. *Diseases of bees*: This represents a revision to or updating of an existing OIE Code chapter. This chapter, which addresses most diseases of honeybees, including mites, will be revised to incorporate changes in scientific knowledge about various honeybee diseases. This chapter will continue to provide guidance for certifying honeybee packages and queen bees for export purposes. The United States intends to support adoption of this revised chapter assuming it is ready for such consideration and is consistent with our scientific knowledge of this disease.

5. *Infectious Bursal Disease (IBD)*: This is a disease of poultry. This existing chapter will be revised to incorporate contemporary scientific knowledge about IBD (e.g., new knowledge regarding surveillance for the disease, testing, etc.). These changes may affect current OIE export certification standards for products that may be affected with IBD. The United States intends to support adoption of this revised Code chapter assuming it is ready for such consideration and is consistent with our scientific knowledge of this disease.

As a matter of process, these chapters are drafted (or revised) by ad hoc groups composed of technical experts nominated by the OIE Code Commission by virtue of their subject-area expertise (not their national affiliation). Once the ad hoc expert group completes its task of drafting a new chapter or revising an existing one, it is then distributed to member countries for review and comment. Typically, the OIE distributes the proposed or revised Code chapters to its member countries by late October of each year. The draft standard is revised by the Code Commission on the basis of relevant scientific comments received from member countries.

The United States (i.e., USDA/APHIS) intends to review and comment on all draft chapter revisions once it receives them from the OIE, most likely in late October or early November 2001. USDA/APHIS intends to distribute these drafts to the U.S. livestock industry, veterinary experts in various U.S. academic institutions, and other

interested persons for review and comment. These drafts are also posted on a website maintained by the U.S. Animal Health Association (USAHA). Hence, U.S. comments submitted to the OIE will be based on APHIS' analysis and relevant scientific information received from various domestic commenters. Additional information regarding these draft standards may be obtained by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

Generally, if a country has concerns with a particular draft standard, and supports those concerns with sound technical information, the Commission will revise that standard accordingly and present the revised draft for adoption at the General Session in May. In the event that a country's concerns regarding a draft standard are not taken into account, that country may refuse to support the standard when it comes up for adoption at the General Session. However, each member country is obligated to review, comment, and make decisions regarding the adoption of standards strictly on their scientific merits.

OIE Future Work Program

In the next few years, the Code Commission is expected to establish ad hoc groups of experts to update and/or develop the standards for the following diseases:

1. *Transmissible spongiform encephalopathy in small ruminants*: This would be a new OIE Code chapter intended to provide guidance for export certification of sheep and goats and their products. The United States will consider its position on this new standard after it reviews a prepared draft.

2. *Bovine tuberculosis*: This would represent a revision of an existing OIE Code chapter. Changes to this chapter are being considered due to new scientific information about this disease. Changes to this chapter could result in changes in the current export certification standards for cattle. The United States intends to support adoption of this new Code chapter assuming it is ready for such consideration and is consistent with our scientific knowledge of this disease. The United States will consider its position on this revised standard after it reviews a prepared draft.

3. *Paratuberculosis*: This would represent a revision of an existing OIE Code chapter. Changes to this chapter are being considered due to new scientific information about this disease, primarily as it affects cattle and sheep. The United States will consider its

position on this revised Code chapter after it reviews a prepared draft.

4. *Chronic wasting disease*: This is a disease of wildlife and farm-raised animals, primarily deer and elk. This would be new OIE Code chapter that would provide guidance for trade in deer and elk and their products.

The United States will consider its position on this new standard after it reviews a prepared draft.

In addition, the Code Commission anticipates establishing guidelines for the following issues:

1. *Guidelines on the judgment of equivalence*: This represents a new undertaking for OIE and is intended to provide guidance on making equivalency determinations in the area of animal health. The United States will consider its position on this issue once it reviews a prepared draft.

2. *Notification of animal diseases*: Work in this area is intended to provide improved guidance on procedures to follow for reporting animal disease outbreaks and occurrences among OIE members. The United States will consider its position on this matter after it reviews a prepared draft.

3. *Code appendices on embryos*: Work in this area is intended to ensure that all OIE Code chapters that address different animal diseases include adequate guidance on export certification for trade in embryos with respect to that particular disease. The United States will consider its position on this matter after it reviews a prepared draft.

Other OIE Topics

Every year at the General Session, two technical items are presented. At the May 2001 General Session, the following technical items were presented:

1. *The importance of emerging diseases in public and animal health and trade*. An expert in this area, including new zoonotic diseases, provided a summary report on this topic. This report is expected to be included in the report of the OIE's 2001 General Session.

2. *The role of communication management in supporting veterinary services*. An expert on public information provided a summary report on how different OIE member countries address their public information needs with regard to informing the public about their animal health activities. This report will also be published in the report of the OIE's 2001 General Session. The two technical items for the May 2002 General Session have not yet been determined.

The information in this notice includes all the information currently

available to us on OIE standards currently under development or consideration. Information on OIE standards is available on the OIE web page at <http://www.oie.int>. Further, a formal agenda for the next General Session will be available to member countries in February 2002, and copies will be available to the public once the agenda is published. For the most current information on meeting times, working groups, and/or meeting agendas, including information on official U.S. participation in OIE activities, and U.S. positions on standards being considered, contact Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any areas of work under the OIE may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Dr. David.

IPPC Standard-Setting Activities

The IPPC is a multilateral convention adopted in 1952 for the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. Under the IPPC, the understanding of plant protection has been, and continues to be, broad, encompassing the protection of both cultivated and noncultivated plants from direct or indirect injury by plant pests. Activities addressed by the IPPC include the development and establishment of international plant health standards, the harmonization of phytosanitary activities through emerging standards, the facilitation of the exchange of official and scientific information among countries, and the furnishing of technical assistance to developing countries that are signatories to the IPPC.

The IPPC is placed under the authority of the FAO, and the members of the Secretariat of the IPPC are appointed by the FAO. The IPPC is implemented by national plant protection organizations in cooperation with regional plant protection organizations, the Interim Commission on Phytosanitary Measures (ICPM), and the Secretariat of the IPPC. The United States plays a major role in all standard-setting activities under the IPPC and has representation on FAO's highest governing body, the FAO Conference.

The United States became a contracting party to the IPPC in 1972 and has been actively involved in furthering the work of the IPPC ever since. The IPPC was amended in 1979, and the amended version entered into force in 1991 after two-thirds of the

contracting countries accepted the amendment. More recently, in 1997, contracting parties completed negotiations on further amendments that were approved by the FAO Conference and submitted to the parties for acceptance. This 1997 amendment updated phytosanitary concepts and formalized the standard-setting structure within the IPPC. The 1997 amended version of the IPPC will enter into force once two-thirds of the current contracting parties notify the Director General of FAO of their acceptance of the amendment. At this date, 21 of the required 72 member countries have deposited their official letters of acceptance. The U.S. Senate gave its advice and consent to acceptance of the newly revised IPPC on October 18, 2000. The United States is in the process of preparing and submitting to the FAO Director General its official instrument of acceptance.

The IPPC has been, and continues to be, administered at the national level by plant quarantine officials whose primary objective is to safeguard plant resources from injurious pests.

In the United States, the national plant protection organization is APHIS' Plant Protection and Quarantine (PPQ) program. The steps for developing a standard under the revised IPPC are described below.

Step 1: Proposals for a new international standard for phytosanitary measures (ISPM) or for the review or revision of an existing ISPM are submitted to the Secretariat of the IPPC in the form of a discussion paper accompanied by a topic or draft standard. Drafts can be submitted by individual countries, but are more commonly submitted by regional plant protection organizations (RPPO's). Alternately, the Secretariat can propose a new standard or amendments to existing standards.

Step 2: A summary of proposals is submitted by the Secretariat to the ICPM. The ICPM identifies the topics and priorities for standard setting from among the proposals submitted to the Secretariat and others that may be raised by the ICPM.

Step 3: Specifications for the standards identified as priorities by the ICPM are drafted by the Secretariat. The draft specifications are submitted to the Standards Committee for approval/amendment and are subsequently made available to members and RPPO's for comment (60 days). Comments are submitted in writing to the Secretariat. Taking into account the comments, the Standards Committee finalizes the specifications.

Step 4: The standard is drafted or revised in accordance with the specifications by a working group designated by the Standards Committee. The resulting draft standard is submitted to the Standards Committee for review.

Step 5: Draft standards approved by the Standards Committee are distributed to members by the Secretariat and RPPO's for consultation (120 days). Comments are submitted in writing to the Secretariat. Where appropriate, the Standards Committee may establish open-ended discussion groups as forums for further comment. The Secretariat summarizes the comments and submits them to the Standards Committee.

Step 6: Taking into account the comments, the Secretariat, in cooperation with the Standards Committee, revises the draft standard. The Standards Committee submits the final version to the ICPM for adoption.

Step 7: The ISPM is established through formal adoption by the ICPM according to Rule X of the Rules of Procedure of the ICPM.

Step 8: Review of the ISPM is completed by the specified date or such other date as may be agreed upon by the ICPM.

Each member country is represented on the ICPM by a single delegate. Although experts and advisers may accompany the delegate to meetings of the ICPM, only the delegate (or an authorized alternate) may represent each member country in considering a standard up for approval. Parties involved in a vote by the ICPM are to make every effort to reach agreement on all matters by consensus. Only after all efforts to reach a consensus have been exhausted may a decision on a standard be passed by a vote of two-thirds of delegates present and voting.

Technical experts from the United States have participated directly in working groups and indirectly as reviewers of all IPPC draft standards. In addition, documents and positions developed by APHIS and NAPPO have served as the bases for many of the standards adopted to date. This notice describes each of the IPPC standards currently under consideration or up for adoption. The full text of each standard will be available on the APHIS Internet website at <http://www.aphis.usda.gov/ppq/standards>. Interested individuals may review the standards posted on this website and submit comments via the website.

The next ICPM meeting is scheduled for March 11–13, 2002. The Deputy Administrator for APHIS' PPQ program is the U.S. delegate to the ICPM. The

Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption. The provisional agenda for the meeting is as follows:

Provisional Agenda for the Fourth Interim Commission on Phytosanitary Measures

1. Opening of the session.
2. Adoption of the agenda.
3. Report by the chairperson.
4. Report by the Secretariat.
5. Adoption of international standards (see section below entitled "IPPC Standards Up for Adoption in 2002" for details).
6. Items arising from the Third Session of the ICPM (see section below entitled "New Standard Setting Initiatives" for details).
7. Work program for harmonization.
8. Status of the 1997 revised IPPC.
9. Other business.
10. Date and venue of the next meeting.
11. Adoption of the report.

IPPC Standards Up for Adoption in 2002

It is expected that the following standards will be sufficiently developed to be considered by the ICPM for adoption at its March 2002 meeting. The United States, represented by APHIS' Deputy Administrator for PPQ, will participate in the consideration of these standards. The U.S. position on each of these issues will be developed prior to the ICPM session and will be based on APHIS' analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders. The standards that are most likely to be considered for adoption include:

1. *Guidelines for pest listing:* The IPPC requires contracting parties to establish and update lists of regulated pests for phytosanitary certification purposes. Guidelines were developed for meeting these obligations at a working group meeting in January 2000. These draft guidelines describe lists of regulated pests, the purpose of the guidelines, and their relationship to phytosanitary certification procedures. The United States intends to support adoption of this draft standard assuming it is ready for such consideration.

2. *Guidelines for pest reporting:* Under the IPPC, members have an obligation to report pest outbreaks or incidents that may be of potential danger to other members. This standard will provide a common format for such reporting between members. The United States intends to support adoption of

this draft standard assuming it is ready for such consideration.

3. *General considerations and specific requirements for regulated non-quarantine pests:* The 1997 revised IPPC broadened the scope of regulated pests to include "regulated non-quarantine pests." These are defined as a non-quarantine pests associated with propagative materials and whose presence in such plants affects the intended use of those plants with an economically unacceptable impact and are therefore regulated by the national plant protection organization. This standard describes the concept of regulated non-quarantine pests and identifies their characteristics. It also describes the application of the concept in practice and relevant elements for regulatory systems. This general standard will be followed at a later time by the development of a related standard that will provide guidance for conducting pest risk analyses specific to regulated non-quarantine pests (see item 7 under "New Standard-Setting Initiatives"). The United States intends to support adoption of this draft standard assuming it is ready for such consideration.

4. *Systems approaches for risk management:* Given the eventual loss of methyl bromide as a quarantine tool, many countries are relying increasingly on new approaches for reducing pest risks and meeting foreign import requirements. Systems approaches, or the use of multiple pest risk mitigation measures, have emerged as an increasingly popular way to certify commodities for export. This standard is intended to harmonize the approach used by countries in establishing systems approaches for export purposes. The United States intends to support adoption of this draft standard assuming it is ready for such consideration.

At this time, it appears likely that only the above standards will be presented for adoption at the next ICPM meeting in April 2002. The United States intends to support adoption of these standards at the April 2002 ICPM meeting.

New Standard-Setting Initiatives

A number of expert working group meetings or other technical consultations will take place during 2001 and early 2002 on the topics listed below. These standard-setting initiatives are not expected to be completed prior to March 2002 and, therefore, will not be ready for adoption at the 2002 ICPM session. Nonetheless, APHIS intends to participate actively and fully in each of these working groups. The U.S. position on each of the topics to be addressed by

these various working groups will be developed prior to these working group meetings and will be based on APHIS' technical analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders.

1. *Environmental impact of quarantine pests, including invasive species:* The ICPM agreed to establish a technical expert group to further develop an IPPC standard for evaluating the environmental impacts of quarantine pests, including quarantine pests that are invasive. A technical expert group was scheduled to meet on this issue August 6–10, 2001. The first effort to solicit input from the public took place on March 8, 2001, when APHIS held a public meeting on genetically modified organisms (GMO's) and invasive species. The transcript of this public meeting is available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>. We plan to publish a second request for comment from the public in the **Federal Register** in July 2001 before this particular standard is discussed at the August 2001 meeting.

2. *Living modified organisms (LMOs):* The ICPM agreed on the need to develop a standard to address the plant pest risk of LMOs. The first preparatory step, however, is to develop the specifications for an LMO standard (i.e., elements and parameters to guide the development of a particular standard). An open-ended expert working group will meet in September 2001. This expert working group is charged to develop a detailed standard specification that identifies the plant pest risks associated with LMOs or products of modern biotechnology; identifies elements relevant to the assessment of these plant pest risks; considers existing international regulatory frameworks and guidelines; identifies areas within pest risk assessment (PRA) standards and other ISPM's that are relevant to the phytosanitary aspects of LMOs that are products of modern biotechnology; and identifies the plant pest risks associated with LMOs that are products of modern biotechnology that are not adequately addressed by existing ISPM's. The target date for completion of the LMO standard is 2004. The first effort to solicit input from the public took place on March 8, 2001, when APHIS held a public meeting on GMO's and invasive species. The transcript of this public meeting is available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>. We plan to publish a second request for comment from the public in July 2001 before this particular

standard is discussed at the September 2001 meeting.

3. *Strategic planning and technical assistance:* A working group on strategic planning and technical assistance will meet in October 2001 to update the ICPM's strategic plan, including its technical assistance program. In particular, the strategic planning group will seek to further develop specific procedures for identifying topics and establishing setting standard-setting priorities; develop a program for the promotion of technical assistance on phytosanitary issues; determine priorities for the IPPC Secretariat's technical assistance activities; and support the development of guidance for countries to use in the evaluation of national regulatory systems.

4. *RPPO technical consultation:* The establishment of guidelines for the recognition of RPPO's is a function of the ICPM. The task of preparing draft guidelines on this subject was completed during a RPPO technical consultation held in September 2000. During the RPPO consultation scheduled for 2001, procedures that describe how the guidelines are to be implemented will be developed for consideration by the next session of the ICPM.

5. *Guidelines on the use of nonmanufactured wood packing materials:* This standard will describe phytosanitary measures to reduce the risk of introduction and spread of quarantine pests associated with nonmanufactured wood packing materials used for the transport of commodities in international trade. The Standards Committee will continue work on this draft standard. It is not expected to be completed and ready for ICPM adoption until 2003.

6. *Guidelines for surveillance for specific pests—citrus canker:* Plant health officials may obtain information on pests of concern in specific sites in an area over a defined period of time through specific surveys. The collected information may be used to determine the presence or distribution of pests in an area, or on a host or commodity, or their absence from an area (in order to establish and maintain pest-free areas). This specific surveillance standard will describe the components of survey and monitoring systems for the purpose of detecting citrus canker and generating the necessary data for use in pest risk analyses, the establishment of pest free areas and, where appropriate, the preparation of pest lists.

7. *Pest risk analysis for regulated non-quarantine pests:* Certain pests that are not quarantine pests may be subject to phytosanitary regulations and

procedures because their presence above a specific level results in economically unacceptable impacts associated with the intended use of the plants. Under the IPPC, such pests are referred to as regulated non-quarantine pests. Under the IPPC, phytosanitary regulations and procedures covering regulated non-quarantine pests should be technically justified. The classification of a pest as a regulated non-quarantine pest and any restrictions placed on the importation of the plant species with which it is associated must be justified by pest risk analysis. This standard will provide guidance for conducting an appropriate pest risk assessment necessary to demonstrate that importation of a particular plant for propagation is a pathway that may result in an economically unacceptable impact and to guide subsequent risk management decisions.

8. Irradiation as a quarantine treatment: This initiative will consider the development of standardized guidance for evaluating, adopting, and applying irradiation as a phytosanitary treatment. The objective is to promote consistency by providing harmonized guidelines concerning the technical and operational aspects of employing irradiation as a treatment for plant pests. The International Atomic Energy Agency (IAEA) based in Vienna, Austria, has offered both technical and financial support for the development of an irradiation standard.

For more detailed information on the above topics, which will be addressed by various working groups established by the ICPM, contact Mr. Nancy Klag (see **FOR FURTHER INFORMATION CONTACT** above).

Also, APHIS posts draft standards on its website (<http://www.aphis.usda.gov/ppq/standards>) as they become available to us. The website also provides information on when comments on standards are due. Additional information on IPPC standards is available on the FAO's website at <http://www.ippc.int>. For the most current information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Mr. Nancy Klag (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken by the IPPC may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Mr. Klag.

NAPPO Standard-Setting Activities

NAPPO, a regional plant protection organization created in 1976 under the IPPC, coordinates the efforts among

Canada, the United States, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra- and inter-regional trade.

NAPPO conducts its business through panels and annual meetings held among the three member countries. The NAPPO Executive Committee charges individual panels with the responsibility for drawing up proposals for NAPPO positions, policies, and standards. These panels are made up of representatives from each member country who have scientific expertise related to the policy or standard being considered.

Proposals drawn up by the individual panels are circulated for review to government and industry officials in Canada, Mexico, and the United States, who may suggest revisions. In the United States, draft standards are circulated to industry, States, and various government agencies for consideration and comment. The draft standards are posted on the Internet at <http://www.aphis.usda.gov/ppq/standards>. Interested persons may submit comments via this website. Once revisions are made, the proposal is sent to the NAPPO working group and the NAPPO standards panel for technical reviews and then to the Executive Committee for final approval, which is granted by consensus.

The annual NAPPO meeting is scheduled for October 16–18, 2001, in Banff, Alberta, Canada. The Executive Committee meeting will take place on October 14, 2001, and a special session will be held on October 15, 2001, where industry groups can bring issues to the attention of the Executive Committee. The Deputy Administrator for APHIS' PPQ program is the U.S. member of the Executive Committee. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption in the event that there is no consensus on whether to adopt that standard.

Work Plan for 2001/2002—NAPPO Panel Activities

The work plan for the year was established after the October 2000 Annual Meeting in San Diego, CA. The Deputy Administrator for PPQ participated in establishing this NAPPO work plan (see panel assignments below).

Below is a summary of current panel assignments as they relate to the ongoing development of NAPPO standards. USDA/APHIS intends to participate actively and fully in the work of each of these panels. The U.S.

position on each topic will be guided and informed by the best scientific information available on each of these topics. Information regarding the following NAPPO panel topics, assignments, and activities, and updates on meeting times and locations, may be obtained from the NAPPO home page at <http://www.nappo.org> or by contacting Mr. Nancy Klag (see **FOR FURTHER INFORMATION CONTACT** above).

Accreditation Panel (Laboratory Accreditation Standard): This NAPPO panel will undertake the following in support of the "Accreditation of Laboratories for Phytosanitary Testing" standard: (1) Develop a process for the evaluation and acceptance of equivalent diagnostic tests used by NAPPO countries; and (2) collaborate with other NAPPO panels as required regarding the ongoing maintenance of the inventory of NAPPO-approved diagnostic tests. The United States will consider its position on this standard after it reviews a prepared draft.

Accreditation Panel (Inspector Accreditation): This NAPPO panel will work towards implementing the conditions of the "Accreditation of Individuals to Sign Federal Phytosanitary Certificates" standard. A review of the U.S. system was conducted in June 2001; reviews of other countries' systems will follow. A written report will be given to the Executive Committee at its meeting on October 14, 2001.

Biological Control Panel: This panel will develop a protocol for post-release monitoring to be incorporated as part of the existing standards on biological control ("Guidelines for Petition for Import and Release of Nonnative Entomophagous Agents for the Biological Control of Pests," and "Guidelines for Petition for Import and Release of Nonnative Phytophagous Agents for the Biological Control of Pests"). The United States will consider its position on this protocol after it reviews a prepared draft.

Biotechnology Panel: This panel will develop a NAPPO standard for the review of products of biotechnology that focuses on the assessment of the potential to present a plant pest risk. It will finalize modules 1, 2, and 3 of the standard regarding the importation of transgenic plants for release into contained facilities, for confined field release, and for unconfined field release, respectively. The panel will begin development of module 4 regarding importation of transgenic material for uses other than planting.

The panel will also collaborate with the NAPPO Pest Risk Analysis Panel to contribute to the development of

international standards on the plant pest risks of LMOs/products of modern biotechnology and on the environmental risks associated with plant pests. The United States will consider its position on this standard after it reviews a prepared draft.

Citrus Panel: This panel will continue the development of a NAPPO citrus standard entitled, "Guidelines for the Importation into and Movement of Citrus Propagative Material within NAPPO Countries with Respect to Viruses and Virus-like Pests, Viroids, Phytoplasmas, Bacteria, and Fungi." The United States will consider its position on this standard after it reviews a prepared draft.

Forestry Panel: This panel will continue to share information received from consultations on the NAPPO nonmanufactured wood packing material standard, participate in the development of the international standard on nonmanufactured wood packing material, and cooperate with the Insect and Disease Study Group of the North American Forestry Commission to identify quarantine pests and treatment options for nonmanufactured wood packing material and research priorities in support of regional and international standards for nonmanufactured wood packing material. The United States will consider its position on any standard developed by this panel after it reviews a prepared draft.

Fruit Panel: This panel will complete the standard on "Verification and Maintenance of Fruit Fly-Free Areas." The United States will consider its position on this standard after it reviews a prepared draft.

Fruit Tree Panel: This panel will develop a list of standardized diagnostic tests to be used when certifying fruit tree nursery stock. The United States will consider its position on the list of tests after it reviews a prepared draft.

Grain Panel: This panel will develop a list of standardized diagnostic tests to be used when certifying grain shipments and will complete guidelines for the establishment, verification, and maintenance of free areas for Karnal bunt. The United States will consider its position on the list of tests and the guidelines after it reviews the prepared drafts.

Grapevine Panel: This panel will develop a list of standardized diagnostic tests to be used when certifying grapevine shipments. The United States will consider its position on the list of tests after it reviews a prepared draft.

Pest Risk Analysis Panel: This panel will collaborate with the Potato Panel in the development of a PRA to support

implementation of the NAPPO standard on "Requirements for the Importation of Potatoes into a NAPPO Member Country." Also, it will collaborate with the NAPPO Biotechnology Panel to contribute to the development of international standards on the plant pest risks of LMOs/products of modern biotechnology and on the environmental risks associated with plant pests. The United States will consider its position on this standard after it reviews a prepared draft.

Potato Panel: This panel will develop a standard that provides detailed criteria that would define appropriate conditions for minituber production and list the standardized diagnostic tests to be used when certifying potato shipments. The United States will consider its position on this standard after it reviews a prepared draft.

Seeds Panel: This panel will prepare a proposal to the IPPC to endorse the seed-testing methods of the International Seed Testing Association, as well as develop a list of standardized diagnostic tests to be used when certifying seed shipments. The United States will consider its position on the proposal and the list of tests after it reviews the prepared drafts.

Standards Panel: This panel is responsible for providing updates on standards in the NAPPO newsletter; coordinating the review of new and amended NAPPO standards and ensuring that comments received during the country consultation phase are incorporated as appropriate; organizing conference calls and preparing NAPPO discussion documents for possible use at the IPPC; promoting implementation of finalized NAPPO guidelines and standards; and developing a NAPPO process for implementing the recently adopted IPPC standard for the "Notification of Interceptions and Non-Compliance" within the NAPPO region.

The PPQ Deputy Administrator, as the official U.S. delegate to NAPPO, intends to participate in the adoption of those regional plant health standards, including the work described above, once they are completed and ready for such consideration.

The information in this notice includes all the information available to us on NAPPO standards currently under development or consideration. For updates on meeting times and for information on the working panels that becomes available following publication of this notice, check the NAPPO web page at <http://www.nappon.org> or contact Mr. Nancy Klag (see **FOR FURTHER INFORMATION CONTACT** above). Information on official U.S. participation in NAPPO activities,

including U.S. positions on standards being considered, may also be obtained from Mr. Klag.

Those wishing to provide comments on any of the topics being addressed by any of the NAPPO panels may do so at any time by responding to this notice (see **ADDRESSES** above) or by transmitting comments through Mr. Klag.

Done in Washington, DC, this 9th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-20692 Filed 8-16-01; 8:45 am]

BILLING CODE 3410-34-U

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Income Assistance for Grape Vine Losses Due to Pierce's Disease

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of intent to make monies available to the State of California for grower losses due to Pierce's disease.

SUMMARY: Section 203 of the Agricultural Risk Protection Act of 2000, Pub. Law 106-224, addresses losses caused to growers for losses due to Pierce's disease. As set out in this notice, it appears specifically that it was the intent of Congress that \$7 million be made available to the State of California to cover such losses in that State. In this notice, it is proposed that the payment be made to the State should the State agree to undertake the disposition of the funds to growers under such standards as the State might develop.

FOR FURTHER INFORMATION CONTACT: Sharon Biastock, telephone (202) 720-6336.

DATES: Comments on this notice must be received by September 17, 2001 to be assured of consideration.

Submit written comments to:

ADDRESSES: Sharon Biastock, Production, Emergencies and Compliance Division, Farm Service Agency (FSA), STOP 0517, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250-0540, telephone (202) 720-6336; e-mail address: sharon_biastock@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION: Section 203(e) of the Agricultural Risk Protection Act of 2000 (ARPA), Public Law No. 106-224, provided in a subsection entitled "Grower Compensation" that of amounts made available under section 261(a)(2) of that

Act \$25,000,000 should be used by the Secretary to compensate growers for losses on several specifically-named plant diseases. No particular breakdown of whom should be paid was set out in the statute, nor was a particular area identified for payments or a particular disposition specified in the statute for dividing up the funds among the eligible causes of loss. However, among the covered causes of losses covered in section 203(e) was that covered in section 203(e)(1)(C), which specified that monies could be used to pay growers for losses due to Pierce's disease, a disease that can damage vines. In this respect, the Managers report that accompanied ARPA specified that: "With respect to Pierce's disease, the Managers expect the Secretary to utilize at least \$7,140,000 in a manner that enables the California Department of Food and Agriculture to utilize such funding for state and local efforts to contain and control Pierce's disease, which is devastating agricultural areas in southern California, and is moving northward. Funds are needed immediately to monitor for the earliest signs of the diseases and to inspect nursery stock prior to shipment. The disease is spread by a vigorous and difficult to control insect called the glassy-winged sharpshooter. This insect is a major problem, but the elimination of the insect would not eliminate the disease." Some ambiguity exists in the Manager's Report because the Manager's Report referred to monies being expended for eradication efforts and the text of the law referred to payments to growers for their losses. Also of note is section 261(a)(2) of ARPA. That subsection specified that funding will be available for section 203, but it was further specified in section 262 of ARPA that funds made available under section 261(a)(2) must be obligated and expended in fiscal year 2001, which ends September 30, 2001. Further, section 804 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (2001 Appropriations Act) provides that the Secretary could use the funds of the Commodity Credit Corporation (CCC) to administer and make payment for losses not otherwise compensated to compensate growers for losses due to Pierce's disease. CCC does plan to provide for coverage of such losses generally in the crop loss program being implemented under sections 804 and 815 of the 2001 Appropriations Act and will do so for growers in all affected areas. In using the discretionary authority under section 804 CCC has

planned to treat Pierce's disease in the same manner as other losses covered by section 815, which incorporates by reference to previous disaster programs provisions for a payment limitation and a gross income test for eligibility.

In order to assure that any funds for these losses are used to compensate grape growers for vine losses it is proposed in this notice that, as set forth in the Manager's Report accompanying this provision, that \$7,140,000 be made available to the State of California for losses resulting from Pierce's disease infection spread by the Glassy-wing sharpshooter. These funds would be made available directly to the State and the State would decide how it would distribute funds among affected growers. All comments favorable or unfavorable to this disposition should be addressed to the person above by the indicated date.

By statute, the funds under section 203 must be expended by September 30, 2001. Accordingly, it does not appear feasible to do anything but make the payment to the State of California. The State would be allowed to deduct from the sums made available to growers those sums needed to administer the program. If the State was unwilling to take on the burden of disposing of the funds then the fund would go unexpended. As provided under section 804 of the 2001 Appropriations Act, any payments received by producers as a result of disbursements under section 203 of ARPA (that is, any disbursement resulting from the payment contemplated by this notice) would count against that person's eligibility under the program administered by CCC under section 804.

Signed at Washington, DC, on August 13, 2001.

James R. Little,

Acting Administrator, Farm Service Agency.

[FR Doc. 01-20843 Filed 8-15-01; 10:02 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Forest Service

Giant Sequoia National Monument Scientific Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Giant Sequoia National Monument Scientific Advisory Board (Scientific Advisory Board) will meet in Sequoia National Park, California, September 5 and 6, 2001. The purpose of the meeting is to hear comments from the public; affirm advisories drafted at

the July meeting; review issues from the Giant Sequoia National Monument planning team; and initiate discussions for developing Advisories on issues.

DATES: The meeting will be held September 5 and 6, from 8 a.m. to 5 p.m. One half-day of the meeting is reserved for a field visit to parts of Sequoia National Park and Giant Sequoia National Monument.

ADDRESSES: The meeting will be held at Wuksachi Lodge, 64720 Wuksachi Way, Sequoia National Park, California.

FOR FURTHER INFORMATION CONTACT: To receive further information, contact Arthur L. Gaffrey, 559-784-1500.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. If you are planning to attend either day, please contact Arthur L. Gaffrey to ensure adequate seating. Guidelines for the public participation portion of the Scientific Advisory Board's meeting are as follows: The public will be allowed to address the Scientific Advisory Board during the first 30 minutes of the meeting on September 5; when registering participants must provide a written copy of their presentation for inclusion in the meeting minutes; oral presentations may be no more than 5 minutes in length, depending on the number of people wishing to address the Scientific Advisory Board, priority for presentations will be given to persons who did not make a presentation at the July meeting; and all presentations must be related to the science surrounding the development of the Management Plan for the Giant Sequoia National Monument. Some members of the Scientific Advisory Board may participate in the meeting via telephone. In that event, arrangements will be made to enable the public to listen to all the members participating in the meeting.

A field visit to parts of the Sequoia National Park and Giant Sequoia National Monument is planned for part of the meeting. The field visit is also open to the public. Anyone wishing to attend the field visit must provide his or her own transportation. Carpooling is encouraged. Written comments for the Scientific Advisory Board may be submitted to Forest Supervisor Arthur L. Gaffrey, Sequoia National Forest, 900 West Grand Avenue, Porterville, California 93257.

A final agenda can be obtained by contacting Arthur L. Gaffrey or by visiting the Giant Sequoia National Monument web site at www.r5.fs.fed.us/giant_sequoia.

Dated: August 8, 2001.

Arthur L. Gaffrey,

Forest Supervisor, Sequoia National Forest.

[FR Doc. 01-20752 Filed 8-16-01; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Nutrient Budgeting Tool: Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

AGENCY: Natural Resources Conservation Service, USDA

ACTION: Announcement of availability of funds and request for applications for a Cooperative Agreement for the development of a farm nutrient budgeting tool that addresses manure, organic by-products, and commercial fertilizers.

SUMMARY: The Natural Resources Conservation Service (NRCS) announces the availability of FY 2001 funds under the Conservation Technical Assistance program. Applications are being solicited for a Cooperative Agreement to develop a farm nutrient budgeting tool that addresses manure, organic by-products, and commercial fertilizers. Funding for this agreement is authorized by Section 714 of the FY 2001 Agricultural Appropriations Act, Public Law 106-387. Animal Feeding Operations (AFO) has come under scrutiny due to the potential adverse impact AFO can have on water quality if not managed properly. AFO operators are developing nutrient management plans to address the use of commercial fertilizers, manure, and other organic by-products for crop production which minimizes adverse impact on water quality. Due to the technical complexities involved in developing nutrient management plans, a simplified approach needs to be developed that will allow AFO operators to explore science-based planning alternatives.

Eligible Applicants: States and public or non-profit agencies and organizations, including Indian Tribes and institutions of higher education.

Date Applications Available: August 9, 2001.

Deadline for Submission of Applications: August 30, 2001.

Deadline for Inter-Governmental Review: September 10, 2001.

Size of Award: \$100,000.

Project Period: Date of award through September 30, 2002.

Page Limit: Application narrative (Part III of the application) is where the

applicant addresses the selection criteria which reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 4 pages, using the following standards:

1. A page is 8.5 inches by 11 inches; one side only, with 1-inch margins at the top, bottom, and one side.
2. Use a font that is 12-point or larger, or no smaller than 10-point (characters per inch). The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. In addition to the narrative supporting information in relation to the selection criteria, which is readable, executable from a CD-ROM, or located on a web site, will be allowed. Furthermore, the information will not be counted against the four-page limitation.

An application will be rejected if Part III does not comply with the page limit restrictions or the minimum font size.

Applicable Regulations: The Department of Agriculture, Office of the Chief Financial Officer, regulations in 7 CFR parts 3015, 3019, and 3052.

Selection Criteria: In evaluating an application for an award, NRCS will take into account the degree to which the proposal addresses:

1. The development of nitrogen, phosphorus, and potassium nutrient budgets at the farm level for manure, organic by-products and commercial fertilizers; land grant university fertilizer requirements; and determination of manure nutrients generated on-farm for each major animal sector. (40)

2. The functionality, ease of use, and the comprehensiveness of documentation provided by the proposed tool. (40)

3. The qualifications, knowledge, and experience of individuals identified in the proposal as they relate to nutrient management and science-based tool development; and the capability of proposed staffing to complete the proposal within the period of the cooperative agreement.

The maximum score for all the above criteria is 100 points.

NRCS reserves the right to negotiate with the Project Director and/or the submitting entity regarding project revisions (e.g. reductions in scope of work), funding level, or period of support prior to award. A proposal may be withdrawn at anytime before a final funding decision is made. A copy of each proposal that is not selected for funding (including those that are

withdrawn) will be retained by NRCS for one year.

Programmatic Contact: For additional information on the program, please contact: Mr. Dan Meyer, Department of Agriculture, Natural Resources Conservation Service at (301) 504-2226 or by e-mail at dan.meyer@usda.gov.

For Applications Contact: Sheila Leonard, Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Room 5220 South Building, Washington, D.C. 20013-2890. Telephone: (202) 720-2604, FAX: (202) 720-7149.

To file a complaint of discrimination to USDA, write USDA Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410, or call (202) 720-5964 (voice and TDD).

USDA is an equal opportunity provider and employer.

Signed in Washington, D.C., on August 10, 2001.

Pearlie S. Reed,

Chief, Natural Resource Conservation Service.

[FR Doc. 01-20828 Filed 8-16-01; 8:45 am]

BILLING CODE 3410-16-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

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

ACTION: Proposed additions to and deletion from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodity previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 17, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on

the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each commodity or service will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

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

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

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

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

"Cusheeze" Pencil Grips, Foam Rubber

7510-01-383-7680
NPA: West Texas Lighthouse for the Blind,
San Angelo, Texas

Government Agency: GSA/Office Supplies
and Paper Products Commodity Center.

EcoLab Water Soluble Cleaners/Detergents

7930-00-NIB-0134
7930-00-NIB-0135
7930-00-NIB-0136
7930-00-NIB-0137
7930-00-NIB-0138
7930-01-380-6404
7930-01-418-1102
7930-01-418-1104
7930-01-436-8012
NPA: Association for the Blind & Visually
Impaired & Goodwill Industries of
Greater Rochester, Rochester, New York
Government Agency: GSA/General
Products Commodity Center.

Trunklocker, Wood

8460-00-NSH-0003
NPA: Walterboro Vocational Rehabilitation
Center, Walterboro, South Carolina
Government Agency: Marine Corps Recruit
Depot/Eastern Recruiting Region.

Mop, Flat, w/Scrubber

M.R. 1045
NPA: New York City Industries for the Blind,
Brooklyn, New York
Government Agency: Defense Commissary
Agency.

Chopsticks

M.R. 1757
NPA: New Jersey Association for the Deaf-
Blind, Inc, Somerset, New Jersey
Government Agency: Defense Commissary
Agency.

Services

Family Housing Maintenance

Naval Base, Ventura County, California
NPA: PRIDE Industries, Roseville, California
Government Agency: Department of the
Navy, Facilities Support Contract Office.

Janitorial/Custodial, El Centro Toilet Cleaning

Bureau of Land Management, Imperial
County, California
NPA: Yuma WORC Center, Inc., Yuma,
Arizona
Government Agency: Bureau of Land
Management, Denver.

Remanufactured Wood Trunklockers

Marine Corps Recruit Depot, Eastern
Recruiting Region, Parris Island, South
Carolina
NPA: Walterboro Vocational Rehabilitation
Center, Walterboro, South Carolina
Government Agency: Marine Corps Recruit
Depot/Eastern Recruiting Region.

Deletion

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

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

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

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

The following commodity is proposed for deletion from the Procurement List:

Commodity

Lancet, Finger Bleeding
6515-01-135-8497

6515-01-225-4757

Sheryl D. Kennerly,
Director, Information Management.
[FR Doc. 01-20813 Filed 8-16-01; 8:45 am]
BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

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

ACTION: Additions to the Procurement
List.

SUMMARY: This action adds to the
Procurement List services to be
furnished by nonprofit agencies
employing persons who are blind or
have other severe disabilities.

EFFECTIVE DATE: September 17, 2001.

ADDRESSES: Committee for Purchase
From People Who Are Blind or Severely
Disabled, Jefferson Plaza 2, Suite 10800,
1421 Jefferson Davis Highway,
Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT:
Louis R. Bartalot (703) 603-7740.

SUPPLEMENTARY INFORMATION: On June
15 and June 29, 2001, the Committee for
Purchase From People Who Are Blind
or Severely Disabled published notices
(66 FR 32598 and 34612) of proposed
additions to the Procurement List.

After consideration of the material
presented to it concerning capability of
qualified nonprofit agencies to provide
the services and impact of the additions
on the current or most recent
contractors, the Committee has
determined that the services listed
below are suitable for procurement by
the Federal Government under 41 U.S.C.
46—48c and 41 CFR 51-2.4. I certify that
the following action will not have a
significant impact on a substantial
number of small entities. The major
factors considered for this certification
were:

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

2. The action will not have a severe
economic impact on current contractors
for the services.

3. The action will result in
authorizing small entities to furnish the
services to the Government.

4. There are no known regulatory
alternatives which would accomplish
the objectives of the Javits-Wagner-

O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

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

Services:

Administrative Services

Social Security Administration, Sam Nunn
Federal Building, Atlanta, Georgia

Janitorial/Custodial

VA Medical Center—Outbuildings #2, 3, 4, 5,
6, 7, 12, 19 and T2, Louisville, Kentucky

Janitorial/Custodial

U.S. Army Reserve Center, Auburn, Maine

Janitorial/Custodial

U.S. Army Reserve Center, Lewiston, Maine

Janitorial/Custodial

Aberdeen Proving Ground, Building 4600,
Aberdeen, Maryland

Janitorial/Custodial

U.S. Department of Agriculture, the Animal
and Plant Health Inspection Service,
Gulfport, Mississippi

Warehousing

U.S. Army Logistics Management College
(ALMC), Fort Lee, Virginia

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–20812 Filed 8–16–01; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Nebraska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on August 24, 2001, at the Doubletree Hotel, 1616 Dodge, Omaha, Nebraska 68102. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 13, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–20837 Filed 8–16–01; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–866]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Folding Gift Boxes From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended preliminary antidumping duty determination of sales at less than fair value and postponement of final determination: certain folding gift boxes from the People's Republic of China.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT:

Thomas Schauer or George Callen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0410 and (202) 482–0180, 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 (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the provisions codified at 19 CFR part 351 (2000).

Significant Ministerial Error

The Department of Commerce (the Department) is amending the preliminary determination of sales at less than fair value in the antidumping duty investigation of certain folding gift boxes from the People's Republic of China (PRC) to reflect the correction of significant ministerial errors made in the margin calculations regarding Max Fortune Industrial Ltd. (Max Fortune) and Red Point Paper Products Co., Ltd.

(Red Point), in that determination, pursuant to 19 CFR 351.224(g)(1) and (g)(2). A ministerial error is defined as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial. See 19 CFR 351.224(f). A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa. See 19 CFR 351.224(g). We are publishing this amendment to the preliminary determination pursuant to 19 CFR 351.224(e). As a result of this amended preliminary determination, we have revised the antidumping rates for two respondents, Max Fortune and Red Point.

Scope of Investigation

The products covered by this investigation are certain folding gift boxes. Certain folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. Certain folding gift boxes are produced from a variety of recycled and virgin paper or paperboard materials, including, but not limited to, clay-coated paper or paperboard and kraft (bleached or unbleached) paper or paperboard. The scope of the investigation excludes gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. The scope of the investigation also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length.

Certain folding gift boxes are typically decorated with a holiday motif using various processes, including printing, embossing, debossing, and foil stamping, but may also be plain white or printed with a single color. The subject merchandise includes certain folding gift boxes, with or without handles, whether finished or unfinished, and whether in one-piece or multi-piece configuration. One-piece gift boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece gift boxes are those with a

folded bottom and a folded top as separate pieces. Certain folding gift boxes are generally packaged in shrink-wrap, cellophane, or other packaging materials, in single or multi-box packs for sale to the retail customer. The scope of the investigation excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as "not-for-resale" gift boxes or "give-away" gift boxes and may be provided by department and specialty stores at no charge to their retail customers). The scope of the investigation also excludes folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard.

Imports of the subject merchandise are classified under *Harmonized Tariff Schedules of the United States* (HTSUS) subheadings 4819.20.00.40 and 4819.50.40.60. These subheadings also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Ministerial Error Allegation

On July 30, 2001, the Department issued its affirmative preliminary determination in this proceeding. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 40973 (August 6, 2001) (*Preliminary Determination*). Two respondent manufacturers/exporters, Max Fortune and Red Point, are participating in this investigation.

On August 6, 2001, the Department received timely allegations of ministerial errors in the *Preliminary Determination* from Red Point and Max Fortune. Red Point alleged that the Department inadvertently used the value for ink in place of the value for shrink wrap in its margin calculation for Red Point. See letter from Red Point alleging ministerial errors in the *Preliminary Determination* (August 6, 2001). Max Fortune alleged two ministerial errors: (1) The Department used an incorrect unit cost for declaration fees by converting the cost to a per-piece basis as if it had been reported on a per-kilogram basis rather than on a per-set basis, and (2) the Department did not convert either seaport fees or documentation fees from Hong Kong dollars to U.S. dollars. See letter from Max Fortune alleging

ministerial errors in the *Preliminary Determination* (August 6, 2001).

The Department has reviewed its preliminary calculations and agrees that the errors which Red Point and Max Fortune alleged are ministerial errors do constitute ministerial errors within the meaning of 19 CFR 351.224(f). Furthermore, we determine these are ministerial errors which rise to the level of "significant errors" pursuant to 19 CFR 351.224(g)(1) and (g)(2), and we are amending the *Preliminary Determination* to reflect the correction of these significant ministerial errors made in the margin calculations for Max Fortune and Red Point in that determination, pursuant to 19 CFR 351.224(e). See the Red Point Amended Preliminary Calculation Memorandum dated August 7, 2001, and the Max Fortune Amended Preliminary Calculation Memorandum dated August 7, 2001.

The collection of bonds or cash deposits and suspension of liquidation will be revised accordingly and parties will be notified of this determination, in accordance with section 733(d) and (f) of the Act.

Amended Preliminary Determination

As a result of our correction of ministerial errors, we have determined that the following weighted-average dumping margins apply. In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from the PRC, except for subject merchandise produced and exported by Max Fortune (which has a *de minimis* weighted-average margin), that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or constructed export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

Exporter/manufacturer	Weighted-average percent margin
Red Point Paper Products Co., Ltd	19.96
Max Fortune Industrial Ltd	0.39
PRC-wide rate	164.75

The PRC-wide rate has not been amended, and applies to all entries of the subject merchandise except for

entries from exporters/producers that are identified individually above.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2)(A) of the Act provides that a final determination may be postponed until not later than 135 days after the publication of the preliminary determination if, in the event of an affirmative determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On August 8, 2001, Red Point requested that the Department postpone its final determination until November 12, 2001 (which is not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**), and requested an extension of the provisional measures. In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the respondent requesting the postponement accounts for a significant proportion of exports of the subject merchandise (see Memorandum from Laurie Parkhill to Richard W. Moreland dated May 1, 2001), and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination. Because November 12, 2001, is a federal holiday, we are postponing the final determination until November 13, 2001. Suspension of liquidation will be extended accordingly.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our amended preliminary determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of the preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

Because of the aforementioned postponement of the final

determination, case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than October 2, 2001, and rebuttal briefs, limited to issues raised in case briefs, no later than October 9, 2001. See 19 CFR 351.309(c)(1)(i) and (d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held on October 12, 2001, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, September 5, 2001 (within 30 days of the date of publication of the *Preliminary Determination*). See 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c).

If this investigation proceeds normally, we will make our final determination no later than November 13, 2001.

This determination is issued and published in accordance with sections 733(f), 735(a)(2), and 777(i)(1) of the Act and 19 CFR 351.210(b)(2).

Dated: August 13, 2001.

Bernard T. Carreau,
Acting Assistant Secretary for Import Administration.

[FR Doc. 01-20835 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-001]

Potassium Permanganate From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of antidumping new shipper review.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT: John Conniff at (202) 482-1009 or Chris Brady at (202) 482-4406, Office of AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2001).

Background

On January 30, 2001, the Department received a request from Groupstars Chemical, Co., Ltd., to conduct a new shipper review of the antidumping order on potassium permanganate from the People's Republic of China. On March 8, 2001, the Department published its initiation of this new shipper review covering the period of January 1, 2000, through December 31, 2000 (66 FR 13895). The preliminary results are currently due no later than August 27, 2001.

Extension of Time Limit for Preliminary Results of Review

Section 351.214(i)(1) of the Department's regulations requires the Department to make a preliminary determination within 180 days after the date on which the new shipper review was initiated. However, if the Secretary concludes that a new shipper review is extraordinarily complicated, under § 351.214(i)(2) of the Department's

regulations the Secretary may extend the 180-day period to 300 days.

Due to the issue discussed in the memorandum to Bernard T. Carreau, we have determined that this new shipper review is extraordinarily complicated. Therefore, the Department is extending the time limit for completion of the preliminary results until no later than December 25, 2001. See Memorandum from Holly A. Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B-099 of the main Commerce building.

This extension is in accordance with section 751(a)(2)(B)(iv) of the Act and § 351.214(i)(2) of the Department's regulations.

Dated: August 13, 2001.

Bernard T. Carreau,
Deputy Assistant Secretary for Import Administration.

[FR Doc. 01-20834 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-825]

Stainless Steel Sheet and Strip in Coils From Germany; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances review of the antidumping duty order, and intent to revoke order in part.

SUMMARY: In accordance with 19 CFR 351.225(c), Sensormatic Electronics Corporation (Sensormatic) filed a request for a clarification of the scope of the antidumping duty order on certain stainless steel sheet and strip in coils from Germany with respect to the specialty stainless steel strip product described in the "Scope of Changed Circumstances Review" section, below. Alternatively, Sensormatic requested the Department conduct a changed circumstances review of the antidumping duty order and revoke the order with regard to the specific product at issue, in accordance with 19 CFR 351.216(b). Domestic producers of the like product have expressed no interest in continuation of the order with respect to this particular stainless steel product.

In response to Sensormatic's request, the Department of Commerce (the

Department) is initiating a changed circumstances review with respect to this request and issuing a notice of intent to revoke in part the antidumping duty order on certain stainless steel sheet and strip in coils from Germany. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT:

Robert M. James, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0649.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Tariff Act), by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 351 (2000).

Background

The Department published the antidumping duty order on stainless steel sheet and strip in coils from Germany on July 27, 1999. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 64 FR 40557. On May 18, 2001, Sensormatic requested that the Department determine that a specialty stainless steel strip product known as "SemiVac 90" is outside the scope of the antidumping duty order on stainless steel sheet and strip in coils from Germany; in the alternative, Sensormatic requested that the Department revoke in part the antidumping duty order on stainless steel sheet and strip in coils from Germany on the basis of "changed circumstances." Sensormatic described SemiVac 90 stainless steel as a "magnet iron-chromium-cobalt alloy stainless steel strip" which is used to bias the resonator in anti-theft labels. Sensormatic likened its SemiVac 90 to "Arnokrome III," a product specifically excluded from the scope of the order, which is reproduced in the "Scope of the Order" section, below. *See Letter from Sandler, Travis & Rosenberg, P.A.*, May 18, 2001, at 2 and 4.

On July 5, 2001, domestic producers of the like product (Allegheny Ludlum Corporation, Armco, Inc., J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corporation, United

Steelworkers of America, AFL-CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization) informed the Department that, consistent with the position stated during the less-than-fair-value investigation, they have no objection to Sensormatic's request.

Scope of the Order

The products covered by this order are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the scope of this order is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat

treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See Chapter 72 of the HTS, "Additional U.S. Note" 1(d).*

Flapper valve steel is also excluded from the scope of the order. This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The

steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless steel strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."¹

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."²

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as

high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."³

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).⁴ This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6."⁵

Scope of Changed Circumstances Review

The product subject to this changed circumstances antidumping duty administrative review is a permanent magnet iron-chromium-cobalt stainless steel strip containing, by weight, 13 percent chromium, 6 percent cobalt, 71

percent iron, 6 percent nickel and 4 percent molybdenum. The product is supplied in widths up to 1.27 cm (12.7 mm), inclusive, with a thickness between 45 and 75 microns, inclusive. This product exhibits magnetic remanence between 400 and 780 nWb, and coercivity of between 60 and 100 oersteds. This product is currently supplied under the trade name "SemiVac 90."

Initiation of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

Pursuant to sections 751(d)(1) and 782(h)(2) of the Tariff Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Tariff Act (*i.e.*, a changed circumstances review) where the Department determines that producers accounting for substantially all of the production of that domestic like product have expressed a lack of interest in continuance of an order. Section 751(b)(1) of the Tariff Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances administrative review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it determines that producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or if other changed circumstances sufficient to warrant revocation exist. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

In accordance with sections 751(d)(1) and 782(h)(2) of the Tariff Act, and 19 CFR 351.216 and 351.222(g), domestic producers of the like product, Allegheny Ludlum Corporation, Armco, Inc., J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corporation, United Steelworkers of America, AFL-CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization, have made affirmative statements that no further interest exists in continuing the order with respect to the permanent magnet iron-chromium-cobalt stainless steel strip product known as SemiVac 90 described above (*see* petitioners' July

¹ "Arnokrome III" is a trademark of the Arnold Engineering Company.

² "Gilphy 36" is a trademark of Imphy, S.A.

³ "Durphynox 17" is a trademark of Imphy, S.A.

⁴ This list of uses is illustrative and provided for descriptive purposes only.

⁵ "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals Armerica, Ltd.

5, 2001 letter to the Department). Accordingly, we are initiating this changed circumstances administrative review. Furthermore, because petitioners have expressed a lack of interest, we determine expedited action is warranted, and we preliminarily determine that continued application of the order with respect to the specific stainless steel strip product at issue is no longer of interest to domestic interested parties. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results.

Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping duty order with respect to imports of the specialty magnet stainless steel strip product from Germany, currently supplied as SemiVac 90, meeting the specifications outlined above.

If the final revocation in part occurs, we intend to instruct the U.S. Customs Service to liquidate without regard to antidumping duties, as applicable, and to refund any estimated antidumping duties collected for all unliquidated entries of certain stainless steel strip products meeting the specifications indicated above, not subject to final results of administrative review as of the date of publication in the **Federal Register** of the final results of this changed circumstances review, in accordance with 19 CFR 351.222(g)(4). We will also instruct the Customs Service to pay interest on such refunds in accordance with section 778 of the Tariff Act. The current requirement for a cash deposit of estimated antidumping duties on certain stainless steel strip products meeting the above specifications will continue unless and until we publish a final determination to revoke in part.

Public Comment

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (i) a statement of the issue, and (ii) a brief summary of the argument. Parties to the proceedings may request a hearing within 14 days of publication of this notice. Any hearing, if requested, will be held no later than two days after the deadline for the submission of rebuttal briefs, or the first workday thereafter. Case briefs may be submitted by interested parties not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not

later than five days after the deadline for submission of case briefs. All written comments shall be submitted in accordance with 19 CFR 351.303 and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing.

The Department intends to publish in the **Federal Register** the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments, no later than 45 days after the date of publication of this notice. See 19 CFR 351.216(e).

This notice is published in accordance with section 751(b)(1) of the Tariff Act and 19 CFR 351.216 and 351.222.

Dated: August 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01-20836 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(C-122-839)

Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary affirmative countervailing duty determination and preliminary affirmative critical circumstances determination.

SUMMARY: *Preliminary Determination:* The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain softwood lumber products (subject merchandise) from Canada. For information on the estimated countervailing duty rate, please see the "Suspension of Liquidation" section of this notice. For information on critical circumstances, see the "Critical Circumstances" section of this notice.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds at (202) 482-6071 or Stephanie Moore (202) 482-3692, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by the Coalition for Fair Lumber Imports Executive Committee, the United Brotherhood of Carpenters and Joiners, and the Paper, Allied-Industrial, Chemical and Energy Workers International Union. The Coalition for Fair Lumber Imports Executive Committee is comprised of Hood Industries, International Paper Company, Moose River Lumber Company, New South Incorporated, Plum Creek Timber Company, Polatch Corporation, Seneca Sawmill Company, Shearer Lumber Products, Shuqualak Lumber Company, Sierra Pacific Industries, Swift Lumber Incorporated, Temple-Inland Forest Products, and Tolleson Lumber Company, Incorporated. On April 20, 2001, the petition was amended to include the following four companies individually as petitioners: Moose River Lumber Co., Shearer Lumber Products, Shuqualak Lumber Co. and Tolleson Lumber Co., Inc. These parties are collectively referred to as the petitioners.

Case History

Since the publication of the notice of initiation in the **Federal Register** (see *Notice of Initiation of Countervailing Duty Investigation: Certain Softwood Lumber Products from Canada*, 66 FR 21332 (April 30, 2001) (*Initiation Notice*)), the following events have occurred: On May 1, 2001, we issued countervailing duty questionnaires to the Government of Canada (GOC).¹ On June 28, 2001, we received questionnaire responses from the GOC and from the Provincial Governments of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan. We also received responses from the Northwest Territories and the Yukon Territory. On July 23, 2001, we issued supplemental questionnaires to the GOC and to the provincial governments. On August 6, 2001, we received supplemental

¹ Upon the issuance of the questionnaire, we informed the Government of Canada that it was the government's responsibility to forward the questionnaires to each of the provinces and territories.

questionnaire responses from the GOC and the provincial governments.

On May 10, 2001, the Natural Resources Defense Council, the Defenders of Wildlife, the Northwest Ecosystem Alliance, along with the Grand Council of the Cree and the Interior Alliance, submitted new subsidy allegations. Supplementary information on these allegations was filed on June 1, 2001, and on June 15, 2001, the Nishnawbe Aski Nation submitted an additional subsidy allegation.² Based upon the information on the record, we have decided not to initiate investigations of these allegations. See August 9, 2001, Memorandum to Melissa G. Skinner from Team on New Subsidy Allegations, which is on public file in the Central Records Unit (CRU), Room B-099, of the Department of Commerce.

On June 5, 2001, petitioners also submitted additional subsidy allegations. Based upon the information on the record, we have decided to initiate investigations on only certain of the new subsidy allegations made by petitioners. See *id.*

On June 5, 2001, we issued a partial extension of the due date for this preliminary determination from June 27, 2001 to July 27, 2001. See *Certain Softwood Lumber Products From Canada: Extension of Time Limit for Preliminary Determination in Countervailing Duty Investigation, (Extension Notice)* 66 FR 31617 (June 12, 2001).

On July 23, 2001, we extended the due date of this preliminary determination by an additional 13 days to August 9, 2001. See *Certain Softwood Lumber Products From Canada: Extension of Time Limit for Preliminary Determination in Countervailing Duty Investigation*, 66 FR 39146 (July 27, 2001).

On July 27, 2001, we amended our *Initiation Notice*, to exempt certain softwood lumber products from the Provinces of New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland (the Maritime Provinces) from this investigation. This exemption does not apply to softwood lumber products produced in the Maritime Provinces from Crown timber harvested in any other Province. See *Amendment to the Notice of Initiation of*

Countervailing Duty Investigation: Certain Softwood Lumber Products from Canada, 66 FR 40228 (August 2, 2001).

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the CVD regulations are to the regulations codified at 19 CFR part 351 (2001).

Scope of the Investigation

The products covered by this investigation are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Issues

In the *Initiation Notice*, we invited all interested parties to raise issues and comment regarding the product coverage under the scope of this

investigation. We received numerous comments, including scope clarification requests, scope exclusion requests, and requests for determinations of separate classes or kinds. The requests covered approximately 50 products, ranging from species, like Western red cedar and Douglas fir, to fencing products, bed frame components, pallet stock, and joinery and carpentry products.

In our review of the comments, we found that certain products, raised by several respondents, are acknowledged by petitioners as being outside the scope of the investigation. Those products fall into the following two groups:

A. Products made of lumber, but in which the lumber has been processed into another product, and are classified as such in the HTSUS:

1. Trusses;
2. I-Joist beams;
3. Pallets;
4. Fence pickets;
5. Bed frames;
6. Garage doors;
7. Large edge-glued lumber panels, used in furniture or door manufacturing, classified under HTSUS item 4421;
8. Properly classified complete door frames;
9. Properly classified complete window frames;
10. Properly classified furniture.

B. Products that are outside the scope, but only if they meet certain requirements:

1. *Truss kits*: If they constitute a full package of the exact number of pieces necessary to create a truss of a specified length and height. The kit must contain all of the pieces of the truss, cut with the appropriate angles, as well as all the necessary metal and wood scabs, so that the only thing that is needed is actual assembly. Such kits will also be packaged together and conform to a particular design or plan

2. *Unassembled pallet kits*: If they include the exact number of pieces for a complete pallet, bundled together. A kit will not include any pieces over 48" in length, the decking will be 1" or less in nominal thickness, and the three pieces of dimension lumber used for runner or "stringers" (which are 2" in nominal thickness) must already have the large notches which are used by a fork lift to lift a pallet (each notch is 1½" deep by 8" wide).

3. *"Stringers"* (pallet components used for runners) if they are no longer than 48" and have precut notches for the fork lift, each notch is 1½" deep and 8" wide.

4. *Bed frame kits*: If all the pieces required to make the bed frame are packaged together and no further processing is required, with none of the

²None of these parties qualify as an interested party pursuant to section 771(9) of the Act. However, the Natural Resources Defense Council, Defenders of Wildlife, and the Northwest Ecosystem Alliance can be considered consumer organizations under section 777(h) of the Act. The Grand Council of the Cree, the Interior Alliance, and the Nishnawbe Aski Nation do not qualify as consumer organizations under section 777(h) of the Act.

components exceeding 1" in nominal thickness or 83" in length.

5. *Radius-cut bed frame components*, not exceeding 1" in nominal thickness or 83" in length.

6. *Dog-eared fence pickets*, no more than 1" thick (nor more than 4" wide), 6 feet or less in length. The dog-ear cut measures at least 3/4".

We have preliminarily determined that the products listed in groups (A) and (B) above are outside the scope of this investigation. With regard to all other products, we have determined that, because of the large number of requests, the even larger number of products, and, in some instances, deficiencies in the information currently on the record, it is not practicable for the Department to complete the analysis of each request by the issuance of the notice of preliminary determination. Therefore, we have requested additional information. (See August 9, 2001, Memorandum to Bernard T. Carreau from Maria MacKay on Requests for Scope Exclusions in the Antidumping and Countervailing Duty Investigations on Softwood Lumber from Canada, which is on public file in the CRU.)

Exclusions

In our notice of initiation, we asked for comments on a system to process the expected large number of exclusion requests. This request had the purpose of ensuring that the Department had the opportunity to process the highest number of requests, but did not in any way imply that companies could not submit a request for exclusion in accordance with the CVD Regulations, at any time prior to the preliminary determination.

We received comments from respondents and petitioners. The GOC proposed a system of streamlined procedures. Under this system, applications for exclusion would be pre-approved by the GOC and submitted to the Department grouped into categories with identical relevant facts, accompanied by a set of government certifications. The Department could then consider the criteria and the process for categorizing the companies to determine whether the group as a whole should be excluded. On the other side, petitioners argued that the Department does not have the authority under the URAA to grant exclusions in an aggregate case. The petitioners also emphasized that, should the Department decide to entertain company exclusion requests, (1) the required certifications must categorically indicate freedom from subsidization of the requester, its affiliates, and, if the requester is not a lumber producer, its lumber suppliers;

and (2) the Department must have verified that the excluded company's output is free from subsidization. In addition, petitioners argued that the production/sales of any excluded company must be removed from the denominator before calculating a country-wide rate. Respondents argued to the contrary that the statute requires the country-wide rate to be based on "industry-wide" data.

On July 27, 2001, the Department amended its initiation and exempted the Maritimes from investigation, a decision which affected hundreds of Canadian lumber producers. See 66 FR 40228, August 2, 2001. After exempting the Maritime Provinces from the investigation, the Department notified the GOC that its proposal with respect to non-Maritime Provinces would somewhat facilitate the task of reviewing numerous company-specific exclusion requests, but requested that the applications include all certifications required in section 351.204 of the CVD Regulations. The deadline for the submission of the requests for consideration in the final determination is August 31, 2001; however, the Department also provided a deadline for submission of applications which the Department would make every effort to consider before the issuance of its preliminary determination (see August 1, 2001, Memorandum to Bernard T. Carreau from Melissa G. Skinner on Requests for Exclusion of Individual Companies from the Countervailing Duty Investigation on Softwood Lumber from Canada and Letter from Bernard T. Carreau to Paul Bailey, Embassy of Canada, re: Countervailing Duty Investigation: Certain Softwood Lumber from Canada, which are on public file in the CRU.)

On August 8, 2001, the GOC submitted 95 company-specific applications for exclusion. The applications are grouped under six headings: two cover 78 independent remanufacturers, three cover 13 lumber producers, purchasing logs at arm's length, from private lands, or from U.S. suppliers, and the last group covers 4 companies asking for exclusion based on receipt of *de minimis* subsidies.

While the original intent of the GOC was to make it possible for the Department to review the criteria on a group-wide basis, rather than by individual applications, we found that this approach would not allow for a thorough analysis of this submission primarily for two reasons: (1) Within the groups there were underlying issues requiring specific information that was not provided (for instance, a number of companies within all groups indicated

that they had affiliates, and yet certifications were not provided in most instances for those companies); and (2) we found inaccuracies in the documentation submitted (for instance, company certifications that did not cover the entire period of investigation and government certifications not covering all the programs under investigation). Therefore, the analysis required an examination of each individual request.

Because of the time constraints, we focused on the groups that were the most manageable. We looked at the applications of the lumber mills that purchased logs in arm's-length transactions, from private lands, and that used U.S. origin logs only. We found only one company, Frontier Lumber, that meets the requirements for exclusion. For all other applications, either the requester had affiliated companies for which proper certification was not provided, or the requester did not specifically indicate whether or not it had operated as a non-producing exporter during the period of investigation, or the company certification was incomplete. A complete analysis of the requests is provided in the August 9, 2001 Memorandum to Bernard T. Carreau from Maria MacKay and Gayle Longest on Company Exclusion Requests in the Countervailing Duty Investigation on Softwood Lumber from Canada, which is on public file in the CRU.

Those companies included in the August 8, 2001, request that were not preliminarily excluded from the investigation as a result of today's preliminary determination, as well as any additional companies that will have submitted proper exclusion requests before the August 31, 2001, deadline will be given the opportunity to address deficiencies in their request to determine whether they should be excluded in the final determination. We intend to continue working closely with both the individual requesters and the GOC on this issue as the investigation proceeds.

Injury Test

Because Canada is a "Subsidies Agreement country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Canada materially injure or threaten material injury to a U.S. industry. On May 23, 2001, the ITC's preliminary determination finding that there is a reasonable indication that an industry in the United States is being threatened with material injury by reason of

imports from Canada of subject merchandise was published in the **Federal Register**. See 66 FR 28541.

Alignment With Final Antidumping Duty Determination

On August 8, 2001, petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the antidumping duty investigation of certain softwood lumber products from Canada.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is April 1, 2000, through March 31, 2001, which is the most recently completed fiscal year of the GOC.

Critical Circumstances

The petition contains allegations of critical circumstances, as defined by section 703(e) of the Act, with respect to imports of certain softwood lumber products from Canada. See *Petitions for Antidumping and Countervailing Duties: Certain Softwood Lumber Products from Canada*, Case Nos. A-122-838 & C-122-839 at Vol. IA I-50 to I-57 (April 2, 2001).³ On June 28, 2001, July 17, 2001, and August 7, 2001, the petitioners provided the Department with additional submissions supporting those allegations. See Letters from Dewey Ballantine LLP to the Secretary dated June 28, 2001, July 17, 2001, and August 7, 2001.

In a submission dated July 27, 2001, respondents argued that the statutory prerequisites for the Department to make a critical circumstances determination are not present. The respondents contend, among other things, that: (i) There are no subsidies inconsistent with the Subsidies Agreement; (ii) the alleged Ontario program was terminated in 1995; (iii) the alleged programs are not specific; (iv) any benefit that could be calculated for the alleged Quebec programs would be *de minimis*; and (v) there has been no surge in imports. See Letter from Weil

Gotshal Manges LLP to the Secretary dated July 27, 2001.⁴

In accordance with 19 CFR 351.206(c)(2)(i), because the petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination.

Section 703(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether there is a reasonable basis to believe or suspect that:

(A) The alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and

(B) There have been massive imports of the subject merchandise over a relatively short period.

The purpose of the critical circumstances provisions is to ensure that massive imports following the filing of a petition do not “undermine seriously the remedial effect of the countervailing duty order to be issued * * *”. See section 705(b)(4)(A)(i) of the Act; see also, Statement of Administrative Action (SAA) at 877 (“Critical circumstances determinations focus on whether an order’s effectiveness is undermined by increasing shipments prior to the effective date of the order”). Thus, where critical circumstances exist, to preserve the remedial effect of the order, the statute provides for the extension of the provisional measures period to cover imports prior to the preliminary determination.

The purpose of the Department’s preliminary critical circumstances determination is to preserve the possibility of this retroactive relief where there is reasonable cause to believe or suspect that such relief may be warranted by taking the limited step of suspending liquidation of entries during the period ninety days prior to the preliminary determination. Section 703(e)(2) of the Act and 19 CFR 351.206(a). The Department’s analysis is limited to the two factors set forth in

section 703(e)(1). For purposes of a final determination whether retroactive relief is warranted, other factors are considered by the ITC in its final determination. See section 705(b)(4)(A)(ii) of the Act.

We note that the focus of the first statutory criterion is the nature of the alleged countervailable subsidy, *i.e.*, whether the alleged countervailable subsidy is one that is inconsistent with the Subsidies Agreement. This investigation includes two programs alleged to be prohibited export subsidies: (1) The Development Corporations of the Government of Ontario Export Support Loan; and (2) Export Assistance from Investissement Quebec (previously Export Assistance from the Societe de Developpement Industriel du Quebec). See *Notice of Initiation*, 66 FR at 21333–34.⁵ As discussed below in the analysis of the subsidy programs, the Department has preliminarily determined that Export Assistance from Investissement Quebec is a countervailable export subsidy. There is no question that export subsidies are inconsistent with the Agreement. Therefore, this prong of the statute is satisfied.

Although respondents do not contest that export subsidies are inconsistent with the Agreement, they argue that an affirmative preliminary determination of critical circumstances requires that the benefit from such programs be above *de minimis*. We note, however, that section 703(e)(A) refers only to an alleged countervailable subsidy inconsistent with the Subsidies Agreement. Section 771(5) of the Act defines a “countervailable subsidy” as a financial contribution by the government that confers a benefit and is specific. The level of the benefit provided is not part of that definition. Moreover, even if the benefit to the subject merchandise from a particular subsidy program is *de minimis*, that benefit is countervailed if the overall subsidy rate is above *de minimis*. Thus, whether a particular program meets the definition of countervailable subsidy and the level of the benefit provided are two separate issues, only the first of which must be addressed in the preliminary determination on critical circumstances. Therefore, under a plain reading of the statute, a preliminary determination that an alleged subsidy inconsistent with the Agreement has provided a *de minimis*

³ For the scope of the products covered by this investigation, see *Initiation Notice* 66 FR 21332; *Amendment to the Notice of Initiation of Countervailing Duty Investigation: Certain Softwood Lumber Products From Canada*, 66 FR 40228 (August 2, 2001).

⁴ On July 26, 2001, West Frazier Mills Ltd. requested that the Department make a company-specific critical circumstances determination. As stated the *Initiation Notice*, we are conducting this investigation on an aggregate basis in accordance with section 777A(e)(2)(B) of the Act and thus, did not request company specific information relating to critical circumstances. Our critical circumstances determination is based upon aggregate data. As it is not practicable for the Department to investigate every lumber company in Canada, it is not practicable for the Department to make company-specific critical circumstance determinations.

⁵ Although originally listed as two separate programs, evidence placed on the record indicates that these two programs have been combined into a single export subsidy program administered through Investissement Quebec. See GOC Questionnaire Response, SDI/IQ Narrative at 5 (June 28, 2001).

benefit to the subject merchandise does not preclude an affirmative preliminary determination of critical circumstances.

The Department has examined critical circumstances in only two other preliminary CVD determinations under the current Act.⁶ In both cases, the overall preliminary determination was negative; therefore, there was no basis to impose any provisional measures. See *Preliminary Negative Countervailing Duty Determination: Certain Laminated Hardwood Trailer Flooring From Canada*, 61 FR 59079, 59085 (November 20, 1996); *Preliminary Negative Countervailing Duty Determination: Elastic Rubber from India*, 63 FR 67457, 67458 (December 7, 1998).

The cases relied upon by respondents pre-date the URAA, which amended the critical circumstances provisions and included, for the first time, the definition of a countervailable subsidy discussed above. The Department believes that the approach taken in the pre-URAA cases would represent an inappropriate interpretation of the current statute. To follow the approach taken in that line of cases, we would have to go beyond the definition of countervailable subsidy and read into the current preliminary critical circumstances provisions a requirement that could frustrate the purpose of preserving the possibility of retroactive relief through the limited step of suspending liquidation pending the outcome of the full investigation.

In accordance with the statute and regulations, subsequent to the issuance of our preliminary determination, we will have an opportunity to verify the information concerning these subsidy programs and the parties will have an opportunity to present written briefs and have a public hearing to further examine the issue of critical circumstances. However, at this preliminary stage, based upon the available information, the Department has a reasonable basis to believe or suspect that there are alleged countervailable subsidies inconsistent with the Subsidies Agreement. Therefore, the first prong of section 703(e)(1) of the Act is satisfied.

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 703(e)(1)(B) of the Act, the Department normally compares the import volume of the subject merchandise for three months immediately preceding the filing of the petition (*i.e.*, the base period) with the three months following the filing of the petition (*i.e.*, the comparison period).

Section 351.206(h)(1) of the CVD regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. As noted above, the Department's analysis is limited to whether there were massive imports. Some factors that respondents urge the Department to consider are not relevant to that inquiry and, therefore, have not been factored into this analysis. Whether those factors may be relevant to the ITC's final inquiry is, of course, a matter for the ITC to determine.

In addition, § 351.206(h)(2) of the CVD regulations provides that an increase in imports of 15 percent or more during the "relatively short period" of time may be considered "massive." Section 351.206(i) of the CVD regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.

Based upon U.S. Census import data and an examination of the information on the record of the investigation, we find that there is a seasonal element that affects imports of lumber from Canada. See Critical Circumstances Preliminary Determination Memorandum from Bernard T. Carreau to Faryar Shirzad for a detailed discussion of this issue. Furthermore, both petitioners and respondents acknowledge that lumber is a product for which demand is subject to seasonal shifts, and, therefore, it is appropriate to use a seasonal methodology to examine whether massive imports occurred with respect to lumber imports from Canada. Accordingly, to address any distortions caused by seasonal trade fluctuations in our analysis of import increases, we constructed and then applied a seasonal adjustment factor. We selected the standard seasonal adjustment program used by significant statistical agencies, including the Bureau of Census, the Bureau of Labor Statistics and Statistics Canada, and calculated a seasonal

adjustment factor of 12.00 percent. This factor is based on the six-year time period 1995 through 2000. See Critical Circumstances Preliminary Determination Memorandum, which is on the public file in the CRU.

As discussed above, on July 27, 2001, the Department amended its notice of initiation of the CVD investigation to exempt the Maritime Provinces (New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland) from this investigation. We compared the import volume during the period January through March 2001 (the base period) with the seasonally adjusted import volume during the period April 2001 through June 2001 (the comparison period), and found that, relative to the first quarter, lumber imports from Canada, net of the Maritime Provinces, increased by 23.34 percent in the comparison period.

Therefore, pursuant to section 703(e) of the Act and §§ 351.206(h) and (i) of the CVD Regulations, we preliminarily determine that there have been massive imports of lumber from Canada over a relatively short period of time. Therefore, we find that the second prong of the statute has been satisfied.

As a result of this analysis, we find that both prongs of the statute regarding critical circumstances have been met. Therefore, we preliminarily determine that critical circumstances exist.

We will make a final determination concerning critical circumstances when we make our final determination of countervailable subsidies.

Subsidies Valuation Information

Aggregation

In the *Initiation Notice*, we stated that due to the extraordinarily large number of Canadian producers, we anticipated that we would conduct this investigation on an aggregate basis consistent with section 777A(e)(2)(B) of the Act. No one objected. We did receive a request from Canfor Corporation (Canfor) for a company-specific rate. Canfor requested a company-specific questionnaire be issued or, in the alternative, that it be allowed to respond to the questionnaire provided to the GOC. We did not issue a company-specific questionnaire, nor did Canfor submit a voluntary response. Thus for the purposes of this preliminary determination, we have aggregated the subsidy information on an industry-wide basis. Specifically, we used the information provided by the GOC and the provincial governments and calculated one subsidy rate for the Canadian softwood lumber industry for

⁶ Although the Department initiated critical circumstances investigations with respect to Venezuela and Thailand in *Notice of Initiation of Countervailing Duty Investigations: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil, Indonesia, Thailand and Venezuela*, 64 FR 34204 (June 25, 1999), the cases were terminated because the ITC found that the subject imports from those countries were negligible. See *Certain Cold-Rolled Steel Products from Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Turkey, and Venezuela*, 64 FR 41458 (July 30, 1999).

exports of softwood lumber to the United States.

Allocation Period

Under § 351.524(d)(2) of the CVD Regulations, we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

In this investigation, the Department is considering non-recurring subsidies. Regarding non-recurring subsidies, we have allocated, where applicable, all of the non-recurring subsidies provided to the producers/exporters of subject merchandise over the AUL listed in the IRS tables for the softwood lumber industry. Therefore, in accordance with § 351.524(d)(2) of the CVD Regulations, the Department is using an allocation period of 10 years. No interested party has challenged the 10 year AUL derived from the IRS tables.

Benchmarks for Loans and Discount Rate

Because this investigation is conducted on an aggregated basis (except as otherwise discussed below), for those programs requiring a Canadian dollar-denominated discount rate or the application of a Canadian dollar-denominated, long-term benchmark interest rate, we used for our preliminary determination the national-average interest rates on commercial long-term, Canadian dollar-denominated loans as reported by the GOC. The information reported by the GOC was for fixed-rate long-term debt.

Some of the investigated programs provided long-term loans to the softwood lumber industry with variable interest rates instead of fixed interest rates. Because we were unable to gather information on variable interest rates charged on commercial loans in Canada, we have used as our benchmark for those loans the rate applicable to long-term fixed interest rate loans for the POI as reported by the GOC.

Recurring and Non-Recurring Benefits

The major subsidy allegations in this investigation are the timber management systems maintained by the provinces. Petitioners have alleged that the stumpage fees paid to harvest and cut timber by softwood lumber producers, which are set by the provincial governments, confer a countervailable benefit on the production and exportation of the subject merchandise. This type of subsidy constitutes the provision of a good or a service under section 771(5)(D)(iii) of the Act. Under § 351.524(c)(1) of the CVD Regulations, subsidies conferred by the government provision of a good or service provide recurring benefits. Therefore, any benefits conferred by the provinces' administered stumpage programs have been expensed in the year of receipt.

The Department is also investigating a number of other programs which provide grants to producers and exporters of softwood lumber. Under § 351.524 of the CVD Regulations, benefits from grants can either be classified as providing recurring or non-recurring benefits. Recurring benefits are expensed in the year of receipt, while grants providing non-recurring benefits are allocated over time corresponding to the AUL of the industry under investigation. However, under § 351.524(b) of the CVD Regulations, grants which provide non-recurring benefits will also be expensed in the year of receipt if the amount of the grant under the investigated program is less than 0.5 percent of relevant sales during the year in which the grant was approved (referred to as the 0.5 percent test). Except where specifically noted in this preliminary determination, the grants provided under the investigated programs were less than 0.5 percent of the relevant sales of softwood lumber, and, thus, were expensed in the year of receipt.

Subsidy Rate Calculation

In this preliminary determination, we are investigating programs administered both by the GOC as well as by the individual provinces. For the programs administered by the GOC, we divided the aggregate benefit conferred by each of the federal programs by the total value of Canadian softwood lumber sales. For programs administered by the relevant provinces, we calculated the program subsidy rate by dividing the aggregate benefit conferred by each specific provincial program by the total sales of softwood lumber from that province (or total export sales of softwood lumber if the provincial

program was an export subsidy). We did not, as requested by respondents, calculate province-specific rates. To calculate the overall subsidy conferred on the subject merchandise from all investigated countervailable subsidy programs, we weight-averaged each provincial subsidy program by the provinces' relative shares of total U.S. exports of the investigated subject merchandise, which, as explained above, does not include exports from the Maritime Provinces.

As noted above, one company, Frontier Lumber, qualified for a company exclusion. Our normal practice would be to deduct that company's sales from our sales denominator in calculating the Canada-wide subsidy rate. However, given the size of the company's sales, we have not made an adjustment because any adjustment would have no effect on the calculated subsidy rate for any of the investigated programs.

I. Provincial Stumpage Programs Preliminarily Determined To Confer Subsidies

Petitioners have alleged that the stumpage programs administered by the provinces of British Columbia, Quebec, Ontario, Alberta, Manitoba, and Saskatchewan provide Canadian softwood lumber producers with countervailable benefits.⁷ Petitioners allege that, through the provincially-administered stumpage systems, the provinces provide softwood lumber producers with wood fiber for less than adequate remuneration through the selling of rights to harvest timber on government-owned (or Crown) forest lands.

Petitioners have also made the same allegation with respect to the Yukon Territory, Northwest Territories, and timber sold on federal land. However, we have not examined these stumpage programs in this determination because the amount of exports from the two Territories and from federal land is insignificant. Thus, these programs would have no measurable effect on any subsidy rate calculated for this investigation. We will revisit this issue for the final determination.

In order to confer a countervailable benefit, a program must be provided to a specific enterprise or industry or group of enterprises or industries, it

⁷ Petitioners have also alleged that a ban on the export of logs provides a benefit to softwood lumber producers. However, we have not addressed this allegation in this determination because any conceivable benefit provided through a log ban would already be included in the calculation of the stumpage benefit based upon our selected market-based benchmark prices for stumpage.

must provide a financial contribution, and it must confer a benefit. We address each criterion below.

Specificity

Subsidies contingent upon export performance or the use of domestic goods over imported goods are by definition deemed to be specific in accordance with section 771(5A) of the Act. For other subsidies, in accordance with section 771(5A)(D)(i) of the Act, if the law enacting the program expressly limits the subsidy program to an enterprise or industry, the program is *de jure* specific. However, when the law enacting the program does not expressly limit the subsidy program to an enterprise or industry, then the Department applies the criteria listed under section 771(5A)(D)(iii) of the Act to determine whether the program is specific based upon the actual manner in which the program is used. The examination of specificity under section 771(5A)(D)(iii), referred to as a *de facto* specificity analysis, provides for the following:

Where there are reasons to believe that a subsidy may be specific as a matter of fact, the subsidy is specific if one or more of the following factors exists:

(I) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number.

(II) An enterprise or industry is a predominant user of the subsidy.

(III) An enterprise or industry receives a disproportionately large amount of the subsidy.

(IV) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others.

The statute states that any reference under section 771(5A)(D) to an enterprise or industry includes a group of enterprises or industries. In accordance with § 351.502(a) of the CVD Regulations, the Department, in analyzing whether a subsidy is *de facto* specific, will examine the factors contained in section 771(5A)(D)(iii) of the Act sequentially. In addition, § 351.502(a) provides that, if a single factor warrants a finding of specificity, the Department will not undertake further analysis.

Congress, in the SAA explained how the Department's specificity analysis should be conducted. See *Statement of Administrative Action* accompanying H.R. 5110, H.R. Doc. No. 316, Vol. 1, 103d Congr., 2d Sess. 911–955 (1994). The SAA states that the specificity test should be applied “in light of its original purpose, which is to function as an initial screening mechanism to winnow out only those subsidies which

truly are broadly available and widely used throughout an economy.” See SAA at 929. The SAA also provides that, because the weight accorded to the individual *de facto* specificity factor is likely to differ from case to case, clause (iii) of section 771(5A)(D) “makes clear that the Department will find *de facto* specificity if one or more of the factors exists.” *Id.* at 931. With respect to the type of subsidy program at issue in this investigation, the SAA states that “where a government confers a subsidy through the provision of a good or service, the fact that the use of the subsidy may be limited due to the inherent characteristics of the good or service in question would be irrelevant for the purposes of a *de facto* specificity analysis.” *Id.* at 932.

To determine whether the provincial stumpage programs are specific under the law, we examined the programs based upon the criteria set forth under section 771(5A)(D)(iii) of the Act. Information on the programs is contained in the provincial government responses.

A review of the responses from the provincial governments shows that there are two different types of companies which benefit from the investigated stumpage programs: (1) Sawmills and (2) pulp and paper mills.⁸ Therefore, there are two types of users (or beneficiaries) of the provincial stumpage programs. Almost all of the softwood timber harvested on Crown land in each of the investigated provinces is harvested by, or on behalf of, sawmills and pulp mills. In addition, the substantial majority of harvested timber in each of these provinces is cut for sawmills producing the subject merchandise.

Because there are only two industries, sawmills and pulp mills, that use provincial stumpage programs, we preliminarily determine that the provincial stumpage programs are specific under section 771(5A)(D)(iii)(I) of the Act.

Financial Contribution

In addition to being specific, a countervailable subsidy program must provide a financial contribution. Section 771(5)(D)(iii) of the Act states that the provision of a good or service (other than general infrastructure) by a

government constitutes a financial contribution under the statute. We preliminarily determine that the provision of stumpage by the provincial governments constitutes the provision of a good or service under section 771(5)(D)(iii) of the Act. Thus, we preliminarily determine that the provincial governments have provided a financial contribution as defined under section 771(5)(D) of the Act to Canadian softwood lumber producers.

Benefit

After determining that the provincial stumpage programs are specific under section 771(5A)(D)(iii) of the Act, and that these programs provide a financial contribution in the form of the provision of a good or service under section 771(5)(D)(iii) of the Act, we must then determine whether this specific financial contribution provides a benefit.

Under section 771(5)(E)(iv) of the Act, a benefit is conferred by a government when the government provides the good or service for less than adequate remuneration. Section 771(5)(E) further states that the adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service being provided * * * in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of * * * sale.

The word “remuneration” is defined as “[payment] for goods provided, services rendered, or losses incurred.” American Heritage Dictionary. The question presented is what constitutes “adequate” payment for a good or service. To discern the meaning of the word “adequate,” we must look to the wording of this particular provision of the statute, the corresponding provision in the WTO Subsidies Agreement upon which the statute is based, and the larger context in which this provision appears.

In interpreting the phrase “less than adequate” remuneration, we must also bear in mind the purpose of section 771(5)(E). The purpose is to determine whether the recipient of the financial contribution—in this case a good or service—has received a benefit. A benefit is something that is favorable or advantageous. A review of section 771(5)(E) shows that the term “benefit” is used to mean something better than the recipient could otherwise obtain in the market, e.g., a government interest rate lower than the commercial rate for a comparable loan. Section 771(5)(E)(iii). Therefore, we also

⁸ In *Lumber III (Final Affirmative Countervailing Duty Determination: Certain Softwood Lumber Products from Canada)*, 57 FR 22570; 22580 (May 28, 1992), we referred to the specific class of stumpage beneficiaries as the pulp and paper products and solid wood products industries, which was defined as the primary timber processing group (*i.e.*, sawmills and pulp and paper mills).

interpret "adequate" remuneration to be remuneration that is market-based.

This interpretation of the term "adequate remuneration" is further consistent with the larger context in which this provision appears both in the statute and the Subsidies Agreement. In addition to the case where goods or services are provided for less than adequate remuneration, section 771(5)(E) of the Act refers to three other instances of a countervailable benefit and provides guidance on how to measure those benefits. In the case of an equity infusion, paragraph (i) provides that a benefit exists "* * * if the investment decision is inconsistent with the usual investment practice of private investors, * * *, in the country in which the equity infusion is made." In the case of a loan, paragraph (ii) provides that a benefit exists "* * * if there is a difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." In the case of a loan guarantee, paragraph (iii) provides that a benefit exists "* * * if there is a difference, * * *, between the amount the recipient of the guarantee pays on the guaranteed loan and the amount the recipient would pay for a comparable commercial loan if there were no guarantee by the authority." These provisions reflect almost verbatim the language of paragraphs (a), (b), and (c) of Article 14 of the Subsidies Agreement.

The point of comparison for measuring the benefit from these types of subsidies is the marketplace free of government interference. References in the statute and the Subsidies Agreement to the "usual investment practice of private investors," "commercial loans" that can actually be obtained "on the market," and a "comparable commercial loan if there were no guarantee by the authority" support this conclusion. It follows from this central principle—common to all the other provisions under the benefit section, both in the statute and the Subsidies Agreement—that the adequacy of remuneration must be measured by reference to the marketplace free of government interference.

Additional support for this conclusion is found in the chapeaus of section 771(5)(E) and Article 14 of the Subsidies Agreement. The introduction to the benefit section in the statute states that "A benefit shall normally be treated as conferred where there is a benefit to the recipient [.]". Similarly, the title of Article 14 is "Calculation of the Amount of a Subsidy in Terms of

the Benefit to the Recipient." From the perspective of the recipient of a subsidy, the true measure of the benefit derived from any government largesse is by reference to what the recipient would have had to pay for the physical or financial good or service in the marketplace, absent any government involvement. Thus, while one could argue that, from the government's perspective, remuneration could be considered "adequate" as long as it covers the costs to the government of providing the good or service, the cost-to-government standard is wholly inappropriate from the perspective of the private recipient. This is because the cost to the government does not necessarily measure the price at which the private recipient could have obtained the good or service in the marketplace free of government interference.

The concept of benefit in the statute derives from the Subsidies Agreement. A recent WTO dispute settlement panel stated that:

benefit clearly encompasses "some form of advantage"; (the authority must) "* * * determine whether the financial contribution places the recipient in a more advantageous position than would have been the case but for the financial contribution * * * the only logical basis for determining the position the recipient would have been in absent the financial contribution is the market."

Canada—Measures affecting the Export of Civilian Aircraft, (WT/DS70/R, para 9.112).

The WTO Appellate Body stated:

* * * the marketplace provides an appropriate basis for comparison in determining whether a "benefit" has been "conferred" because the trade-distorting potential of a "financial contribution" can be identified by determining whether the recipient has received a "financial contribution" on terms more favorable than those available to the recipient in the market. Id. (WT/DS70/AB/R, para 157) (emphasis added).

Section 771(5)(E)(iv) ensures that, whatever standard is used to assess the adequacy of the remuneration required by the government, that standard must be reasonable and must take into account the market factors in the country under investigation that could affect the measurement of the adequacy of the remuneration. For example, the commercial benchmark must be derived from comparable sales, *i.e.*, sales where the prevailing conditions of sale are comparable to the sales by the government, or sales that can be adjusted to achieve comparability.

It is not necessary that the benchmark come from sales of the good or service within the country under investigation,

as respondents argue. The statute requires that the analysis be made "in relation to" prevailing market conditions in the country under investigation, not "in" the country under investigation. Thus, we find no basis in the statute for the restrictive reading proposed by respondents. Moreover, such a restrictive reading would place beyond the reach of the countervailing duty law any government supplier that dominates the market for a particular input and then provides that input to producers at beneficial prices. Under such a reading, subsidy disciplines would only be available to remedy situations where the government has subsidized only an incidental part of the market for a particular input. We may not interpret the statute in a manner that would frustrate its very purpose. *See Goodman Manufacturing v. United States*, 69 F.3d 505 (Fed. Cir.1995) ("Statutory interpretation is a holistic endeavor. A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme—because * * * only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law." (citation omitted)).

In sum, the key elements of a methodology to determine whether a government has provided a good or service at less than adequate remuneration as required by section 771(5)(E) are: (1) The comparability of prevailing market conditions; and (2) a market-based standard. These elements are reflected in the methodologies established in the Department's Regulations.

Section 351.511(a)(2) of the CVD regulations sets forth three methodologies for determining whether a government good or service is provided for less than adequate remuneration. These methodologies are listed in hierarchical order: (1) Market prices from actual transactions within the country under investigation; (2) world market prices that would be available to purchasers in the country of exportation; or (3) an assessment of whether the government price is consistent with market principles.

This hierarchy is based on a logical preference for achieving the objectives of the statute. The simplest means of determining whether the government required adequate remuneration is by comparison with private transactions for a comparable good or service in the country. Thus, the first methodology in the hierarchy calls for a comparison with an actual market-determined price from a private supplier either within the

country under investigation, or from outside the country in the form of an actual import. Both transactions constitute market prices in the country. This methodology is first in the hierarchy because observed prices from actual transactions in the country are the most direct and reliable indicator of a market-determined price that is available to the producer in question. The second methodology calls for world market prices that would be available to the producer in question. This approach is also market-based, but it potentially introduces additional variables with respect to availability, comparability, and the market-determined nature of the prices. Nevertheless, world market prices still constitute a reasonable approach because they can reflect market-based prices for a comparable good or service that would be available in the country. The third methodology, which requires an assessment of whether the government's price is consistent with market principles, is used only where an appropriate benchmark is unavailable either in-country or abroad for comparison purposes.

The first preference, specified under § 351.511(a)(2)(i), is to compare the government price with a market-determined price resulting from actual transactions in the country in question. Such a price could include prices stemming from actual transactions between private parties, actual imports, or in certain circumstances, actual sales from competitively-run government auctions. In considering such transactions or sales, the Department will take into account product similarity; quantities sold, imported, or auctioned; and other factors affecting comparability.

Further guidance on the use of market-determined prices stemming from actual transactions within the country is provided in the Preamble to the CVD Regulations. See "Explanation of the Final Rules" of the Countervailing Duties, Final Rule, 63 FR 65348 (November 25, 1998) (the Preamble). According to the Preamble, prices from a government auction would be appropriate where the government sells a significant portion of the good or service through competitive bid procedures that are open to everyone, that protect confidentiality, and that are based solely on price.

The Preamble also states that the Department normally will not adjust such market-determined prices under this methodology to account for government distortion of the market because such distortion will normally be minimal as long as the government

involvement in the market is not substantial. If the government provider constitutes a majority, or a substantial portion of the market, then such prices in the country will no longer be considered market-based and will not be an appropriate basis of comparison for determining whether there is a benefit.

The second approach in the regulatory hierarchy is the use of world market prices that *would be available* to purchasers in the country of exportation (emphasis in the Preamble). The Preamble states that, where it is reasonable to conclude that actual prices within the country under investigation are significantly distorted as a result of the government's involvement in the market, the Department will resort to world market prices. For example, in *Live Cattle from Canada*, we stated: "* * * when confronted with an adequate remuneration issue, the Department will normally seek to measure the adequacy of remuneration by comparing the government price to market-determined prices within the country. However, in certain situations, market prices may not exist in the country or it may be difficult to find a 'market' price that is independent of market distortions caused by government actions." See *Final Negative Countervailing Duty Determination; Live Cattle From Canada*, 64 FR 57040, 57056 (October 22, 1999).

The regulation also states that, where there is more than one commercially available world market price, the Department will average such prices to the extent practicable, making due allowance for factors affecting comparability. Such averaging would only be called for where we conclude that more than one world market price, i.e., prices from more than one foreign source, would be commercially available to purchasers in the country of exportation.

It is important to note that, if the private prices within the country subject to investigation were in fact market-based, they would necessarily reflect the world market price available in the country of exportation. Therefore, there should be no difference between the private prices in the country of exportation and world market prices, except for import taxes. To the extent there are any differences, this just underscores the distorted nature of the private prices where the government dominates a particular sector of the economy.

In selecting a world market price, the Department will examine the circumstances in the case to determine if a purchaser in the country could

obtain the good or service on the world market. Normally, such a world market price is a market-based price at which the good or service could be imported. Thus, it should also indicate the price of that good or service that we would find in the exporting country if that price were market-based. As discussed in the Preamble, the Department will:

consider whether the market conditions in the country are such that it is reasonable to conclude that a purchaser in the country could obtain the good or service on the world market. For example, a European price for electricity normally would not be an acceptable comparison price for electricity provided by a Latin American government, because electricity from Europe in all likelihood would not be available to consumers in Latin America. However, as another example, the world market price for commodity products, such as certain metals and ores, or for certain industrial and electronic goods commonly traded across borders, could be an acceptable comparison price for a government-provided good, provided that it is reasonable to conclude from record evidence that the purchaser would have access to such internationally traded goods.

This approach is reasonable and consistent with the intent of the statute since it furthers the statutory directive that subsidization be measured on a market basis and in relation to prevailing market conditions.

To determine whether the provincial governments have provided a countervailable benefit to Canadian softwood lumber producers, we must examine whether stumpage was provided to softwood lumber producers for less than adequate remuneration. As we have noted above, the Department must first determine whether there are market prices within Canada which can be used to measure whether the provincial stumpage programs provide a good or service for less than adequate remuneration.

The Provinces of Alberta, Ontario and Quebec have provided private stumpage prices charged within their respective provinces. British Columbia provided stumpage prices set by government auction. As a starting point, these prices reported by all four Provinces would be considered prices based upon actual transactions within the country under investigation, as described in our regulations. However, an examination of the information on the record demonstrates that the private stumpage prices reported by the Provinces do not constitute market-determined prices within the meaning of § 351.511(a)(2)(i) of the CVD Regulations.

In each of the Provinces, the stumpage market is driven by the provincial governments' ownership and control of

forest land and the governments' practice of setting stumpage fees administratively. The fees are often set with a view towards traditional government economic policy goals, such as job creation, rather than with a view toward obtaining a market price. The provincial governments own a substantial majority of harvestable forest land. These Crown lands account for between approximately 57 and 97 percent of all forest land within each of the Provinces. Specifically, provincial, federal, and private ownership of forest resources, by province are:

- British Columbia—94 percent provincial, 1 percent federal, and 5 percent private;
- Quebec—89 percent provincial and 11 percent private;
- Ontario—83 percent provincial, 1 percent federal, and 17 percent private;
- Alberta—57.4 percent provincial, 10.8 percent federal, and 28.5 percent private;
- Manitoba—94 percent provincial, 1 percent federal, and 5 percent private; and
- Saskatchewan—97 percent provincial, 2 percent federal, and 1 percent private.

In addition, the softwood harvest from Crown lands accounts for approximately 70 to 90 percent of the stumpage sold within each of the Provinces. Therefore, between 70 and 90 percent of the good or service within each of the provinces is provided by the government. Further, the apparent minimum cut requirements on public lands have the potential to distort timber supplies and depress prices. Since stumpage fees on public lands are the price driver for the stumpage market in those Provinces, we conclude that the stumpage fees on private lands are largely derivative of the public land prices and are therefore distorted.

We considered additional information on the record with respect to each of the Provinces examined for this preliminary determination. For example, Quebec provided a private price that was obtained via a survey of 81 companies that had purchased private stumpage during the POI. However, as even acknowledged by the Quebec Ministry of Natural Resources, private stumpage prices in Quebec are affected by the administratively-set price for public stumpage.⁹ Ontario commissioned a study of private stumpage sales in that Province. However, information in the survey indicates that many private landowners do not actively market their standing timber and that many sales were not actually contested or open to

competition. None of the respondents to the survey indicated relying on auctions or a forester consultant to assess the value of the timber. In fact, only 21 percent of the landowners state that the price for stumpage was market-determined.

Neither Manitoba nor Saskatchewan reported prices on private stumpage sales within the provinces.

British Columbia did not provide private stumpage prices. Instead, the Province provided prices from the auctions the government runs under the Small Business Forest Enterprise Program (SBFEP). As the name of the program indicates, the SBFEP auction is only open to small businesses that are registered as small business forest enterprises. Thus, the overwhelming majority of the purchasers of this government good or service is explicitly excluded from this auction. Moreover, only a small percentage of stumpage in British Columbia is sold via SBFEP auction. Therefore, the SBFEP auction prices submitted by British Columbia cannot be used as benchmark prices under § 351.511(a)(2)(i) of the CVD Regulations.

A large government presence in the market will tend to make much smaller private suppliers price-takers. While it is not unusual for small suppliers to be price-takers even in a market with no government involvement, the government-dominated market will distort the market as a whole if the government does not sell at market-determined prices. In such a situation, true market prices may not exist in the country, or it may be difficult to find a "market" price that is independent of the distortions caused by the government's action. In fact, where the market for a particular good or service is so dominated by the presence of a government monopoly or near monopoly, the remaining private prices in the country in question cannot be considered to be market-based. Such circumstances are present in this investigation. Because of the provincial governments' control of the market through a system of administratively-set prices and other market distorting measures, there is no market-determined price for stumpage within Canada that is independent of the distortion caused by the governments' interference in the market. Therefore, we preliminarily determine that we cannot use the private transaction prices provided by the provincial governments.

Information on the record of this investigation indicates that there are prices from the world market for comparable goods which can be used to

determine whether the provincial stumpage programs provide a good or service to softwood lumber producers for less than adequate remuneration. For the reasons detailed below, we preliminarily determine that stumpage prices from the United States qualify as commercially available world market prices because it is reasonable to conclude that U.S. stumpage would be available to softwood lumber producers in Canada at the same prices available to U.S. lumber producers.¹⁰ Furthermore, as demonstrated below, information on the record indicates that stumpage in the United States along the border with Canada is comparable to Canadian stumpage. Therefore, for purposes of this preliminary determination, we have measured the adequacy of remuneration of the provincial stumpage programs by comparing the stumpage fees charged by the provincial governments with market-determined prices for stumpage available in the United States. As explained in more detail in the benefit sections of each province, as a calculation matter, we only compared stumpage prices in each Canadian province with stumpage prices in states bordering that province. For example, we compared British Columbia prices with prices available in Washington and Idaho, and we compared prices in Quebec with prices available in Maine.

There are no restrictions on obtaining stumpage on private and state lands in the United States. Furthermore, timber harvested in the United States is imported into Canada, and imports from the United States account for almost 100 percent of all Canadian timber imports. Such imports represent a decision made by Canadian mills to purchase U.S. stumpage instead of Canadian stumpage. Finally, we note that some of the largest softwood lumber producers in Canada have operations in both Canada and in the United States and obtain stumpage in both countries.

The United States, like Canada, is one of the world's largest softwood timber producers, and the North American softwood timber region is geographically separated from other softwood timber markets throughout the world. Thus, given the costs of transporting timber across the ocean, it is unlikely that Canadian softwood lumber producers would obtain stumpage from a country other than the United States. For these reasons, we preliminarily determine that it is reasonable to conclude that the world

¹⁰ We note, however, that Canadian stumpage generally is not available to U.S. lumber producers because of restrictions on log exports.

⁹ See Petition at page 119.

market prices of stumpage in the United States would be available to softwood lumber producers in Canada, and that it is neither necessary nor desirable to include any other world market prices in the benchmark price.

We also conclude that the price for stumpage in the United States is a market-determined price. The majority of softwood-producing forest land in the United States is held by private concerns. Furthermore, stumpage for harvestable timber, whether sold from private parties or from state land, is sold through an open competitive process available to all buyers. Thus, the stumpage prices in the United States, unlike those in Canada, are set by market forces.

The cross-border stumpage prices that we have used are based on sales from state lands. While our preferred benchmark would be a weighted average of both state and private prices in the United States, we have been unable at this time to locate adequate private sales data, except for sales in Maine. Therefore, for purposes of this preliminary determination, we have used sales data from only state lands.

Public land stumpage fees, such as those available on state lands, accurately reflect market-based prices because they are determined by public auctions available to all comers. These sales involve competitive bidding where most purchasers have the choice of buying public or private stumpage. Moreover, it is reasonable to conclude, for purposes of this preliminary determination, that stumpage fees from public lands are a suitable benchmark because the total volume of timber cut from public land constitutes a minority of the amount of total timber sold in the United States, making private timber sales the primary driver of stumpage fees in the timber market overall. Although we maintain that stumpage rates from state lands are an appropriate benchmark under these circumstances, we intend to continue examining sources for timber prices from private lands in the United States for use in the final determination.

We have received numerous comments on whether cross-border prices can serve as a benchmark to measure the benefit conferred from the provincial stumpage programs. The petitioners support the use of cross-border prices, while respondents oppose it.

In addressing this issue, it is useful to start with the different legal frameworks governing this investigation as compared with *Lumber III*. The final determination in *Lumber III* was made in 1992, before the amendments to the

Act as a result of the URAA. At the time of *Lumber III*, the provision of a good or service was a benefit if it was provided at preferential rates. The methodology used by the Department to determine whether the good was provided at preferential rates was set forth in the "Preferentiality Appendix" and in section 355.44(f) of the then Proposed CVD Regulations.¹¹ According to this methodology, the Department would measure whether the government provided a good or service at a preferential rate based upon, in order of preference, the following benchmarks: (1) The price the government charges to other parties for the identical or similar good; (2) the price charged by other sellers within the same political jurisdiction (*i.e.*, country under investigation); (3) the government's cost of providing the good or service; or (4) the price paid for that good outside the country under investigation.

There are several important differences between the discarded preferentiality standard and the current adequate remuneration standard. Preferentiality is a measure of price discrimination, *i.e.*, whether a government is favoring some buyers over others with lower prices. Indeed, the first choice under the preferentiality methodology was to use another government price as a benchmark to determine whether the investigated program provides a benefit. This was the benchmark used by the Department in *Lumber III*, and it provided a measure of price discrimination, or preferentiality. It cannot be said to measure adequate remuneration.

With the changes in the CVD law as a result of the URAA, and the Subsidies Agreement upon which the URAA is based, the price discrimination test was dropped in favor of adequate remuneration. Under this standard, the government price must be compared with a market-determined price. It is no longer sufficient to say that the government does not discriminate among buyers. Rather, as discussed above, we must determine whether the government is receiving adequate remuneration, *i.e.*, a market-based price.

As noted above, under the adequate remuneration methodology, if there is no market-determined price within the country under investigation, the Department seeks a price on the world market (if one is available). However, under the preferentiality methodology, the use of a price on the world market was the last alternative. The preferentiality methodology required

the Department to measure the benefit from the government's provision of a good or service by comparing the government's price for that good to its cost of providing that good before using a world market price. Therefore, under the preferentiality methodology, the Department was effectively precluded from using a price from the world market in most cases.

Many comments made by respondents criticize the use of a cross-border price by reference to contrary statements made by the Department in *Lumber III* and prior lumber cases. However, contrary statements in the past by the Department with respect to cross-border prices were made in the context of a different legal framework. Furthermore, those statements reflected a preferentiality hierarchy that put world market prices last, in many instances effectively precluding the use of world market prices, for the simple reason that world market prices are the least appropriate measure of price discrimination by the government of the exporting country.

Respondents further point out that there is no unified North American market for stumpage because each individual stand of timber is unique due to a variety of factors such as species combination, density, quality, size, age, accessibility, terrain and climate. While we agree in part with this statement, the differences in individual stands of timber are just as applicable to comparisons within Canada as they are with cross-border comparisons. For example, private lands in Quebec tend to be located in the southern portion of the province, whereas Crown lands tend to be located north of the St. Lawrence. All parties agree that the topography, climate, and biological characteristics of trees in northern and southern Quebec are very different. In fact, information on the record indicates that the terrain, climate, and mix of species in southern Quebec are much more similar to those in Maine than they are to those in the northern part of the province.

Further, despite statements that the Department may have made in earlier lumber cases, the fact that individual stands may be to some extent unique does not mean that all stands are so dissimilar as to render any stumpage price comparisons meaningless and unreasonable. Rather, information on the record indicates that, despite minor differences, many softwood lumber stands in Canada and the United States are in fact sufficiently similar to allow appropriate comparisons of stumpage prices across borders.

As a general matter, there is nothing about the border between the United

¹¹ These Proposed CVD Regulations were never adopted by the Department.

States and Canada that would affect the comparability of trees grown on either side. Except for the Great Lakes, there is no significant body of water or mountain range that defines the border between the two countries. For the most part, the border is an artificial line drawn as a result of a series of political compromises reached throughout the two countries' histories.

While there may be some information on the record that is conflicting, based on an analysis of all of the facts on the record, we preliminarily determine that the timber in Canada is comparable to that in the northern border states of the United States with respect to quality, species, terrain, availability, and marketability. This is why we have chosen stumpage prices from states which border Canada as appropriate benchmark prices. We have also, where possible, made comparisons on a species-specific basis, and we have accounted for numerous other adjustments claimed by the Provinces, as explained below in the narrative descriptions of the individual provincial stumpage programs. We welcome comments from the parties as to whether additional adjustments are warranted.

Respondents also argue that stumpage in the United States is not available to purchasers in Canada and that therefore the Department may not consider the price of stumpage in the United States to be an appropriate benchmark. These arguments are clearly at odds with the language of the statute and the CVD Regulations, and they are at odds with the factual findings discussed above. The location of the good is not the relevant point of the regulation, it is the availability of the price for that good. Furthermore, as discussed above, we have concluded that U.S. stumpage is in fact available to Canadian lumber producers. For instance, Canadian border mills routinely obtain U.S. stumpage, underscoring the fact that U.S. stumpage prices are actually paid by Canadian producers.

In fact, U.S. prices are very much an "in-country" price from the perspective of many Canadian mills, including some of the largest mills. U.S. prices are a routine part of the business calculations of many Canadian mills, particularly the border mills in Quebec, mills located in the Maritimes, and the large multinational mills in the Pacific northwest. Regardless of where the Canadian purchaser is located, the purchaser has access to U.S. stumpage and can offer bids at any U.S. public auctions. Indeed, we have already received, and we anticipate receiving still more, exclusion requests from

companies located near the U.S. border that routinely use both U.S. and Canadian stumpage. Thus, U.S. prices are clearly part of the prevailing market conditions in Canada.

The Department notes, as the above analysis makes clear, that there is little difference between actual import transactions under the first tier and world market prices under the second tier of the adequate remuneration hierarchy. While the regulation draws a distinction between an actual, observable import transaction and a world market price that would be available to producers in the country, the fact is that world market prices are also based on actual transactions equally available in Canada. For this reason, we maintain that there is no practical distinction between a market stumpage price in Canada (if such a price existed) and a market stumpage price in the United States that is available to Canadian producers. Because there is no meaningful commercial distinction between the two, any effort to draw a legal distinction between them represents a hypertechnical reading of the statute that elevates form over substance.

Respondents also object to using prices of imported logs. Presently, there is inadequate information on the record of this investigation regarding U.S. logs imported into Canada. Thus, we did not consider imported log prices as a benchmark for this preliminary determination. However, we note that the CVD Regulations provide for the use of import prices, and we will continue to examine information related to actual log imports into Canada. We note that, when a Canadian producer imports logs from the United States, that producer has paid for U.S. stumpage. If the costs of harvesting, transportation, and profit, are deducted from the price of the logs, whether the U.S. logs are purchased in Canada or in the United States, the price of the U.S. stumpage is derived. Therefore, we believe there is a reason to consider there to be no difference between the purchase of stumpage in the United States and the purchase of logs imported into Canada from the United States.

Thus, after considering the information on the record, we preliminarily determine that cross-border stumpage prices are the appropriate comparison prices to measure whether the provincial governments have provided a good or service to softwood lumber producers at less than adequate remuneration. For each of the provincial stumpage programs, we have compared the administratively-set stumpage price

charged to softwood lumber producers with the cross-border stumpage benchmark prices. Using this methodology, we preliminarily determine that each of the provincial stumpage programs provides a benefit to Canadian softwood lumber producers by providing stumpage for less than adequate remuneration.

In conclusion, we preliminarily determine that the provincial stumpage programs are countervailable because they are specific under section 771(5A)(D) of the Act, they provide a financial contribution under section 771(5)(D)(iii) of the Act, and they confer a benefit under section 771(5)(E)(iv) of the Act.

Below, we describe the stumpage programs for each of the investigated provinces and provide the calculated *ad valorem* subsidy rate for these programs.

1. Province of Quebec

The Government of Quebec (GOQ) makes standing timber on Crown land available to those parties that have purchased harvesting rights. These rights, often referred to as stumpage rights, apply to a particular area of Crown land and entitle the purchaser to harvest standing timber at a price that is set by the GOQ's Ministry of Natural Resources (MRN), the agency responsible for administering the sale of standing timber on Crown lands. The price that the MRN charges for stumpage rights varies depending on where the timber stand is located. In previous years, the MRN divided the Crown lands into 28 zones and charged different prices for each zone. According to the GOQ, these zones, or tariffing zones, delineated areas that were similar in terms of climate, tree size, topography, species mix, etc. Until 1999, the tariffing zones contained both Crown and private lands. However, in 1999 the GOQ amended the Forestry Act, the legislation that governs the sale of standing timber on Crown land. Pursuant to this amendment, the GOQ expanded the number of tariffing zones in April of 2000 to 161 in order to ensure maximum homogeneity in each zone. Further, as a result of the amendment, privately-owned forests were no longer located within any of the tariffing zones.

In Quebec, there are four ways through which the MRN sells stumpage rights: Timber Supply and Forest Management Agreements (TSFMAs), Forest Management Contracts (FMCs), Annual Forest Management Permits (AFMPs), and public auctions.

TSFMA licences account for virtually all standing timber harvested on Crown lands. During the POI, TSFMAs

accounted for 95 percent of the softwood Crown timber harvested. A TSFMA allows the holder to obtain an annual management permit to supply a wood processing plant or mill. A TSFMA also authorizes the volume at which particular species can be harvested. In order to obtain a TSFMA, the applicant must own a wood processing mill. In return for the stumpage rights, the holder of the TSFMA must carry out certain types of silviculture treatments, as specified in the agreement with the MRN, required to achieve a pre-established annual yield. The GOQ credits a portion of these silviculture costs towards the payment of the stumpage fees owned under the TSFMA. In addition, the MRN mandates the holder of the TSFMA to build and maintain the roads leading to and through the logging sites, and submit five-year and annual forest plans for required silviculture activities. TSFMA holders are also required to contribute to the forest fire protection agency Société de protection des forêts contre le feu (SOPFEU), the insect and disease protection agency Société de protection des forêts contre le insectes et les maladies (SOPFIM), and the Forestry Fund. The overall term of the TSFMA is 25 years. However, every five years from the effective date of the agreement, the term of a TSFMA can be renewed for an additional 25 years, provided that the holder of the TSFMA has fulfilled its obligations under the agreement.

FMCs are similar to TSFMAs in that they are also subject to the stumpage prices charged by the MRN. In addition, holders of FMCs are responsible for the same types of silviculture activities as those covered by TSFMAs. The MRN usually enters into FMCs with non-profit organizations or municipalities. FMCs normally cover relatively small forest areas. During the POI, FMCs accounted for less than one percent of the softwood Crown timber harvest.

Standing timber on Crown lands is also available through AFMPs. Pursuant to sections 79, 93, 94, 95, and 208 of the Forest Act, AFMPs permit the harvest of less desirable forms of timber, often referred to as slash and cull, for use in energy production and metallurgical purposes. The MRN issues AFMPs provided that it deems the production of the applicant sufficient and that the slash and cull harvest promotes the growth of stands in a particular forest area. Less than one percent of the standing timber in Quebec is harvested under AFMPs.

The fourth method involves the sale of standing timber on public reserves through public auctions. Public reserves

are forest areas in which no timber supply and forest management agreement is in force. However, while these public auctions are permissible under GOQ law, the MRN has yet to sell any publicly-owned timber under this method.

Aside from managing the sale of standing timber on Crown lands, the MRN collects information on the price of standing timber in private forests. Private market prices for standing timber are obtained through a survey of companies that purchase standing timber from private forests. The Quebec Institute of Statistics (the Institute), under the aegis of the MRN, conducts a census of all purchases of privately-held timber every 3 years. Between each census, the MRN conducts a survey of private purchasers using randomly selected respondents. These surveys are based on actual transactions of private purchasers and mainly cover the purchase of trees in the spruce, pine, and fir species group. The most recent analysis of private stumpage prices in Quebec took place in 2000. Of the 190 major companies trading standing timber, 81 responded to the survey. All companies included in the survey have traded at least 4,000 cubic meters of standing timber in the last four years. The GOQ states that the survey covered the private forest in its entirety as well as all 15 territories managed by private wood producers' syndicates and marketing boards.¹²

Once the survey is complete, the Institute compiles a value for each private forest territory covered by a syndicate or wood producer's marketing board. The Institute then weights these values by the volume of timber purchased by each respondent. The GOQ explains that the purpose of this step is to improve the statistical accuracy in the calculation of the average market value of standing timber in private forests. The Institute then obtains a single, province-wide average of the survey respondents, referred to as the Market Value of Standing Timber (MVST), by attributing a weight corresponding to the total trading volume for each wood producers' association territory.

The MRN, as required by the Forestry Act, uses a system called the parity technique to determine the stumpage value the MRN charges to TSFMA and

FMC licences. Under the parity technique, the MRN employs a complex formula which adjusts the private MVST in order to account for relative differences that exist between the private MVST and the tariffing zone to be appraised. The MRN then calculates an individual stumpage rate that will be charged in each tariffing zone.

The MRN employs the parity technique by gauging the operating costs for each of the 161 tariffing zones, the private forest (where costs are lowest), and at the northernmost limit of demand (where costs are highest). These operating costs include harvest costs, road construction and maintenance costs, transportation costs to mill and market, logging camp costs, and specific tenure costs. The GOQ states that the operating costs are derived from cost indices that quantify the average biophysical characteristics of each zone (*i.e.*, average tree volume, topographical and soil conditions, average transportation distances, etc.). The MRN then calculates the difference between the costs at the northernmost limit of demand and each tariffing zone's operating costs, as well as the difference between costs at the northernmost limit of demand and costs in the private forest. The ratio of the former to the latter represents the operating cost adjustment for each tariffing zone. The MRN then calculates a base MVST for the northernmost limit of demand. With this data, the MRN determines the MVST (*i.e.*, the stumpage price) for each tariffing zone by multiplying the operating cost adjustment by the difference between the private and northern limit MVSTs and adding that product to the MVST at the northernmost limit of demand. The resulting stumpage prices cannot exceed the average market value of standing timber in private forests, nor can they fall below a minimum stumpage rate (discussed below).

In addition to making an adjustment for relative operating costs, the characteristics of wood from each tariffing zone are compared with those of wood from the private forest to determine their impact on processing costs and the value of the products they are able to produce. According to the GOQ, this quality adjustment, introduced in 1999, takes into account the impact of average diameter, species distribution, rot percentages, and log taper on log processing costs and sawn product value. The GOQ states that consideration of these characteristics, which are quantified into a public quality and private quality index, allow the value of wood in each tariffing zone to be adjusted according to the

¹² There are 15 wood producers' syndicates and marketing boards in Quebec. Membership is voluntary. Their task is to represent their members in dealings with Federal and local governments on matters related to silviculture, forest management, forest policies, laws, environmental certification, registration of forest producers, resource sustainability, and tax issues.

differences between the quality of standing timber in both types of forests. The GOQ states that quality adjustments can alter the MVST as much as plus or minus C\$5 per cubic meter.

Upon establishing the operating and quality adjustments, the MRN calculates a minimum stumpage rate. The GOQ states that for the fir-spruce-jack pine-larch species group, the minimum stumpage rate is comprised of the average cost of silviculture treatments in the common areas forming the northernmost demand limit. A basic rate of C\$1 per cubic meter (\$1996), indexed annually pro-rata to changes in the market value of private forest standing timber, is included in the minimum stumpage rate. The GOQ states that during the POI, the minimum stumpage unit rate was C\$3.53 per cubic meter.

Lastly, the MRN indexes the MVSTs that are charged in each of the tariffing zones on the first of each quarter in order to account for any price changes in the private forest market price that may have occurred since the most recently completed census or survey of private market prices.

As explained above, the MRN calculates an administered stumpage price for each tariffing zone. According to the MRN, there is no distinction between sawlogs and pulplogs when setting the stumpage price. Thus, to arrive at the administered stumpage rates used in our stumpage calculations, we divided the total softwood stumpage fees paid by TSFMA permit holders during the POI for each species by the total softwood stumpage harvested under TSFMAs during the POI for each species. In this manner, we obtained a weighted-average stumpage price per species that was paid by TSFMA permit holders during the POI. According to information submitted by the GOQ, the softwood stumpage harvested under TSFMAs is equal to the total timber harvested for lumber processing plants (*i.e.*, processing plants that produce the subject merchandise). Therefore, we have not incorporated the stumpage fees paid by FMC permit holders into the Province-wide administered stumpage rate.

Under TSFMAs, each TSFMA holder must become a member of SOPFEU and pay the corresponding dues. The Department granted this adjustment in *Lumber III* and we have granted it in this preliminary determination. See 57 FR 22570 at 22600. To make the adjustment, we divided the total dues incurred by TSFMA holders during the POI by the total harvest under TSFMAs during the POI.

In addition, TSFMA holders must belong to SOPFIM and pay its

membership fees. The Department granted this adjustment in *Lumber III* and we have granted it in this preliminary determination. See 57 FR 22570 at 22600. We adjusted for this obligation by dividing the sum of all membership fees paid by TSFMA permit holders during the POI by the total harvest under TSFMAs during the POI.

Prior to fiscal year 1996–1997, the cost of the forestry fund was borne entirely by the MRN. However, beginning in fiscal year 1997–1998, the MRN required TSFMA holders to contribute to the Forestry Fund. The Fund provides financial support for seedling production, inventory data, and forestry research activities. Because this is a cost imposed on TSFMA holders by the GOQ, we have made an adjustment for the Fund by dividing the TSFMA holders' total contributions during the POI by the total harvest under TSFMAs during the POI.

TSFMA holders construct and maintain primary, secondary, and tertiary roads for their logging operations. Because those roads are available for public use, they must meet government standards. We granted this adjustment in *Lumber III*. See 57 FR 22570 at 22598. We have granted a similar adjustment in this preliminary determination. The GOQ provided the cost per cubic meter of primary, secondary, and tertiary road construction and maintenance, and we have made an adjustment based on those costs. In *Lumber III*, the Department did not grant an adjustment for primary road construction and maintenance. See 57 FR 22570 at 22599. However, for purposes of this preliminary determination, we have included primary road construction and road costs in the road adjustment because the GOQ was unable to provide a breakout of its primary and secondary costs. During verification, we will further examine the differences in infrastructure and a breakout of primary and secondary road construction and maintenance costs.

We note that for purposes of this preliminary determination, we have not made an adjustment for haulage roads. According to the GOQ, haulage roads are final branches of a road network the surface of which is composed entirely of natural materials. The GOQ further explains that haulage roads are generally used for one year or less. At this time, we preliminarily determine that haulage roads must be constructed and maintained each time a timber stand is harvested, as opposed to more permanent primary, secondary, and tertiary roads, and, thus, are costs that

are borne by all timber harvesters regardless of the level of development of the roads that are within the area in which the standing timber is located and regardless of whether the standing timber was purchased from public or private sources.

We further note that prior to the issuance of our final determination, we will examine whether purchasers of stumpage in private forests in Maine incur road construction and maintenance costs and, if so, the amount of those costs and the extent to which they should offset the road construction and maintenance adjustment granted to producers in Quebec.

Under the TSFMA tenure arrangement, companies must perform silviculture treatments in order to achieve a sustained yield. The GOQ indicates that it credits most of the silviculture costs towards the stumpage dues paid by TSFMA permit holders. However, the GOQ also states that it does not credit certain costs. Specifically, these expenses pertain to control and planning costs associated with silviculture activities and to costs associated with the transportation of seedlings.

Regarding the control and planning costs, the GOQ submitted a study conducted on behalf of the MRN by Del Degan, Massé et Associés inc. that covered fiscal year 1997–1998. This study analyzed the supply costs of harvesting softwood species and poplars found on Quebec's Crown land.¹³ In particular, the study indicates the unit cost difference between the amount of silviculture costs borne by TSFMA permit holders and the amount of silviculture costs credited by the GOQ. In *Lumber III*, 57 FR 22570 at 22600, we granted such control and planning adjustments. For purposes of this preliminary determination, we have granted the difference between silviculture costs incurred and silviculture credits received by TSFMA permit holders as an adjustment. To make this adjustment, we converted the costs from the 1997–1998 MRN fiscal year study into POI-dollars using the Canadian Industrial Product Price Index for Wood Industries as reported by Statistics Canada.

In *Lumber III*, we determined that replanting is a silviculture requirement of TSFMA holders and although seedlings were provided to TSFMA holders by the GOQ, tenure holders were required to transport them from

¹³ This study was included as part of the public version of Quebec's August 6, 2001 supplemental questionnaire response.

government nurseries to harvest sites. See *Lumber III*, 57 FR 22570 at 22600. The GOQ has stated that it did not credit costs associated with the transportation of seedlings during the POI. Consistent with our approach in *Lumber III*, we have adjusted the administered stumpage price to reflect the cost for transportation of seedlings. The GOQ states that it does not monitor seedling transportation costs because they are not compensated by dues credits. However, the GOQ supplied the seedling transportation cost that was used in *Lumber III*. For purposes of the preliminary determination, we have used the seedling transportation cost from *Lumber III*. We have converted this unit cost figure, which was originally reported in the Quebec Calculation Memorandum from the final determination of *Lumber III*, into POI-dollars using the Canadian Industrial Product Price Index for Wood Industries as reported by Statistics Canada.

As explained above, we have preliminarily determined that stumpage prices in the United States provide the most accurate benchmark. In the case of Quebec, it is bordered by four states: New York, Vermont, New Hampshire and Maine. While data on stumpage prices are available for all four states, our preliminary analysis of the data available to us at this time indicates that the data for Maine are the most comprehensive. For example, New York, Vermont, and New Hampshire are based on a limited number of survey respondents while the stumpage prices collected by the Maine Forest Service (MFS) are based on approximately 3,000 landowner reports received by the MFS that reported stumpage sales in 2000. In addition, among the four states, Maine has the longest border with Canada. Prior to our issuance of the final determination we will further examine our decision to use Maine data as the benchmark stumpage price as well as our decision not to use the data from New York, Vermont, and New Hampshire.

The MFS report provided weighted-average prices for each species in Maine in U.S. dollars per thousand board feet (MBF). We converted these U.S. prices into Canadian dollars using the average exchange rate for calendar year 2000 as reported by the Central Bank of Canada. Next, we converted these figures from MBF into cubic meters using the conversion factor of 5.66. We note that this is the same conversion factor that was used by the ITC. See Conditions Relating to the Importation of Softwood Lumber into the United States, USITC Publication 1241, April 1982, which was placed on the record of this

investigation on August 9, 2001. We then calculated the difference (unadjusted) between provincial and Maine stumpage prices for each softwood species harvested in provincial forests. To arrive at a weighted price difference, we weighted each species' price difference in proportion to its share of the TSFMA harvest for fiscal year 2000–2001. We then reduced this weighted price difference by the amount of each adjustment described above to arrive at the adjusted price difference.

To calculate the benefit under Quebec's stumpage system, we first multiplied the adjusted price difference described above by the total softwood harvested by TSFMAs during the POI. Next, we calculated the provincial benefit by dividing the product of the adjusted price difference and the total softwood harvested by TSFMAs during the POI by the total value of softwood lumber shipments plus the total value of by-products for the POI. This methodology of calculating the benefit is similar to the one used in *Lumber III*. See 57 FR 22570 at 22577. During verification, we will further examine the figures used in the denominator of the provincial benefit calculation. Next, as explained in the "Subsidy Rate Calculation" section of this notice, we weight-averaged the benefit from this provincial subsidy program by the province's relative share of total U.S. exports. The preliminary countervailable subsidy for the provincial stumpage programs can be found in the "Country-Wide Rate for Stumpage" section, below.

2. Province of British Columbia

Although there are 11 forms of agreements that authorize the granting of rights to harvest Crown timber in British Columbia (eight are in the form of licences and three provide harvesting rights in the form of permits), there are three main types: (1) Tree Farm Licenses, (2) Forest Licenses, and (3) Timber Sale Licenses.

Tree Farm Licenses (TFLs) are area-based tenures. Licensees occupy and continuously manage forests in a specific area. Each TFL specifies a term of 25 years and describes the Crown and private lands included within the license. The licensees are responsible for costs associated with planning and inventories. These would include Forest Development Plans, Management Plans, various resource inventories and assessments, as well as other costs including road building, harvesting, basic silviculture, stumpage and annual rent.

Forest Licenses are volume-based tenures in that they confer the right to harvest a certain amount of timber each year within a given Timber Supply Area without designating a specific area of land. A Forest License has a maximum duration of 20 years. Approval to harvest specific timber under a Forest License is accomplished through the issuance of Cutting Permits. The licensees are responsible for costs associated with planning, road building, harvesting, basic silviculture, and payment of stumpage and annual rent.

Timber Sale Licenses grant the right to harvest timber within a specific Timber Supply Area or TFL Area. Timber Sale Licences have a maximum term of 10 years. Section 20 and 23 sales typically have a one-year term; Section 21 sales have terms averaging 4 or 5 years. Section 20 and 21 are under the Small Business Forest Enterprise Program (SBFEP). Section 20 licenses are awarded to the bidder with the highest bonus bid, which is the amount the bidder is willing to pay on top of the upset rate (minimum rate). Section 21 bidders compete on the basis of a set of criteria which includes bonus bids, employment, new capital investment, existing plant, proximity of the plant to the timber supply, the value added through the manufacturing process, and similar criteria. Section 23 sales involve very small volumes harvested for salvage purposes.

The timber pricing system for all tenures are generally determined by two appraisal systems, the Comparative Value Pricing (CVP) system and the Market Pricing System (MPS). The CVP system is used to set stumpage for all tenures except (1) competitive Timber Sale Licenses issued under sections 20 and 21 of the SBFEP, and (2) those qualifying under the "Coast Hemlock Strategy." Under these exceptions, the MPS is used. The CVP is a means of charging specific stumpage prices according to the relative value of each stand of timber being sold. Comparative value prices are established so that the average rate charged will equal a pre-set target rate per cubic meter. The relative value of each stand depends upon estimates of the selling price and the cost of producing the end products. Two base rates are established for the province, one for the Coast average market value zone (the Coast), and the other for the remainder of the province (the Interior).

The MPS, established in January, 1999, uses results of the SBFEP section 20 auction sales to set the "upset" stumpage rate for upcoming "competitive" timber sales under sections 20 and 21. MPS estimates the

site-specific value of standing timber directly from recent auction sales. The resulting estimate is then discounted to set the upset (minimum) price, and the winning bidder typically adds a bonus bid to determine the total stumpage charge. In addition, section 21 is not only awarded to the highest bidder; other factors such as employment, new capital investment, existing plant, proximity of the plant to the timber supply, and the value added through the manufacturing process are taken into account. Based on volume, sections 20 and 21 represented approximately 11 percent of the total softwood harvested during the POI. Further, all individuals and companies under the SBFEP combine to hold approximately 13 percent of B.C.'s Allowable Annual Cut (AAC). There is no estimate of the volume of softwood harvested under the "Coast Hemlock Strategy" during the POI. However, because it is an MPS "pilot" project that is currently being evaluated to determine whether it will be expanded, contracted or canceled, the volume should be a relatively small amount. Also, during the POI, the province sold 6.4 percent of the total log harvest through Section 20. Therefore, the CVP system appears to be the method used to determine the vast majority of administratively-set stumpage rates.

Since the government provides stumpage at administratively-set prices that, even after accounting for differences in forest management and harvesting obligations (as described below), are generally lower than the benchmark stumpage prices that the government obtains from other companies, we preliminarily determine that the B.C. provincial government is providing stumpage for less than adequate remuneration.

We used as our volume information for British Columbia softwood logs (including sawlogs and veneer, and excluding pulplogs) harvested by the major tenure holders in the province during the POI. We also did not include timber harvested on private or federal lands, both of which, represent small percentages of softwood sawlogs harvested in B.C. (approximately 10 percent and less than one percent by volume, respectively, province-wide). We included in our administratively-set prices stumpage sold through the SBFEP.

Although the price-determining factors are different between administratively-set stumpage sales in B.C. and market-driven stumpage sales in Washington state, an examination of stumpage prices alone is not sufficient to determine whether timber is provided

for less than adequate remuneration. Tenure holders in B.C. are required to fulfill certain forest management and timber-harvesting obligations, including silviculture and other forest management activities. Therefore, it is necessary to factor in certain cost adjustments to the administered prices in B.C. to reflect the costs of certain mandatory activities that are not factored into the administered price.

For the following adjustments made by the Department, with the exception of reported annual rents, we relied on cost data submitted by respondents, and taken from surveys conducted by the Ministry of Forests (MOF) for Coastal B.C., summarized and reviewed by Pricewaterhouse Coopers (PwC), and a survey developed and conducted directly by PwC for Interior B.C. The PwC report represents data from calendar year 2000. PwC was engaged by the MOF to collect and review certain cost data from major license holders specifically for purposes of this investigation. We did not include any cost adjustments associated specifically with the SBFEP. For all adjustments, we relied on costs borne by major tenure holders, since respondents provided cost data based on survey responses of major tenure holders.

For the Coastal survey, PwC summarized and reviewed survey responses conducted by the MOF. Major licensee cost data was summarized for the Head Office, Forestry, and Engineering Component (*i.e.*, General and Administrative, Engineering and Forest Management Costs) from licensees whose calendar year 2000 volume equaled approximately 50 percent of the total volume during the period. With regard to the Logging Operations Component (*i.e.*, Road Construction and Routine Road Maintenance), PwC reviewed responses from licensees whose calendar year 2000 harvest volume totaled approximately 21 percent of the entire harvest volume for the year.

For the Interior, since a calendar year 2000 survey has not yet been completed by the MOF, an independent survey was developed and conducted by PwC. Responses were compiled from major licensees whose calendar year 2000 harvest volume equaled approximately 63 percent of the total harvest volume.

In responding to the surveys, no licensees reported any operations on private lands for the Interior. However, Coastal data includes costs incurred on Crown and any private lands a licensee may own, but this is limited to holders of Tree Farm Licenses. Respondents point out that costs per cubic meter with regard to forest management

responsibilities, including silviculture and road construction and maintenance, would generally be the same for both private and Crown land within a Tree Farm Area, since the licensee responsibilities mandate the same activities in the same areas (*i.e.*, private land within a Tree Farm Area is subject to the same standards as Crown land within a Tree Farm Area). Therefore, consistent with our determination in *Lumber III*, we have not accounted separately for the fact that a small percentage of private cost data is included in the Coastal B.C. survey information reported by respondents.

Based on the cost data submitted by respondents, we made the following adjustments to the administered prices in order to obtain an appropriate comparison with the benchmark prices:

(1) Annual ground rents, reported on a per cubic meter basis, were included as an adjustment because they are charges for reserving the use of the resource under license, and are imposed whether or not timber is harvested.

(2) Major tenure holders are required to perform certain activities pertaining to the reforestation of their timber stands. These activities, referred to as silviculture, are broken down into two types—basic and incremental. Major tenure holders must perform basic silviculture, which includes surveying, site preparation, planting, brushing, weeding, spacing and seedling. Incremental silviculture activities, which are not required by law, take place after the establishment of a free growing crop of trees. These activities are not the responsibility of tenure holders. In limited instances, a licensee may perform incremental silviculture on a voluntary basis. We added basic silviculture costs incurred by major tenure holders to the administered rate since major licensees are required to perform these activities, whereas private harvesters in Washington state are not required to do so. For Coastal B.C., we took the reported basic silviculture costs and divided by the reported production volume to arrive at a per cubic meter cost. We applied the same calculation for the Interior, based on reported cost and volume information contained in the PwC survey results. We included an adjustment for reported field overhead and general and administrative expenses associated with these activities. We made no adjustment for costs related to incremental silviculture activities for either the Coast or Interior because major tenure holders are not required to perform these activities.

(3) Major tenure holders are required to perform forest protection activities on Crown lands, including fire prevention

and suppression, and pest management activities. Initial fire suppression, maintaining specified equipment levels and fire readiness plans are obligations of licensees. Major licensees are also required to combat and extinguish all fires in their operating areas. If the fires are not successfully controlled by the licensees, tenure holders are billed by the Ministry for the costs of any additional measures that need to be taken. As for insect and disease protection measures, these are generally carried out by licensees. As a result, we have included adjustments for these additional costs for both Coastal B.C. and Interior B.C., as well as adjustments for the allocation of general and administrative activities associated with these activities. To arrive at per cubic meter costs for these activities, we have taken the reported costs from survey respondents and divided by the reported production volume for those respondents.

(4) There are certain general classifications of roads associated with logging in B.C. Primary (mainline) roads are intended for regular and ongoing traffic. These are roads that require extensive engineering, excavation and construction. Secondary, or operational, roads are generally intended for a lower volume of traffic, and built on a less permanent basis than a mainline road. Cutblock, or on-block, roads enable harvesting to take place on a single cutblock, and are often only sufficient for the movement of crews and equipment. These are temporary roads (typically used for a single season) that require little, if any, maintenance.

Respondents report that major tenure holders are responsible for building and maintaining mainline, operational and cutblock roads. All Crown lands are generally for public use, except where safety concerns may prevent their use. Respondents provided information on road and bridge building and maintenance costs for major licensees, indicating that maintenance of all forest roads is the responsibility of the industrial user, and that roads used by major tenure holders require ongoing maintenance.

Private harvesters in Washington state often must factor in costs for construction and maintenance associated with all roads not considered to be primary roads. Therefore, we included as an adjustment only that portion of the reported costs for road and bridge building, road and bridge maintenance, deactivation (the removal of the road surface and sub-surface, including culverts, to return the roaded area to its original natural state), field overhead and general and

administrative expenses that relate to mainline roads only. Since the Government of British Columbia (GBC) did not provide a full breakdown for mainline and operational road costs for both the Coast and Interior, we relied on cost information provided in the Coastal survey response of the PwC report to determine the applicable road cost adjustments to make to the Coastal and Interior administratively-set stumpage prices.

In the Coastal survey response, major licensees reported a majority of their road expenses broken down by mainline, operational and major bridge construction. Based on this reported data, we added the mainline and major bridge construction costs and divided our sum by the total road costs of Coastal survey respondents to arrive at a percentage of the total road costs for which Coastal B.C. major licensees are responsible for but which private harvesters are not. Without having a complete itemization of mainline and operational road costs, we then applied this percentage to the total reported road costs, per cubic meter, to arrive at the applicable adjustment to include for Coastal B.C. Next, we applied this calculated percentage to the submitted per cubic meter road costs of Interior B.C. survey respondents, as well, since road construction and maintenance costs were not reported separately by road type (primary/mainline, secondary/operational, etc.). We used this percentage to determine applicable adjustments for road and bridge building, road and bridge maintenance, deactivation, field overhead and general and administrative expenses.

Cost data reported by respondents does not include any construction or maintenance costs incurred on cutblock, or onblock, roads. We will further examine. We note that we will examine closely at road construction and maintenance cost data.

(5) We have included costs reported as "Sustainable Forest Management" costs, as submitted by respondents. These costs include preparation of forest development plans, management plans, silviculture prescriptions and cutting permits. Interior costs include post-logging treatments, including mistletoe eradication, as well as landing/roadside burning and rehabilitation. Respondents state that these costs are assumed by industry without reimbursement, credit against stumpage or other offset. We note that while private harvesters bear certain costs relating to operational planning and land treatment, the mandatory costs borne by major tenure holders are, in large part, unique to those licensees. Based on these factors,

we have preliminarily granted adjustments for forest resource management activities and an allocation of the general and administrative expenses have been added to include the costs of these activities.

We have not included any adjustments to administratively-set prices for costs related to timber sales, such as scaling, residue and waste management and cruising, engineering and layout. While the GBC reported that major licensees bear the costs of planning, engineering and layout, cruising, scaling (including the cost of operating scale sites) and residue and waste surveys, we see no reason to believe that private harvesters would not bear many of these same costs. Indeed, there are several costs related to auction sales that are borne by private harvesters, including costs of evaluating the timber offered for sale. Therefore, we have not included these adjustments for either the Coast or Interior. We will examine this at verification.

To obtain benchmark prices that can be compared to administratively-set B.C. prices, we used data from the Washington State Department of Natural Resources (WDNR), as compiled in the *Stumpage Price Report* (March 31, 2001), published by the Timber Data Company. The WDNR data is derived from stumpage sold by public auction or a sealed bidding procedure. There are no restrictions concerning who may place a bid, including any foreign entity.

In order to determine our benchmark prices to compare to stumpage prices in Coastal B.C. and Interior B.C., we first calculated weighted-average prices, by volume sold during the POI, for each of the major species in Washington, separately for Western and Eastern Washington. For Western Washington, which is comparable to the B.C. Coast, we looked at Douglas fir, true fir/hemlock and red cedar/cypress. For Eastern Washington, which is comparable to the B.C. Interior, we examined Douglas fir/larch, hemlock/true fir, ponderosa pine, lodgepole/spruce and red cedar.

Certain species volume and price data was reported for Coastal and Interior B.C. for which we did not have Washington state volume and price data in the *Stumpage Price Report*. These species made up only a very small percentage of the volume harvested. For the Coast, cypress accounted for approximately 4.3 percent of the Coastal sawlog harvest, while spruce accounted for 2.8 percent. We conferred with a forestry official who explained that, of the Western Washington species for which we have data, cypress is most similar in its uses and characteristics to

red cedar (*see* "Calculation of Stumpage Subsidy in British Columbia" Memo to the File from Team, dated August 8, 2001). Therefore, for purposes of this preliminary determination, we have used the Western Washington red cedar price data to compare to Coastal B.C.'s price data for cypress. In the case of spruce, we compared the prices we had for Coastal B.C. spruce to Eastern Washington price data contained in the *Stumpage Price Report* for purposes of the preliminary determination. Similarly, red cedar made up 2.8 percent of the sawlog harvest for Interior B.C., yet we did not have price data for red cedar in Eastern Washington. Therefore, for purposes of the preliminary determination, we used as a proxy Western Washington red cedar prices to compare to red cedar in Interior B.C. We will attempt to gather more precise information regarding these species comparisons prior to the final determination.

We compared B.C. and WDNR data separately for the Coast and Interior. We compared the stumpage prices reported for the species in B.C. to the prices reported in Washington state, weight-averaged by volume sold during the POI. We then converted the prices for each species from U.S. dollars per thousand board feet to Canadian dollars per cubic meter using monthly exchange rates from the Bank of Canada for the POI and the conversion factor described above (*see* discussion of Quebec's stumpage system and calculations). We compared the prices for each species or species group in both the Coast and the Interior to arrive at price differences for those species or species groups. Next, we weight-averaged the price differences of all included species or species groups by the harvested volumes of individual species or species groups in British Columbia. On this basis, we arrived at per-unit price differences for Coastal and Interior B.C.

In order to determine the *ad valorem* subsidy rate for B.C. stumpage, we first took our calculated per-unit price differences for both areas, and factored in all necessary adjustments, which are detailed above. We next multiplied the total provincial harvest of softwood logs for the POI by the reported percentage of the harvest going to sawmills to arrive at a total sawmill harvest for the POI. We multiplied the resulting figure by the per-unit price differences, factoring in adjustments, to arrive at the total benefits for Coast and Interior. We then added the benefits together for the Coast and Interior and divided the sum by the combined total value of softwood lumber and by-product shipments within B.C. Next, as explained in the

"Subsidy Rate Calculation" section of this notice, we weight-averaged the benefit from this provincial subsidy program by the province's relative share of total U.S. exports. The preliminary countervailable subsidy for the provincial stumpage programs can be found in the "Country-Wide Rate for Stumpage" section, below.

3. Province of Ontario

The Government of Ontario (GOO) makes standing timber on Crown land available to those parties who have purchased harvesting rights. These rights, often referred to as stumpage rights, apply to a particular area of Crown land and entitle the purchaser to harvest standing timber at a price that is set by the GOO's Ministry of Natural Resources (OMNR), the agency responsible for administering the sale of standing timber on Crown lands. The GOO maintains two main types of tenure arrangements under the Crown Forest Sustainability Act (CFSA): (1) Section 26 Sustainable Forest Licenses (SFLs) and (2) Section 27 Forest Resource Licenses (FRLs). Section 26 SFLs are set for an original 20-year term, which are extendable indefinitely and are not transferable. Four percent of Section 27 FRL holders and 41 percent of Section 26 SFL holders are integrated.

Generally, an SFL covers all forest land in a management unit. The GOO reported that SFLs cover 90 percent of the Crown timber land designated as management units. According to the GOO, SFL holders are responsible for forest planning, information gathering, monitoring, basic silviculture, and road building costs. However, the GOO reimburses many silviculture costs. Section 27 FRLs are set for terms up to 5 years, can be extended for 1 year, and are not transferable. Typically, a FRL covers only part of a management unit, and timber amounts and species are specified. The areas of some FRLs overlap with SFL areas, but, in such instances, different stands are covered.

To get either license, one must own a resource processing facility or must have access to a market (*i.e.*, an established arrangement with a facility to supply wood). Under the CFSA, mills can also gain timber under non-tenure arrangements, through Section 25 Supply Agreements and Supply Commitment Letters. According to the available information on the record, very little standing timber is harvested under Section 25 Supply Agreements or Supply Commitment letters.

In Ontario, lumber producers obtain the forest products they need in five ways: (1) They pay the Government of Ontario stumpage dues and harvest

timber directly from their tenures on Crown lands; (2) they purchase logs at arm's-length from a company that harvested it from Crown lands; (3) they pay stumpage dues and harvest timber from private timber owners; (4) they purchase logs from a company that harvested timber from private lands; and (5) they import logs from the United States.

The GOO stated that it does not distinguish between saw logs and pulp logs; therefore, in its response to the questionnaire it reported timber harvest data based on whether the log was destined for a saw mill or a pulp and paper mill. The value data reported does not include "in-kind" services provided by tenure holders, however, the GOO has provided certain estimates of the total value of services that tenure holders are obligated to provide. The GOO reported that 30 percent of the softwood timber harvested from Crown lands is resold by the tenure holders to third parties.

The GOO reported that integrated and non-integrated firms pay the same price for stumpage, which is different than what the Department found in the *Lumber III* investigation. Stumpage fees are charged after measurement has occurred, which can occur at the logging site, but usually occurs at the destination mill. Ministry or company officials conduct the actual scaling (measurement). The licensee pays the scaling costs. Measurement can occur quickly or may be delayed for months due to the weather.

The GOO reported that the overall provincial price for stumpage on Crown lands that it charges is calculated according to four component charges: (1) The minimum charge, (2) the forest renewal charge, (3) the forest futures charge, and (4) the residual value charge. Ontario reports that some of these component charges differ depending on end product market prices. Ontario contends that prices paid for stumpage represent only a portion of the value received by the province from tenure holders, with the additional value coming from "in-kind" payments, which are discussed in the Ontario adjustments section below.

The minimum charge is set administratively every year depending on the species and the destination of the harvested timber, *i.e.*, whether it is destined for a saw mill or a pulp and paper mill. The GOO states that the primary reason for this charge is to generate a secure source of revenue regardless of market conditions. During the POI, the minimum charge for 97 percent of Crown timber was set at C\$3.28 per cubic meter, and the

minimum charge for three percent of Crown timber was set at C\$0.59 per cubic meter. According to the GOO questionnaire response, the Annual Area Charge that the Department found in Lumber III was combined with this charge in 1997.

The GOO reported that this charge generates funds necessary to cover costs of renewing harvest area. This charge covers silviculture costs, and, since 1997, has been determined annually for each management unit and each species within the unit. According to GOO, the monies collected from each management unit go into the Forest Renewal Trust Fund for use for forest renewal costs within that specific management unit.

The third component of the overall provincial stumpage price is the forestry futures charge, which is the same for all management units and species within the province and is set annually. Money collected from this charge is paid into the Forestry Futures Trust Fund and is to be used for costs relating to pest control, fire, natural disaster, stand management, and the silviculture expenses of insolvent licensees. During the POI, the charge was C\$0.48 per cubic meter. In response to questions in the Department's supplemental questionnaire, the GOO indicated that this charge has not changed since the Fund was established in 1995.

The fourth component of the stumpage charge is the residual value charge, which is assessed when the price of end-forest products produced with timber reaches a certain level determined by the OMNR. For softwood lumber, the RV charge is assessed when the estimated price a softwood mill receives for lumber exceeds C\$351.97 per thousand board feet. This charge is determined on a monthly basis according to a formula.

The GOO reports that basic silviculture, not incremental silviculture, is required to be performed on all harvested Crown land requiring renewal in order to achieve a sustained yield. The GOO reports that the aims of basic silviculture are to ensure the stand regenerates quickly, the desired species regenerates in the area, the trees in the stand reach the appropriate size, and the stand regenerates with optimum tree density. Basic silviculture may include, among other things, site preparation, direct seedling and planting, tree improvement, vegetation management, and thinning.

The GOO claims that all harvesters of Crown timber are required to pay the full cost of basic silviculture. Section 26 and 27 tenure holders pay this through the portion of stumpage (*i.e.*, the forest

renewal charge) deposited into the Forest Renewal Trust Fund; the forest renewal charges on Crown lands still in transition from OMNR management to a SFL tenure holder are paid into the Special Purpose Account. After performing silviculture activities, the tenure holders submit bills to the Ministry of Natural Resources and are reimbursed in full for their eligible silviculture costs. According to the GOO, basic silviculture expenditures eligible for reimbursement include: Cone collection, seed extraction, tree improvement, stock purchase/delivery, tree planting, seedling, scarification, site preparation (including mechanical and chemical burn), tending, tree marking, modified harvest cutting, and silvicultural surveys. Tenure holders also can charge the province an additional 10 percent overhead for silviculture management.

Because Ontario tenure holders are reimbursed for 100 percent of the costs of basic silviculture from the Forest Renewal Trust Fund, we made an adjustment by subtracting the total value of the forest renewal charges collected during the POI. In addition, we made a further adjustment to the administered stumpage price to account for reimbursement of silviculture overhead costs. We made this adjustment for the reimbursement of silviculture overhead by deducting 10 percent of the value of the forest renewal charges collected during the POI. During verification, we will further examine the silviculture costs required by the OMNR and reimbursements made.

Ontario claims that license holders make in-kind payments to the province because of the following requirements: (1) Road construction and maintenance; (2) forest management planning; (3) forest protection (fire and insect protection costs); and (4) First Nations relations. Total in-kind payments are estimated by the GOO on a per unit basis of C\$2.33 per cubic meter for the POI. The GOO claims that SFL holders and FRL holders have similar obligations on tenures, claiming that FRL holders have them indirectly through harvesting arrangements with overlapping SFL holders.

As explained above, the administered stumpage price for each management unit is based on a mixture of general charges and charges specific to a particular management unit, species, and destination mill. To arrive at a single province-wide administered stumpage rate for use in our stumpage calculations, we divided the total softwood stumpage fees paid by both SFL and FRL tenure holders during the

POI by the total softwood harvested during the POI. We then added to this administered stumpage rate adjustments (on a per cubic meter basis) for public stumpage obligations that would not be incurred, according to our preliminary analysis, by private harvesters in the United States.

The GOO considers expenses regarding road construction and maintenance requirements as "in-kind" contributions. The GOO categorizes primary roads as permanent roads, which are constructed, maintained and used as the main all-weather access system for the management unit. Secondary roads are categorized as branches of main roads which are designed to provide 5 to 15 years of all-weather access for the public. Tertiary roads are temporary access roads, which are used for several years and then abandoned.

The GOO reported that primary and secondary roads are identified in 20-year management plans submitted with Section 26 SFL licenses. Section 26 SFL license holders are required to build and maintain roads, while Section 27 FRL license holders are responsible for all new forest roads. SFL holders construct and maintain primary, secondary, and tertiary roads for their logging operations. Since those roads are available for public use, they must meet government standards. In a study by KPMG, the GOO provided data on the cost per cubic meter of road construction and maintenance, according to the following formula: 100 percent of primary road construction, 50 percent of secondary road construction and none for tertiary road construction costs. We have made an upward adjustment to the administered stumpage price based on those reported costs. During verification, we will further examine the differences in infrastructure and of primary and secondary road costs.

The GOO stated that the cost of forest management planning is included in the industry obligations in Canada. The CFSA requires that forest management plans be prepared and approved following the Forest Management Planning Manual (FMPM). The FMPM requires, among other things, an environmental, social, and economic description of the management unit, long-range sustainability planning for a 20-year period, designation of areas of operation, and a description of the program for monitoring forest management operations. We have made an upward adjustment for the Forest Management Planning costs by dividing the total estimated value of forest management planning costs during the

POI by the total softwood harvest. During verification, we will further examine the forest management planning obligations.

Other requirements on tenure holders established by the OMNR include assistance with fire suppression (*i.e.*, assisting the OMNR in the prevention and initial fighting of forest fires). According to the GOO's June 28, 2000 questionnaire response, the amount of costs incurred for fire pertain to both SFL and FRL holders. We have made an upward adjustment for the fire protection costs by dividing the total estimated value of fire and insect protection costs during the POI by the total softwood harvest volume during the POI.

The GOO reports that tenure holders provide training and education for First Nation individuals, and provide financial support for activities such as the maintenance of native heritage sites. According to the GOO's June 28, 2000 questionnaire response, the amount of costs incurred for First Nation relations includes both SFL and FRL holders. We have made an upward adjustment for this cost by dividing the total estimated value of these costs during the POI by the total softwood harvest during the POI.

We preliminarily determine that stumpage prices in the United States provide the most accurate benchmark. Although data on stumpage prices are available for other states, we preliminarily determine that the data we collected for Michigan and Minnesota are the most suitable for comparison purposes. Michigan and Minnesota are the states in closest proximity to Ontario, and the data we used reflected actual sales, appraisals and volumes harvested. Prior to our issuance of the final determination, we will further examine our decision to use this Michigan and Minnesota data for comparison purposes.

In order to calculate our cross-border benchmark, we used the *Minnesota 2000 Corrected Public Stumpage Price Review and Price Index (Minnesota Price Review)* published by the Division of Forestry, Minnesota Department of Natural Resources. The *Minnesota Price Review* lists average prices and volumes for all timber sold on state and federal public lands within Minnesota as well as 10 counties in Minnesota, as provided by the Minnesota Department of Natural Resources, from January 2000 through December 2000. We also used a report from the Michigan Department of Natural Resources, Forest Management Division (Michigan Stumpage Price Report) which lists average stumpage prices for all sales from state lands from

April 1, 2000 to March 31, 2001. As each source reported average prices for each species in U.S. dollars per thousand board feet, where possible we calculated a weighted-average of the prices for softwood sawlogs for each of the species categories reported by Ontario. We then converted these prices from US\$/MBF to C\$/m³ using a conversion factor of 5.66 cubic meters to thousand board feet, and the average exchange rate for the POI as reported by the Bank of Canada.

We calculated the benefit conferred under Ontario's stumpage program by first taking the difference between the U.S. benchmark stumpage price and the adjusted administered stumpage price on a per cubic meter basis. We then multiplied per unit benefit by Ontario's total softwood sawtimber harvest volume in cubic meters to derive the total benefit from Ontario's stumpage program.

In *Lumber III*, the Department calculated the program rate by dividing "the total benefit by the value of certain softwood lumber products (at the first mill/planing mill stage) plus the value of by-products that are produced during the lumber production process and sold by lumber producers." See *Lumber III*, 57 FR 22570 at 22576. Similarly, to calculate the program rate, we divided the total benefit by the total value of Ontario's softwood lumber production plus the total value of Ontario's softwood lumber by-products for the POI. Next, as explained in the "Subsidy Rate Calculation" section of this notice, we weight-averaged the benefit from this provincial subsidy program by the province's relative share of total U.S. exports. The preliminary countervailable subsidy for the provincial stumpage programs can be found in the "Country-Wide Rate for Stumpage" section, below.

4. Province of Alberta

The province of Alberta provides stumpage under three main tenure arrangements: (1) Forest Management Agreements (FMAs), (2) Timber Quota Certificates (quotas), and (3) Commercial Timber Permits (CTPs). FMAs are mainly used by integrated and larger timber companies, quotas are used more by medium-sized companies, and CTPs primarily are used by smaller ones.

An FMA is a long-term (20 years and renewable) agreement between the Government of Alberta (GOA) and a company. The terms and conditions are fully negotiated and approved by the Provincial Cabinet. FMA holders gain the right to harvest timber with the approval of an annual operating plan.

An FMA includes the obligation to manage, on a sustained yield basis, the timber within the Agreement Area.

FMAs are provided to companies that require the security of a long-term tenure. In addition to paying stumpage fees, FMA holders are responsible for a number of in-kind services, including construction and maintenance of roads, reforestation of all areas harvested, and any other obligations required by the Department of Alberta Sustainable Resource Development (ASRD). Under the FMA tenure arrangement, recent negotiations have led to an agreement to use regulation rates on many FMAs (*i.e.*, the rates set out in the Timber Management Regulation (the TMR)). Since 1994, dues for coniferous timber harvested under the authority of a FMA and consumed in sawmills usually are paid at the general rates of timber dues as set out in the TMR. FMAs generally have agreed to pay regulation rates for pulpwood as well. The timber dues paid by FMA holders can also be negotiated between the ASRD and the FMA holder.

A quota certificate is a long-term (up to 20 years and renewable) right to harvest a share of the annual allowable cut (AAC) as established by the ASRD. A timber license is required for a quota holder to harvest the timber. Quota holders are responsible for road construction and maintenance, reforestation of all areas harvested, and operational planning. Quotas are sold by public tender or at an auction to the highest bidder. The charge for competitively sold quotas includes the timber dues as set out in the TMR, holding and protection charges, and a bonus price. The quota gives the holder license to harvest specific species and maintain utilization standards. For each year that a quota is granted, the holder must prepare and submit, for ASRD approval, an annual operating plan. There were no quotas sold during the POI; however, there were outstanding quotas. Together, FMA and quota holders accounted for approximately 92 percent of the softwood sawlog harvest on provincial forest lands in fiscal year 2000–2001.

CTPs are short-term (averaging 2–3 years) tenure arrangements used to allocate smaller volumes of timber. CTPs are sold either directly or at a public auction. Non-competitively-sold CTPs must pay the timber dues as set out in the TMR. There are two types of competitively-sold CTPs. The first type includes a bid price on top of the upset price, which is the lowest price a seller will accept, as well as other costs related to in-kind services. The second type of competitively-sold CTPs includes a bid price on top of the

minimum auction price, other costs related to in-kind services, and the TMR rate for timber dues. A CTP holder must also pay annual holding and protection charges. If the CTP holder does not also hold another major tenure (*i.e.*, an FMA or a quota), the CTP holder must pay a reforestation levy. In addition, a CTP holder must provide an annual operating plan, which includes harvesting and road construction and maintenance. Three hundred eighty-four coniferous CTPs were sold during the POI.

The administered price for non-negotiated FMAs and quota tenure holders is set by using the TMR timber dues and in-kind cost adjustments. Timber dues, as established in Schedule 3 of the TMR, describe the method of calculation of the rates of dues payable for coniferous timber used to make lumber products in a given month based on an average price for lumber in that month. This average is calculated by taking the weekly price for 1000 board feet of kiln-dried, 2x4, Standard and Better, Western Spruce-Pine-Fur for the last week ending in the month preceding the payment month and for the three immediately preceding weeks, as shown in the publication *Random Lengths Lumber Report*. These four weekly prices are converted to Canadian funds and then averaged. This amount is found in Schedule 3, Table Part A and Part B, Column 1.¹⁴ Schedule 3 provides the general rate of timber dues for coniferous timber used to make lumber, pulp, or roundwood timber products. The figures provided in Schedule 3 are the same for pulpwood and sawlogs.¹⁵ Column 1 provides a range of C\$/1000 board feet; the averaged amount as noted in Column 1 has a corresponding cubic meter value in Column 2. Column 2 represents the timber dues that an FMA tenure holder pays for billed volume of softwood timber. The timber dues are determined after the product has been produced. In addition, Schedule 6 covers the timber dues for timber used to make veneer.

To derive Alberta's administratively-set stumpage rate that we used in our

calculations, we divided the total timber dues charged to FMA, quota, and CTP tenure holders during the POI for each species by the total softwood stumpage billed under each tenure during the POI for each species. In this manner, we obtained a weighted-average stumpage price per species that was paid by tenure holders during the POI. To this number, we added per unit adjustment costs.

Although the price-determining factors are different between administratively-set stumpage sales in Alberta and market-driven stumpage sales in Montana state (*see Cross-border Benchmark Stumpage Price* section below), an examination of stumpage prices alone is not sufficient to determine whether timber is provided for less than adequate remuneration. Major tenure holders in Alberta are required to fulfill certain forest management and timber-harvesting obligations, including silviculture and forest management activities. Therefore, we preliminarily determine that it is necessary to factor in certain cost adjustments to the administered prices in Alberta to reflect the costs of certain mandatory activities that are not factored into the administered price.

For the following adjustments made by the Department, we relied on cost data submitted by respondents. For adjustments, we relied on costs borne by tenure holders, since respondents provided cost data based on an independent consultant's report provided to the province by tenure holders. During verification, we will further examine all of the adjustments.

As explained below, we have made adjustments for road construction and maintenance, basic reforestation, forest management planning, fire, insect and disease costs, environmental protection costs, and holding and protection charges.

Respondents report that major tenure holders are responsible for all costs associated with building and maintaining roads. Respondents stated that access for timber harvesting and extraction is completed at the expense of the stumpage holder and that the province does not build or maintain any access for the harvesting of timber.

We have no information on costs that private harvesters in Montana must pay for construction and maintenance associated with roads. Therefore, we included as an adjustment the entire cost of road building and maintenance as reported by respondents.

Major tenure holders are required to perform certain activities pertaining to the reforestation of their timber stands. These activities, referred to as

silviculture, are broken down into two types—basic and intensive. As stated in the TMR and the GOA's August 6, 2001 supplemental questionnaire response, major tenure holders must perform basic silviculture, which includes regeneration or reforestation surveying, site preparation, planting, brushing, weeding, spacing and seedling trees, and stand cleaning. Intensive reforestation activities, which are not required by the GOA, include pruning, fertilizing, pre-commercial thinning, spacing, weeding, and genetics. A licensee may perform intensive silviculture on a voluntary basis.

We added basic reforestation costs incurred by major tenure holders to the administered rate since major licensees are required to perform these activities, whereas private harvesters in Montana are not required to do so. We made no adjustment for costs related to incremental silviculture activities because major tenure holders are not required to perform these activities.

Reforestation levies are charged to CTP tenure holders if the tenure holder does not concurrently hold an FMA or a quota. If a CTP licensee also holds an FMA, then all reforestation activities are the responsibility of the FMA holder. If a CTP is held by a quota holder, then it depends on the type of quota whether or not the CTP holder will be responsible for paying a levy or will be responsible for completing reforestation activities. If a CTP holder is obligated to pay a levy, he will pay this levy to the Forest Resource Improvement Association of Alberta (FRIAA), who will carry out the reforestation work. We took the total value of the reforestation levies paid during the POI and added it to the other adjustments.

Forest management planning, as noted in the FMA Regulations at 10(1), states that a company must submit for the Minister's approval a preliminary forest management plan (FMP) within twelve months. This includes a description of the managing method used for the timber harvesting. After 36 months, the company must submit a detailed FMP for a one full rotation and it must identify a sustainable AAC. The FMP includes reforestation and management practices, harvesting schedule and road developments.

Major tenure holders are required to perform forest protection activities on Crown lands, including fire prevention and suppression, and pest management activities. Initial fire suppression, maintaining specified equipment levels and fire readiness plans are obligations of licensees. Major licensees are also required to combat and extinguish all fires in their operating areas. As for

¹⁴ Table Part A covers the first 107,296 m³ of roundwood, while Part B covers excess over 107,296 m³ of roundwood.

¹⁵ We note that under FMAs, prices charged for timber used in pulp production are the same as timber dues charged for roundwood and chips. The GOA has indicated that sawlogs and pulplogs are indistinguishable prior to processing; the distinction in name relates exclusively to their ultimate mill destination. In this investigation, subject merchandise does not include pulpwood. Normally, we would make an adjustment to exclude pulpwood; however, since the GOA does not differentiate between pulplogs and sawlogs, we are not making such an adjustment.

insect and disease protection measures, such as spraying or surveys to measure the level and extent of infestation by a particular insect or disease, these are generally carried out by licensees. As a result, we have included adjustments for these additional costs for all tenure holders as well as adjustments for the allocation of general and administrative activities associated with these activities.

Environmental costs include those expenses paid by the tenure holder in order to coordinate and comply with federal and provincial environmental regulations.

According to the GOA's supplemental questionnaire response, holding and protection charges are an additional form of cash payment paid by tenure holders. The charge is for holding the timber stumpage rights and for a portion of the costs of protecting the land base. Moreover, the rates for holding and protection charges for CTPs and quotas are prescribed by the TMR, while the holding and protection charges for FMAs are specified in the FMA agreement.

For the reasons stated below, we did not make adjustments for intensive reforestation, Geographic Information System (GIS) costs, forest care, overlapping tenure costs, scaling, inventory, and land use administration.

We did not include intensive reforestation because this level of reforestation is not mandated by the GOA for tenure holders. GIS is a computer system capable of assembling, storing, manipulating, and displaying geographically referenced information. Respondents stated that GIS is used in forestry to manage forests for timber and non-timber purposes. We preliminarily determine that costs related to GIS are not mandatory and are not borne exclusively by tenure holders in Alberta.

Respondents stated in their supplemental questionnaire response that Forest Care is a certification program developed by member companies of the Alberta Forest Products Association as part of their commitment to protect the environment and sustain the public forest. Based on the information provided by respondents, we preliminarily determine that costs related to Forest Care are not mandatory and are not borne exclusively by tenure holders in Alberta.

Respondents stated in their supplemental questionnaire response that in Alberta one tenure may overlap with another and that the costs of managing this overlap would normally be borne by the landowners. However,

based on the information provided by respondents, we preliminarily determine that costs related to overlapping tenures are not mandatory and are not borne exclusively by tenure holders in Alberta.

Based on the information provided by respondents, we preliminarily determine that costs related to scaling are not mandatory and are not borne exclusively by tenure holders in Alberta.

Moreover, we did not make an adjustment for costs related to inventory because we preliminarily determine that these costs are not mandatory and are not borne exclusively by tenure holders in Alberta.

Due to insufficient information on the record, we have preliminarily determined not to adjust for land use administration costs. We note that this and all other adjustments, both allowed and not allowed, will be examined at verification.

In Table 19, Exhibit AB-S-43, of the GOA's June 28, 2001 questionnaire response, we discovered that some softwood lumber was harvested from deciduous dispositions without paying stumpage. We calculated the benefit for these free trees by multiplying the benchmark stumpage rate by the amount harvested for free, and we added this benefit into the calculation of our total benefit.

As explained above, we have preliminarily determined that stumpage prices in the United States provide the most accurate benchmark. In the case of Alberta, we are using data from the state of Montana, which borders Alberta, to calculate our cross-border benchmark. We obtained this data from the *Stumpage Price Report* (March 31, 2001), published by the Timber Data Company. From the *Stumpage Price Report* we obtained the total weighted-average price for all species of timber in Montana, as provided by the United States Forest Service (USFS) and the Montana Department of Natural Resources and Conservation (DNRC), from April 2000 through March 31, 2001. We converted these figures from MBF to cubic meters using the conversion factor of 5.66. We also converted the data from U.S. dollars to Canadian dollars, using monthly average exchange rates from the Bank of Canada in effect during the POI, in order to derive our basic stumpage rate in C\$/m³ for each species.

In order to compare the species mix in Alberta and Montana, we calculated the difference between provincial and Montana stumpage rates for each softwood species harvested in provincial forests. We took the

difference for each species category and multiplied it by Alberta's billed timber volume for each species category to arrive at the weighted benefit. We multiplied this amount by the portion of Alberta's species mix to derive a weighted-average benefit amount per species category.

To calculate the benefit under Alberta's stumpage system, we first multiplied the adjusted price difference described above by the total softwood harvest billed by tenure holders during the POI. Next, we calculated the provincial benefit. We note that in *Lumber III*, we calculated the provincial benefit by dividing "the total benefit by the value of certain softwood lumber products (at the first mill/planing mill stage) plus the value of by-products that are produced during the lumber production process and sold by lumber producers." See *Lumber III*, 57 FR 22570 at 22576. Consistent with that approach, we calculated a stumpage benefit amount and added the free trees from hardwood stands benefit in order to derive the total benefit. We took the total benefit and divided by the value of softwood lumber products plus the value of by-products to derive the provincial benefit rate. Next, as explained in the "Subsidy Rate Calculation" section of this notice, we weight-averaged the benefit from this provincial subsidy program by the province's relative share of total U.S. exports. The preliminary countervailable subsidy for the provincial stumpage programs can be found in the "Country-Wide Rate for Stumpage" section, below.

5. Province of Manitoba

The Government of Manitoba (GOM) states that the province owns 94 percent of the forest lands and the federal government owns one percent. Private woodlot owners own the remaining 5 percent of forests.

The GOM makes standing timber available to those parties that have purchased harvesting rights. These rights entitle the purchaser to acquire timber at a price, known as the stumpage price, set by the Forestry Branch of the Department of Conservation, the agency responsible for administering the sale of standing timber of Crown lands.

In Manitoba, there are three ways to acquire timber cutting rights: (1) A Forest Management License (FML); (2) a Timber Sales Agreement (TSA); or (3) a Timber Permit (TP). An FML is a long-term (up to 20 years) license, which may be renewed every five years, to harvest a stated volume of timber in a particular area. Licensees must manage their area

to ensure the (i) sustained yield, (ii) achievement of the maximum growth potential, (iii) a mandated standard of environmental quality, and (iv) and public right of access for recreational and other uses of the forest. The licensee must submit an annual operating plan and additional harvesting reports to the Forestry Branch. Stumpage must be paid within 30 days of the end of each quarter in which the timber is cut and scaled.

The TSA is a short-term (up to five years) right to harvest a stated volume of timber in a specific area generally issued to small and medium sized operators. There were 204 such agreements in effect during the POI. Licensees with TSAs harvest both hardwood and softwood. Similar to the FMLs, the TSA holders must have an annual operating plan. Like FML holders, the stumpage must be paid within 30 days of the end of each quarter in which the timber is cut and scaled.

The TP holders are short-term (up to one year) licenses where license holders can only harvest a very small amount of timber. TP holders generally use the license to harvest firewood (softwood and hardwood) for their own use. Stumpage must be paid when the permit is issued. There were 2,617 permits in effect during the POI.

Manitoba also has a quota system. The quota is a five-year renewable fixed allocation of timber; whereas, a TSA or TP provides direct access to the timber. The GOM states that all but a few quota holders also have timber sale agreements.

Tenure holders pay stumpage fees at either the standard provincial rate or a rate negotiated with the province. The Forestry Service has divided the province into eight different forest regions. The standard provincial rate varies depending on which of the forest regions the timber is harvested from and whether the wood type is Aspen/Poplar or all wood other than Aspen/Poplar. Otherwise, the rates do not vary by species or grade. The GOM used a base rate set by administrative determination for calculating the stumpage price for TS holders and TP licensees. The base rates were then adjusted according to changes in a weighted average of two Statistics Canada industrial product price indices to derive an annual rate.

The GOM reports the per unit stumpage amounts by dividing the total value of stumpage collected by the total quantity on a tenure and species-specific basis. These values include a Fire Protection Charge (FPC) for holders of TSAs and FMLs. TSAs and TPs also pay a Forest Renewal Charge (FRC) to

the province. The values do not include the un-reimbursed costs that FMLs incur for renewal activity (*i.e.*, basic silviculture).

In the case of Manitoba, we are using data from the state of Minnesota, which borders Manitoba, to calculate our cross-border benchmark. We based the Minnesota stumpage prices on the *Minnesota 2000 Corrected Public Stumpage Price Review and Price Index (Minnesota Price Review)* published by the Division of Forestry, Minnesota Department of Natural Resources. The *Minnesota Price Review* lists average prices and volumes for all timber sold on state and federal public lands within Minnesota as well as 10 counties in Minnesota, as provided by the Minnesota Department of Natural Resources, from January 2000 through December 2000.

We preliminarily determine that there are certain costs that Crown timber harvesters absorb that Minnesota harvesters do not; therefore, we are adding in certain adjustments to the derived basic stumpage rate for Manitoba. In terms of adjustments, the GOM provided details about the un-reimbursed costs of basic silviculture activities performed by Tolko, the only FML that harvests softwood sawtimber. The GOM said data from Tolko's Annual Operating Report. We weighted the un-reimbursed per unit costs reported for Tolko by the percentage of total volume that the FML softwood harvest represents and added this amount to the administered stumpage price.

The GOM states that the TSA and TP holders pay the province fees related to basic silviculture; however, such fees are already included in the stumpage. An upward adjustment to the administered stumpage price would be double-counting.

We are including the following costs in the adjustment: (1) General silviculture; (2) site preparation; (3) scarification; (4) tree planting; (5) seedling purchase; (6) regeneration surveys; (7) silviculture projects; (8) cost of developing the annual report; and (9) forestry administration. Although the GOM reported the total amounts that Tolko incurred for expenses related to tree improvement and herbicide release, we did not include these expenses because the amounts were so small that their inclusion would not have any impact on the calculation. In fact, the GOM did not calculate a per unit amount for these because the amounts were insignificant.

We did not include expenses related inventory because it is an industry-wide cost and is borne by benchmark

harvesters. We did not include the expenses of a Geographic Information System and dwarf mistletoe control because these expenses were not required by the tenure arrangement. We did not include the expenses incurred by the government for renewal of areas outside of FMLs because it is an expense incurred by the government; not an unreimbursed expense incurred by the licensee.

The GOM states that FML and TSA tenure holders bore the expenses for additional in-kind costs that for which the GOM does not reimburse the tenure holders. Although the tenure holders incur substantial in-kind costs, the GOM was unable to report the costs of these activities because tenure holders are required to report their commercial forest activities, but not the cost of those activities. We will examine this issue further at verification.

Manitoba reports the stumpage volume and value by tenure type and species. The GOM states that the species harvested in Manitoba are white and black spruce and jack pine (collectively "spruce/pine"). However, Manitoba also includes an "other" category. We will examine the species-makeup of this category at verification.

To calculate the benefit, we derived a species-specific (*i.e.*, "spruce/pine" and "other") per unit stumpage cost in Manitoba by summing the species value over volume. Next, we calculated an average "spruce/pine" price, weighted by the percentage of spruce and pine volume. The GOM reported the per unit costs incurred by Tolko as a ratio of its costs over its sawlog harvest. In order to apply this adjustment, we weighted the per unit cost by the percentage of the total harvest that the FML harvest represents to account for the fact that the TSA and TP holders do not incur this cost. We added these revised adjustments to the "spruce/pine" stumpage price and the "other" price.

As a benchmark for the "spruce/pine" rate, we calculated a weighted average price of species identical (*i.e.* white and black spruce, and jack pine) to the species in Manitoba. We then took the difference between the benchmark and the administratively-set stumpage rate. We classified the remaining species found in the *Minnesota Price Review* in an "other" category which we used as a benchmark for the "other" category found in Manitoba. Again, we took the difference between the administratively-set stumpage rate and the benchmark stumpage rate. We weight-averaged the two differences by the volumes of "spruce/pine" and "other" found in Manitoba. Next, we multiplied this rate by the softwood sawlog harvest to

derive the total benefit. We then divided the benefit by the value of Manitoba's total softwood lumber shipments (including the by-products). During verification, we will further examine the figures used in the denominator of the provincial benefit calculation. Next, as explained in the "Subsidy Rate Calculation" section of this notice, we weight-averaged the benefit from this provincial subsidy program by the province's relative share of total U.S. exports. The preliminary countervailable subsidy for the provincial stumpage programs can be found in the "Country-Wide Rate for Stumpage" section, below.

6. Province of Saskatchewan

In Saskatchewan, the northern half of the province is designated as Forest Crown land. According to the Government of Saskatchewan (GOS), only the lower third of this land contains harvestable timber. This harvestable area where commercial forestry activities occur is referred to as the Commercial Forest Zone (CFZ). The CFZ comprises approximately 12 million hectares. Of this amount, the GOS states that 55 percent contains productive or harvestable land. The GOS states that there are no private lands within the CFZ. In Saskatchewan, all private lands are generally located south of the CFZ. According to information submitted by the GOS, Crown lands accounted for approximately 89 percent of the softwood sawlogs harvested in Saskatchewan during the POI. Private and Federal lands accounted for 9 and 1 percent of the softwood sawlog harvest, respectively.

The right to harvest timber on Crown lands, or stumpage, can only be acquired by a license pursuant to Saskatchewan's Forest Resources Management Act. These licenses come in three forms: Forest Management Areas (FMAs), Forest Product Permits (FPPs), and Term Supply Licenses (TSLs). The Saskatchewan Environment and Resource Management Department (SERM) is the government agency responsible for the administration of provincial timber programs, which includes setting the price of stumpage in the province.

FMAs grant the licensee the right to harvest Crown timber for a term not exceeding 20 years. At every fifth year of the FMA, the term may be extended for an additional 5 years. According to the GOS, the FMAs set out the rights and responsibilities of the licensee which, in particular, focus on the long-term sustainable use of Crown land covered by the agreement. The GOS

negotiates the terms of FMAs with each licensee. Thus, no standard terms or conditions apply to FMAs.

All FMAs, however, must pay certain charges. FMA licensees are charged forest management fees. These fees vary across the province in relation to the preponderance of timber types within the FMA and the costs associated with reforestation of the species that exist there. Forest management fees, also referred to as forest renewal fees, are used to conduct the province's basic silviculture programs, which include surveys, site preparation, mechanical brushing, cone collection, chemical brushing, planting, fertilizer, spacing, administrative costs, seedlings, and other miscellaneous costs.

Four FMAs were in effect during the POI: the Mistik Management FMA, the L&M Wood Products FMA, the Weyerhaeuser FMA, and the Pasquia-Porcupine FMA, which is also a FMA of Weyerhaeuser. All four of these FMA licensees own their own mills. According to information submitted by the GOS, these four FMAs accounted for approximately 86 percent of the softwood sawlog harvest in the CFZ. The GOS states that its policy is to grant FMAs to large mills requiring large volumes of timber and that it requires FMA licensees to operate their facilities on a regular basis. Failure to do so could result in the termination of the FMA and the loss of the licensee's tenure. The GOS states that the requirement relates to the province's responsibilities as a landowner as well as to good forest management practices.

FPPs are the second type of stumpage license issued by the GOS. FPPs are annual licenses that confer the right to harvest specified forest products. Each FPP expires on either the date specified on the permit or at the end of the GOC's fiscal year, whichever comes first. FPPs cannot be renewed. Approximately 700 FPPs were issued during the POI. During the POI, FPPs accounted for 14 percent of the province's softwood sawlog harvest. The terms and conditions of FPPs vary in accordance with the type of forest product harvested. The GOS states that it allows FPP licensees to operate in FMA areas. In those instances, the FPPs must pay forest management fees to the FMA licensee. The rates charged to the FPPs are equal to those charged to the FMAs by the GOS. The FMAs then forward these fees to the GOS. FPPs operating on lands not covered by a FMA are required to pay forest management fees directly to the province.

TSLs are similar to FMAs, but have a term of 10 years. As is the case with FMAs, TSLs must pay processing

facility and forest management fees. There was only one TSL in effect during the POI, Green Lake Metis Wood Products of Green Lake. The GOS states that this facility was destroyed by a fire during the POI, and thus, only operated on a limited basis during this period. The GOS states that the amount of fees paid by this TSL licensee during the POI was negligible.

The SERM also charges licensees stumpage dues on harvested trees. There are two steps to the SERM's method of setting stumpage rates. These steps apply to all tenure arrangements. The first part is a base rate of dues which applies to each cubic meter harvested during the year. The second part is an incremental rate which applies to a percentage of product value above a threshold trigger price. Information from the GOS indicates that the incremental rates for softwood sawlogs are a partial function of lumber prices as reported in *Random Lengths Lumber Report*, an industry trade publication. With respect to the stumpage dues paid by FMAs, the GOS states that while each FMA uses the same basic structure, each FMA has individually negotiated its base and incremental stumpage rate with the province. These negotiated dues vary among FMAs according to tree size and species. The GOS states that these negotiated rates reflect the relative value of the timber included in the FMA license and that the licenses are negotiated in an arm's-length transaction.

Payments of stumpage dues vary according to license. FMA licensees submit their base dues on a monthly basis. Incremental dues are paid either monthly or quarterly in accordance with the terms of the particular FMA. FPP licensees have three payment options. FPP licensees may pay stumpage dues: (1) When the permit is issued, (2) in equalized payments for a maximum of three equalized payments throughout the year, or (3) monthly, based on the timber scaled during that period. Up-front payment and equalized payment options are calculated based on the total volume of timber included in the FPP. The amount of dues payable is determined through scaling the amount of timber harvested. The GOS states that scaling is conducted by licensed scalers.

To derive Saskatchewan's administratively-set stumpage rate, we divided the total value of softwood sawlogs, by species, by the total volume harvested, by species, to derive the per unit price per species. We categorized the species in two sets: (1) A Douglass/Larch/Tamarack (DLT) mix; and (2) a Spruce-Pine-Fir (SPF) mix, which includes white spruce, jack pine, black

spruce, and balsam. Additionally, we included the total volume of veneer logs harvested in our calculation of the per unit stumpage price. To arrive at a per unit stumpage price for veneer logs, we weight-averaged the per unit prices by volume. We then included the per unit amounts for veneer logs in the per unit stumpage price for SPF.

We obtained a weighted-average stumpage rate per species category by taking the stumpage price for DLT and SPF, which included veneer logs, mixes and divided by total volume harvested as attributable to category mix. To this stumpage rate we added per unit adjustment costs, in order to derive Saskatchewan's administratively-set stumpage rate.

Tenure holders in Saskatchewan are required to fulfill and/or pay for certain forest management and timber-harvesting obligations, including silviculture and forest management activities. Therefore, we preliminarily determine that it is necessary to factor in certain cost adjustments to the administered prices in Saskatchewan to reflect the costs of certain mandatory activities that are not factored into the administered price.

For the following adjustments, we relied on cost data submitted by respondents. For all adjustments, we relied on costs borne by the tenure holders, since respondents provided cost data based on the responses of the tenure holders.

We have made adjustments for forest management planning and basic silviculture. For the calculation of the total forest management fee, we multiplied the per-unit forest management fee, for FMAs and FPPs, and the total volume of sawlogs and veneer logs harvested during the POI. We then added the basic silviculture costs incurred by FMA tenure holders, as reported by the GOS, to the total forest management fees paid during the POI to arrive at the total value of adjustments during the POI.

In addition to the fees paid by FMA and FPP license holders, described above, the GOS stated that FMA and FPP licensees must also pay as a condition of their license several in-kind costs related to forest management. These include, but are not limited to, long-term operation, planning, environment plans, periodic independent audits of forest management activities and scaling-related costs, including payments for scaling services, scaler training, and scaling plans. In addition, the GOS states that FPPs are also required to pay road user fees as determined by local governments within the province. We

did not make an adjustment because there is not enough information on the record that would allow us to quantify these in-kind costs. We will further examine this issue during verification.

As explained above, we have preliminarily determined to use stumpage prices in the United States for our benchmark. In the case of Saskatchewan, we are using data from the state of Montana, which borders Saskatchewan, to calculate our benchmark. We obtained this data from the *Stumpage Price Report*. Specifically, we used the weighted-average prices for each species in Montana, as provided by the United States Forest Service (USFS) and the Montana Department of Natural Resources and Conservation (DNRC), from April, 2000 through March, 2001. We converted these figures from thousand board feet to cubic meters using the conversion factor of 5.66. We also converted the prices from U.S. dollars to Canadian dollars, using monthly average exchange rates from the Bank of Canada in effect during the POI, in order to derive our basic stumpage rate in C\$/m³ for each species.

We then calculated the difference between provincial and Montana stumpage rates for each species harvested in provincial forests. To arrive at a weighted average price differential, we weighted each species mix's price differential in proportion to its share of Saskatchewan's harvested volume for the POI to arrive at an overall per-unit price differential.

In order to calculate the benefit under Saskatchewan's stumpage system, we first took our calculated per unit price differential and factored in necessary adjustments, which are detailed above. We next multiplied the per unit price differential by the harvested volume to arrive at the total benefit. We calculated the provincial rate by dividing the total benefit by the value of softwood lumber shipments, including the value of by-product shipments. Next, as explained in the "Subsidy Rate Calculation" section of this notice, we weight averaged the benefit from this provincial subsidy program by the province's relative share of total U.S. exports. The preliminary countervailable subsidy for the provincial stumpage programs can be found in the "Country-Wide Rate for Stumpage" section, below.

Country-Wide Rate for Stumpage

The preliminary countervailable subsidy rate for the provincial stumpage programs is 19.21 percent ad valorem.

II. Other Programs Preliminarily Determined To Confer Subsidies

Programs Administered by the Government of Canada

1. Non-Payable Grants and Conditionally Repayable Contributions From the Department of Western Economic Diversification

According to the response of the GOC, the Western Diversification Program (WDP) was introduced in 1987, and is administered by the Department of Western Economic Diversification, a department of the GOC. The WDP supports projects that promote or enhance economic development or diversification in Western Canada, including the initiation, promotion or expansion of enterprises, the establishment of new businesses, research and development activities, and the development of business infrastructure. As part of its mandate to assist in the development of Western Canada, the WDP provides non-repayable contributions (grants) to companies located in Western Canada.

According to the GOC, seven companies in the softwood lumber industry have received grants in the last ten years, the period corresponding to the AUL of the softwood lumber industry.

We preliminarily determine that this program is specific under section 771(5A)(D)(iv) of the Act because assistance under this program is limited to designated regions in Canada. In addition, the provision of grants by the GOC constitutes a financial contribution as provided within the meaning of section 771(5)(D)(i) of the Act.

Both recurring and non-recurring grants were provided under this program. In accordance with § 351.524 (a) and (b)(2) of the CVD Regulations, all grants provided under this type of program are expensed in the year of receipt. Therefore, to calculate the benefit during the POI, we summed the amount of grants provided to all producers/exporters of softwood lumber during the POI and divided that amount by the f.o.b. value of total sales of softwood lumber for the POI. Using this methodology, we preliminarily determine the countervailable subsidy from this program to be less than 0.005 percent *ad valorem*.

2. Federal Economic Development Initiative in Northern Ontario (FedNor)

FedNor is an agency of Industry Canada, a department of the GOC, which encourages investment, innovation, and trade in Northern Ontario. Specifically, FedNor's mandate

is to promote economic growth, diversification, job creation and sustainable, self-reliant communities in Northern Ontario. According to the response of the GOC, FedNor has historically provided assistance to not-for-profit entities and to small businesses. In March 1996, FedNor was re-engineered so that nearly all direct funding to commercial businesses was eliminated. According to the GOC, most of FedNor's assistance is provided to Community Futures Development Corporations (CFDCs). CFDCs are not-for-profit community organizations.

CFDCs undertake strategic community planning activities, provide small business counseling and advisory services, and offer commercial loans to small and medium-sized businesses. Besides contributing to the operating costs of the CFDCs, FedNor also provides investment funds to the CFDCs in Northern Ontario that are used by the CFDCs to provide loans to small and medium-sized businesses in the region. According to the response of the GOC, once FedNor provides funds to the CFDCs, FedNor has no involvement in any lending decisions made by the CFDCs. FedNor usually will only require that the interest rate charged by the CFDCs on its loans be at least the prime rate plus two percent.

The GOC stated in its response that during the ten year period corresponding to the AUL, FedNor provided direct assistance, in the form of grants, to entities in the softwood lumber industry on six occasions. In addition, according to the response of the GOC, the CFDCs had 40 loans outstanding during the POI to companies that are producers of softwood lumber.

Because this program is limited to certain regions in Ontario, we preliminarily determine that assistance provided under FedNor is specific within the meaning of section 771(5A)(D)(iv) of the Act. With respect to the loans provided under this program by the CFDCs, we preliminarily determine that no benefit is provided within the meaning of section 771(5)(E)(ii) of the Act because the reported interest rates charged on each of these loans is equal to or higher than the interest rate charged on comparable commercial loans, as noted in the "Benchmark for Loans and Discount Rate" section, above. However, with respect to the grants provided by FedNor, we preliminarily determine that a financial contribution within the meaning of section 771(5)(D)(i) of the Act has been provided to the softwood lumber industry.

In accordance with § 351.524 of the CVD Regulations, all grants provided under this program are expensed in the year of receipt. Therefore, to calculate the benefit provided under this program, we summed the amount of grants provided to all producers/exporters of softwood lumber during the POI and divided that amount by the f.o.b. value of total sales of softwood lumber for the POI. Using this methodology, we preliminarily determine the countervailable subsidy from this program to be less than 0.005 percent *ad valorem*.

Programs Administered by the Province of British Columbia

1. Forest Renewal B.C.

In June 1994, the GBC enacted the Forest Renewal Act to renew the forest economy of British Columbia by, among other things, improving forest management of Crown lands, supporting training for displaced forestry workers, and promoting enhanced community and First Nations involvement in the forestry sector. To achieve these goals, the Forest Renewal Act created Forest Renewal B.C., a Crown corporation. The corporation's strategic objectives are implemented through three business units: the Forests and Environment Business Unit, the Value-Added Business Unit, and the Communities and Workforce Business Unit. While much of the activities of Forest Renewal BC are unrelated to the provision of assistance to softwood lumber producers, petitioners allege that this agency provided both grants and loans to producers of softwood lumber.

According to the GBC's response, Forest Renewal B.C. generally does not make direct loans to individual softwood lumber companies. Instead it provides funds to community groups and independent financial institutions, which may provide loans to companies involved in softwood lumber production. Forest Renewal B.C. has made direct loans and provided loan guarantees directly to softwood lumber producers on four occasions. In each of these instances, the loan assistance was provided in conjunction with the Job Protection Commission. See "Job Protection Commission" section, below. With respect to the loans provided by Forest Renewal B.C. (through intermediaries or direct), we preliminarily determine that no benefit is provided within the meaning of section 771(5)(E)(ii) because the reported interest rates charged on each of these loans is equal to or higher than the interest rate charged on comparable commercial loans, noted in the

"Benchmark for Loans and Discount Rate" section, above.

According to the GBC's response, Forest Renewal B.C. has provided grants directly to softwood lumber producers. These grants have been provided to softwood lumber producers in two ways: (1) As part of *ad hoc* arrangements between Forest Renewal B.C. and softwood lumber companies, and (2) as part of established grant programs to support activities such as business development, industry infrastructure, training, and marketing. Because direct grant assistance is provided only to support the forest products industry, we preliminarily determine that these grants are specific under section 771(5A)(D)(iv) of the Act. The provision of these grants constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act.

As noted in the "Recurring and Non-recurring Benefits" section of this notice, all grants provided under this program are expensed in the year of receipt. Certain marketing grants were provided for programs supporting exports to Asian markets. In accordance with § 351.525(a)(4) of the CVD Regulations, we did not include marketing grants tied to Asian markets in our benefit calculations because they were tied to particular markets and thus, only benefitted sales to those markets. To calculate the benefit provided under this program, we summed the amount of grants provided to all producers/exporters of softwood lumber during the POI (other than those tied to Asian markets) and divided that amount by the f.o.b. value of total sales of softwood lumber for the POI for the Province of British Columbia. Next, as explained in the "Subsidy Rate Calculation" section of this notice, we weight-averaged the benefit from this provincial subsidy program by the province's relative share of total U.S. exports. Using this methodology, we preliminarily determine the countervailable subsidy from this program to be 0.09 percent *ad valorem*.

2. Subsidies to Skeena Cellulose Inc. (Skeena)

Petitioners alleged that the Province of British Columbia provided Skeena with millions of dollars in aid in an attempt to save the company from bankruptcy. According to the response of the government, the agency responsible for administering the province's assistance to Skeena was the British Columbia Ministry of Employment and Investment (MEI). Skeena is primarily a pulp company but it does operate sawmills which produce

subject merchandise. The assistance provided to Skeena by the MEI was in the form of grants for road building, equity investment, payments made in connection with wage concessions by the company's pulp mill workers, and general stumpage reductions affecting low-grade hemlock used in pulp production. In addition, MEI provided certain loans, and guaranteed certain loans from Skeena's creditors, most of which were provided for the company's pulp operations.

According to the GBC's response, the province's involvement in Skeena was not in accordance with any specific provincial government program. Because the assistance provided to Skeena by MEI was not provided under a general government program, but was instead provided under an *ad hoc* assistance plan tailored specifically for Skeena, we preliminarily determine MEI's assistance to the company to be specific under section 771(5A)(D) of the Act. We also preliminarily determine that through the direct transfers of funds, the Province of British Columbia provided a financial contribution to Skeena under section 771(5)(D)(i) of the Act.

As noted in the "Recurring and Non-recurring Benefits" section of this notice, all grants were expensed in the year of receipt. With respect to the provision of grants, the only grants provided to Skeena during the POI were made with respect to road building. Because Skeena is primarily a pulp and paper company, to determine the benefit conferred upon subject merchandise, we first pro-rated the amount of the grant by the percentage of softwood lumber sales to Skeena's total sales for the POI.¹⁶ After determining the percentage of the grant attributable to Skeena's softwood lumber production, we divided that amount by the f.o.b. value of total sales of softwood lumber for the POI for the Province of British Columbia. Next, as explained in the "Subsidy Rate Calculation" section of this notice, we weight-averaged the benefit from this provincial subsidy program by the province's relative share of total U.S. exports. Using this methodology, we preliminarily determine the countervailable subsidy from the grants provided by MEI to be less than 0.005 percent *ad valorem*.

With respect to the equity investment by MEI, we preliminarily determine that no countervailable benefit was provided

to Skeena because MEI purchased the already-existing Skeena shares from third parties. Thus, no additional equity funds were actually invested in Skeena, and there is no financial contribution. We also preliminarily determine that the payments made in connection with wage concessions by the company's pulp mill workers and general stumpage reductions affecting low-grade hemlock used in pulp production did not provide a benefit to softwood lumber production because this assistance was tied to non-subject merchandise.

Finally, as noted above, loans and loan guarantees were also provided to Skeena by MEI. Two of the loans provided to Skeena under this program were tied to Skeena's pulp mills, and thus, did not provide a benefit to softwood lumber under § 351.525 of the CVD Regulations.

In addition, MEI purchased two of Skeena's loans from the Royal Bank. MEI purchased the loans held by the Royal Bank for approximately 40 cents on the dollar. These loans were not tied to specific operations of Skeena, and thus, benefitted all of the company's sales, including softwood lumber. When MEI purchased these two loans from the Royal Bank, Skeena was obligated to make payment on the loans to the province rather than to the Royal Bank. According to the response from the GBC, Skeena now makes payments on these loans to the province pursuant to the same commercial terms as applied when the Royal Bank held these loans. However, although interest was paid on these loans at commercial interest rates, the repayment of principal on these two purchased loans is based upon Skeena's cash flow. For purposes of this preliminary determination, we find that these two loans did not provide a countervailable benefit. However, we will examine the purchase of these two loans during verification to determine whether a countervailable benefit was provided to Skeena during this transaction.

With respect to the four loan guarantees provided to Skeena by MEI, one of the guarantees was provided specifically to the company's pulp operations, and thus, did not provide a benefit to the subject merchandise pursuant to § 351.525 of the CVD Regulations. Regarding the other three loans, the guarantees resulted in a lower interest rate charged to Skeena by the commercial bank, and guarantee fees payable to the government. However, we preliminarily determine that no benefit is provided within the meaning of section 771(5)(E)(ii) because the reported interest rates charged on each of these loans is equal to or higher than

the interest rate charged on comparable commercial loans. See "Benchmark for Loans and Discount Rate" section, above.

Programs Administered by the Province of Quebec

1. Private Forest Development Program

The Private Forest Development Program (PFDP) promotes the development of private forest resources in Quebec. Specifically, the PFDP provides silviculture support to private woodlot owners through payments, either made directly to forest engineers or via reimbursement to the woodlot owner, for silviculture treatments executed on private land. This program is funded by both the provincial government through the Ministère des Ressources naturelles (MRN) and by sawmill operators. The majority of the program funds come from the MRN. However, under the authority of the MRN, wood processing plant operators are charged a fee of C\$1.45 for each cubic meter of timber acquired from private land. This fee is used to fund the PFDP.

According to the GOQ response, there are approximately 13,000 forest producers (*i.e.*, registered forest landowners) which receive financial assistance each year under the PFDP. The average financial assistance received by a producer is less than C\$3,000 in any given year. According to the GOQ response, there are approximately 50 sawmills that receive assistance from the program every year.

Because assistance under this program is limited to private woodlot owners, we preliminarily determine that assistance provided under this program is specific under section 771(5A)(D) of the Act. In addition, payments by PFDP constitute a financial contribution under section 771(5)(D)(i) of the Act. The amount of the benefit conferred under this program to softwood lumber producers is equal to the grant of funds provided to the producers under the PFDP during the POI.

Respondents argue that no benefit is provided under this program to sawmill operators because they are required to make contributions to PFDP for lumber harvested on private land. Respondents state that the sawmill operators' contributions were greater than the amount of silviculture reimbursements the mills received under this program during the POI. However, every holder of a wood processing plant operating permit must pay the fee of C\$1.45 for every cubic meter of timber acquired from a private forest, regardless of whether or not that mill owns private

¹⁶ Under our standard methodology, we do not pro-rate subsidies received by investigated companies by subject and non-subject merchandise. However, we have had to depart from this standard practice in this investigation because this investigation is conducted on an aggregate basis.

forest land. The sawmill operators that received assistance under the PFDP received assistance not because they used timber from private forest lands but because they owned private forest land. Therefore, we preliminarily determine that the fees paid to harvest timber from private land do not qualify as an appropriate offset to the grants received under the PFDP pursuant to section 771(6) of the Act. Section 771(6) of the Act specifically enumerates the only adjustments that can be made to the benefit conferred by a countervailable subsidy and such fees do not qualify as an offset.

According to the GOQ's response, there were approximately 50 softwood lumber producers that received assistance under this program during the POI. However, the response only provides the amount of grants received by the 35 largest producers. Therefore, to estimate the amount of the grants received by the other 15 producers, we assumed that they received the average grant amount received by the other 35 softwood producers. We will examine this closely at verification. We combined our estimate with the amount reported in the response to obtain a total amount of grants provided to softwood lumber producers during the POI. As explained in the "Recurring and Non-recurring Benefits" section of this notice, these grants were expensed in the year of receipt.

To calculate the benefit provided under this program, we summed the amount of grants provided to all producers/exporters of softwood lumber during the POI and divided that amount by the f.o.b. value of total sales of softwood lumber for the POI for the Province of Quebec. Next, as explained in the "Subsidy Rate Calculation" section of this notice, we weight-averaged the benefit from this provincial subsidy program by the province's relative share of total U.S. exports. Using this methodology, we preliminarily determine the countervailable subsidy from this program to be 0.01 percent *ad valorem*.

2. Export Assistance Under the Societe de Developpement Industriel du Quebec/Investissement Quebec (SDI)

The SDI export assistance program was established in 1994 and expired in 1998, when it was replaced by export assistance under Investissement Quebec (IQ). The objective of SDI, as established in its founding legislation, was to promote the "economic development of Quebec, particularly by encouraging the development of businesses, the growth of exports, [and] research and development of new techniques."

During its existence, SDI worked mainly with businesses whose growth was dependent on technological innovation and exports.

IQ was also established, in part, to facilitate export activities. IQ works with private financial institutions by assuming risks to support projects that might otherwise be cancelled or postponed. IQ assistance is geared mainly to companies whose operations create a significant impact in terms of innovation and exports. Export assistance is provided by IQ's small-and medium-sized businesses (SMB) program which is fundamentally similar to the SDI export assistance program. During the POI, there were three outstanding long-term loan guarantees provided to softwood lumber producers in Quebec.

Because this program provides assistance to exporters, we preliminarily determine it to constitute an export subsidy under section 771(5A)(B) of the Act. To determine whether the loan guarantees provided a benefit, in accordance with section 771(5)(E)(iii) of the Act, we first calculated the amount of interest charged, plus the guarantee fees paid. Because information on the record indicates that the SDI/IQ program provides export guarantees for projects considered too risky for private financial institutions, we have preliminarily determined that the national average benchmark described in the "Benchmarks for Loans and Discount Rates" section of this notice, is an inappropriate benchmark for this program. In order to approximate the interest rate that would have been charged the loan guarantee recipients under this program, we have constructed a benchmark interest rate based on default rates for companies at various levels of risk. Using this benchmark, we preliminarily determine that the amount of interest and fees paid under the guaranteed loans is less than the amount of interest that would have been paid under a commercial interest rate. Therefore, this program confers a benefit. We divided the benefit amount by the value of total exports of softwood lumber for the POI for the Province of Quebec. We then weighted this provincial rate by Quebec's share of softwood lumber to the United States during the POI. Using this methodology, we preliminarily determine a benefit of less than 0.005 percent.

III. Programs Preliminarily Determined to be Not Countervailable

1. Funds for Job Creation by the Province of Quebec

Quebec's Ministere des Ressources Naturelles administers this program but entrusts the program's operation to Rexforet Inc., a subsidiary of SGF Rexfor, and to Quebec's Conference of Forest Cooperatives (known by the French abbreviation, CCFQ). CCFQ is an umbrella organization of 41 forest cooperatives. These cooperatives are private, non-profit, community-based entities organized to pool the resources of land owners and forest operators and to provide support for forestry operations. This program was created in 1994 to train and develop manpower and respond to the anticipated shortage of qualified forest management workers by training unemployed individuals and fostering their integration into regular work teams.

Eligibility for training under this program is limited to unemployed individuals. Eligibility to provide training is limited to forest cooperatives and nonprofit organizations having the ability to provide the necessary level of training. Training assistance under this program is limited to unemployed individuals, and does not relieve companies of training costs that they normally would be obligated to pay. In accordance with § 351.513 of the CVD Regulations, we preliminarily determine that this program does not provide a countervailable benefit.

2. Sales Tax Exemption for Seedlings by the Province of Ontario

The Retail Sales Tax Act (RSTA) provides the legal authority for the Province of Ontario to collect taxes on sales and certain services in Ontario. The Retail Sales Tax Branch of the Ontario Ministry of Finance is responsible for the administration of the RSTA. Article 2 of RSTA establishes that sales of tangible personal property and certain services are subject to an eight percent tax to be borne by the purchaser. However, exemptions to the sales tax are provided under Article 7 of the RSTA, that lists exemptions of the sales tax for numerous categories of goods and services.

Paragraph 64 of Article 7 provides that the sales of cones, cuttings, seeds and seedlings for planting in a Crown forest by a forest resource license holder are included in this list of exemptions. This exemption became effective on May 3, 2000. Prior to May 3, 2000, the forest license holders were required to pay sales tax on seedling purchases in connection with their reforestation

obligations. However, under the Crown Forest Sustainability Act, Ontario reimburses license holders for reforestation expenses. Therefore, prior to the tax exemption, the license holders would pay the sales tax on seedlings and get reimbursed for the sales tax as part of their reimbursement of reforestation expenses. The reimbursement of reforestation expenses to forest license holders under the Crown Forest Sustainability Act is accounted for in our calculation of the benefit conferred by Ontario's stumpage program.

The tax exemption for seedlings is part of the Province of Ontario's general provision for sales tax and sales tax exemptions under the RSTA. Therefore, to determine whether the sales tax exemption on seedlings is specific, the Department is required under section 771(5A)(D) of the Act to examine this exemption in connection with the sales tax exemptions provided under the RSTA. An examination of the items exempted from the sales tax under the RSTA shows that eligible exemptions are numerous and cover hundreds of items across a wide-range and multitude of industries. Further, an examination of the RSTA shows that the actual recipients of the sales tax exemptions are not limited in number, nor limited by enterprise or industry. In addition, the recipients of the sales tax exemption on seedlings have not received a predominant or disproportionate share of tax exemptions under the RSTA. Therefore, we preliminarily determine that this sales tax exemption program is not specific under section 771(5A)(D) of the Act. Thus, we preliminarily determine that this program is not countervailable.

IV. Programs Preliminarily Determined Not To Confer A Benefit

1. Assistance Under Article 7 of the SDI

Assistance under Article 7 was administered by the SDI, a government corporation. In 1998, Article 7 of SDI was replaced by Article 28, that is administered by Investissement Quebec. Under Article 7, SDI provided financial assistance in the form of loans, loan guarantees, grants, assumption of interest expenses, and equity investments to projects that would significantly promote the development of Quebec's economy. According to the GOQ's response, prior to authorizing assistance, SDI would review a project to ensure that it had strong profit potential and that the recipient business possessed the necessary financial structure, adequate technical and management personnel, and the means

of production and marketing required to complete the proposed project. The Article 28 program operates in fundamentally the same manner as Article 7.

During the POI, softwood lumber companies had outstanding loans under Article 7. There were no outstanding loans under Article 28. No other assistance was provided to softwood lumber companies under Article 7. To determine whether these loans provided a benefit to the softwood lumber industry, in accordance with section 771(5)(E)(ii) of the Act, we compared the interest rates charged on the Article 7 loans to the benchmark interest rate charged on comparable commercial loans as described in the "Benchmarks for Loans and Discount Rates" section of this notice. Using this methodology, we preliminarily determine that no benefit was provided by these loans because the interest rates charged under this program were equal to or higher than the interest rates charged on comparable commercial loans. Because we preliminarily determine that no benefit is provided under this program during the POI, there is no need to address the issue of specificity.

2. Redemption of Preferred Stock Held by SDI

Petitioners alleged that in 1994, Tembec Inc. (Tembec) redeemed preferred stock with a face value of C\$80 million held by SDI in exchange for only C\$20 million of Tembec's Class A voting shares. Petitioners alleged that through this transaction, the Province of Quebec, acting through SDI, a government-owned corporation, provided Tembec with a financial contribution of C\$60 million, which represents the difference between the value of the redeemed preferred stock and the Class A voting shares of Tembec. Petitioners alleged that a benefit is provided to the subject merchandise because Tembec is a softwood lumber producer.

According to the government response, Temboard and Company Limited Partnership (Temboard Partnership) was formed in April 1988, for the purpose of constructing and operating a paperboard mill. Tembec was one of the two limited partners of Temboard Partnership. Tembec Inc. produces a number of forest products including softwood lumber. In November 1988, a credit agreement was signed between Temboard Partnership and SDI. The SDI loans provided under this credit arrangement were for the construction and start-up of the new paperboard mill of Temboard Partnership. Interest on the SDI loans

was capitalized until the outstanding debt of the SDI loans to Temboard Partnership reached C\$80 million. As a result of adverse conditions affecting the operations of Temboard Partnerships, one of the partners withdrew from the partnership and wrote off its investment in May 1991. Tembec decided to continue providing support to the paperboard mill company, and, therefore, became the sole owner of Temboard Partnership.

In September 1991, Temboard was incorporated and assumed all of the assets and liabilities of the Temboard Partnership. Temboard Inc. then incorporated a wholly-owned entity, Temfin Inc. (Temfin) for the sole purpose of refinancing Temboard's debt, primarily through the issuance of "Distressed Preferred Shares" to its commercial bank creditors and to SDI. In subsequent years, the financial condition of Temboard Inc. continued to deteriorate, which required another restructuring of the troubled paperboard mill company. In 1994, because of the financial condition of Temboard Inc., SDI exchanged its Distressed Preferred Shares, which held a nominal value of C\$80 million, for two million publicly listed Tembec Class A common shares. This exchange required Tembec Inc. to issue capital of C\$20 million.

As noted above, we are conducting this investigation on an aggregate basis. Therefore, we must examine and determine whether there is any benefit conferred on production and exportation of subject merchandise from Canada from this company-specific subsidy allegation. These complex financial transactions between Tembec, its subsidiaries and SDI are tied to loans made by SDI to Temboard, a paperboard company, and to the conversion of that long-term debt into shares issued to SDI. Because this subsidy allegation is tied to non-subject merchandise, under § 351.525 of the CVD Regulations, we preliminarily determine that this alleged subsidy does not provide a benefit to subject merchandise.

3. Assistance from the Societe de Recuperation d'Exploitation et de Developpement Forestiers du Quebec (Rexfor)

Petitioners alleged that SGF Rexfor, Inc. (Rexfor) acts as a conduit for passing funds to the lumber industry. They further alleged that Rexfor itself is a producer of subject merchandise and, thus, it is likely that Rexfor has received, and is currently receiving and issuing below-market loans to lumber producers.

According to the GOQ's response, Rexfor is a corporation all of whose

shares are owned by the Societe Generale de Financement du Quebec (SGF). SGF is an industrial and financial holding company that finances economic development projects in cooperation with industrial partners. The former Societe de Recuperation d'Exploitation et de Developpement Forestiers du Quebec was created in 1969, and Rexfor was created in 1998, when the former company was merged with three other Crown corporations into SGF. Rexfor is SGF's vehicle for investment in the forest products industry.

According to the GOQ's response, Rexfor receives and analyzes investment opportunities and determines whether to become an investor either through equity or participative subordinated debentures. Debentures are used as an investment vehicle when Rexfor determines that a project is worthwhile, but is not large enough to necessitate more complex equity arrangements. Rexfor has invested in companies involved in paper production, panel production, hardwood and softwood sawmills, newsprint, bio-pesticides, composites, engineered wood products, electronic measuring equipment, and forestry equipment.

According to the GOQ's response, Rexfor has no outstanding loans and advances provided by the GOQ. During the POI, Rexfor had two long-term loans (debentures) outstanding to softwood lumber producers. We are not investigating equity investments made in softwood lumber producers by Rexfor because (i) there was no such allegation, and (ii) there is not any information on the record to suggest that Rexfor's investment decisions were inconsistent with the usual investment practice of private investors as required under section 771(5)(E)(i) of the Act.

Because assistance from Rexfor is limited to companies in the forest products industry, we preliminarily determine that this program is specific under section 771(5A)(D) of the Act. With respect to the long-term loans provided by Rexfor, these loans qualify as financial contributions under section 771(5)(D) of the Act. To determine whether these loans provided a benefit to the softwood lumber industry in accordance with section 771(5)(E)(ii) of the Act, we compared the interest rates charged on the Rexfor loans to the benchmark interest rates charged on commercial loans as described in the "Benchmarks for Loans and Discount Rates" section of this notice. Using this methodology, we preliminarily determine that no benefit was provided by these loans because the interest rates charged under this program were equal

to or higher than the interest rates charged on comparable commercial loans.

One of the loans provided by Rexfor was provided to a company which subsequently entered bankruptcy negotiations with Rexfor and other creditors. However, the settlement with the creditors was subsequent to the POI. Thus, there is no need to examine whether a benefit was provided to that softwood lumber producer by Rexfor as a result of the creditor settlement.

V. Programs Preliminarily Determined Not To Be Used

1. *Canadian Forest Service Industry, Trade and Economics Program*
2. *Loan Guarantees To Attract New Mills From the Province of Alberta*

VI. Program Which Has Been Terminated

1. *Export Support Loan Program From the Province of Ontario*

VII. Program for Which Additional Information Is Needed

1. *Job Protection Commission*

The British Columbia Job Protection Commission (the Commission) was created in 1991, pursuant to The Job Protection Act, to minimize job loss, particularly in one-industry communities, and to reduce the negative effect on regional and local communities when companies encounter financial difficulties. According to the GBC response, the Commission acts as a facilitator between debt holders, other B.C. government agencies, and private financial institutions, and the troubled companies and their employees. The Commission assists in designing a work-out plan that will allow the companies to continue as going concerns and improve their financial conditions. According to the GBC response, the Commission may make recommendations to the various parties and debt-holders, but each debt-holder makes its own decision as to its role in any company work-out or restructuring. Several companies involved in the production of softwood lumber participated in restructuring plans under this program. In addition, two other softwood lumber producers received loans under programs administered by the Commission.

We determine that additional information is needed before we can determine whether countervailable benefits are provided by the Job Protection Commission.

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with 777A(e)(2)(B) of the Act, we have calculated a single country-wide subsidy rate to be applied to all producers and exporters of the subject merchandise from Canada. This rate is summarized in the table below:

Producer/exporter	Net subsidy rate
All Producers/Exporters.	19.31% <i>ad valorem</i> .

In accordance with section 703(e)(2), the Department has issued a preliminary affirmative countervailing duty determination, and a preliminary affirmative critical circumstances determination on certain softwood lumber products from Canada. We are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from Canada, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or bond for such entries of the subject merchandise in the amount indicated above. This suspension will remain in effect until further notice.

As indicated above, the Department exempted softwood lumber products from the Maritime Provinces from this investigation. This exemption, however, does not apply to softwood lumber products produced in the Maritime Provinces from Crown timber harvested in any other province. Additionally, as explained above in the "Exclusions" section of the notice, we are excluding one company, Frontier Lumber. Therefore, we are directing the U.S. Customs Service to exempt from the suspension of liquidation only entries of softwood lumber products from Canada which are accompanied by an original Certificate of Origin issued by the Maritime Lumber Bureau (MLB), and those of Frontier Lumber. The MLB certificate will specifically state that the corresponding entries cover softwood lumber products produced in the Maritime Provinces from logs originating in Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland, or the state of Maine.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our

determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Any requested hearing will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The time, date, and place of the hearing will be announced after the Department has conducted its verification of the questionnaire responses. However, any party that wants to participate in a hearing *must* submit a written request within the time period specified above.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, ten copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary. The date for submission of the case briefs will be scheduled when the Department announces the date of the hearing. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Ten copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than seven days from the date of filing of the case

briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above. Please note that an interested party may still submit case and/or rebuttal briefs even though the party is not going to participate in the hearing.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: August 9, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01-20674 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Comment Period for the Draft Environment Impact Statement and Draft Management Plan for the Proposed San Francisco Bay National Estuarine Research Reserve in California

AGENCY: The Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Public hearing notice; extension of public comment period.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, of the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will extend the public comment period for the purpose of receiving comments on the Draft Environmental Impact Statement and Draft Management Plan (DEIS/DMP) prepared on the proposed designation of the San Francisco Bay National Estuarine Research Reserve in California. The DEIS/DMP addresses research, monitoring, education and resource protection needs for the proposed reserve.

DATES: The comment period for the DEIS/DMP which published on June 29, 2001 (66 FR 34618) will be extended to August 31, 2001. All written comments received by this deadline will be considered in the preparation of the FEIS.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie McGilvray (301) 713-3155 extension 158, Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1305 East-West Highway, N/ORM5, Silver Spring, MD 20910. Copies of the Draft Environmental Impact Statement/Draft Management Plan are available upon request to the Estuarine Reserves Division.

(Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves)

Gary C. Matlock,

Acting Director for the National Centers for Coastal Ocean Science.

[FR Doc. 01-20690 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071901A]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Facilities in the Beaufort Sea

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

ACTION: Notice of receipt of application and proposed issuance of a letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that BP Exploration (Alaska), Inc. Anchorage, AK (BPXA) has requested a renewal of its letter of authorization (LOA) to take a small number of marine mammals incidental to operation of an offshore oil and gas facility at the Northstar development in the Beaufort Sea off Alaska.

DATES: Comments and information must be received no later than September 17, 2001. Comments will not be accepted if submitted via e-mail or the Internet.

ADDRESSES: Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225. A copy of the application, and a list of references used in this document may be obtained by writing to this address or by telephoning one of

the contacts listed here. Other reports referenced in this document are available for review, by appointment during regular business hours, at the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, Western Alaska Field Office, NMFS, 701 C Street, Anchorage, AK 99513, and the National Marine Mammal Laboratory, NMFS, Bldg 4, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713-2322, ext. 128, or Brad Smith (907) 271-5006.

SUPPLEMENTARY INFORMATION: Section 101 (a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made by NMFS and regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals, will not have an unmitigable adverse impact on the availability of the species or stock(s) of marine mammals for subsistence uses, and if regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of marine mammals incidental to construction and operation of the offshore oil and gas facility at Northstar in the Beaufort Sea were published and made effective on May 25, 2000 (65 FR 34014), and remain in effect until May 25, 2005. For a detailed background on the issuance of this 5-year set of regulations, please refer to that document.

Summary of Request

On May 15, 2001, NMFS received a request from BPXA for a renewal of an LOA issued on September 28, 2000 (65 FR 58265) for the taking of marine mammals incidental to production operations of the offshore oil and gas facility at Northstar in state and Federal waters, under section 101 (a)(5)(A) of the MMPA. This request contained information in compliance with 50 CFR 216.209 which updated information provided in BPXA's original application

for takings incidental to construction and operations at Northstar. The current LOA for the taking of marine mammals incidental to the construction of the Northstar facility expires on November 11, 2001.

Description of Activity

BPXA proposes to produce oil from the Northstar Unit offshore oil development facility. This facility will be the first in the Beaufort Sea that uses a subsea pipeline to transport oil to shore and then into the Trans-Alaska Pipeline System. The Northstar Unit is located on Seal Island between 2 and 8 miles (mi)(3.2 and 12.9 kilometers (km)) offshore from Pt. Storkersen, AK. This unit is adjacent to the Prudhoe Bay industrial complex and is approximately 54 mi (87 km) northeast of Nuiqsut, a Native Alaskan community.

The Northstar island and pipelines were constructed during the winter of 1999 and early 2000. Construction of ice-roads began in November 1999, and was completed in March, 2000. Construction activity included the construction of several ice roads, one from West Dock and Pt. McIntyre to the Northstar gravel mine, one from the Kuparuk River delta mine site to Seal Island, and one along the pipeline route to Seal Island. The gravel-haul road had a parallel alternate road to transport service equipment, construction materials and alternate gravel hauling when maintenance or repair of the main ice road was required. Gravel hauling to the island extended from February to April, 2000. The pipelines were installed through a trench in the ice from March through May, 2000, and buried to a depth of 6 to 8 ft (1.8 to 2.4 m) below the sea floor. Construction work and installation of facilities on the island continued during the spring ice break-up and open water season of 2000. Sheet pile installation at Northstar island began on March 7, 2000, and continued through May 29, 2000 via vibratory and impact pile-driving techniques. Additional work included capping the sheet pile retaining wall and installing the well-conductor pipes, foundation blocks, concrete slope protection, utility and permanent living quarter modules, and the drilling rig with its module. Monitoring of marine mammal impacts was conducted during this construction period and reported in Richardson and Williams (2000, 2001a).

The operational (oil production) phase at the Northstar facility during both the ice-covered and open-water seasons will include two diesel generators (designated emergency generators), three gas-turbine generators

for the power plant operating at 50-percent duty cycle (i.e., up to two will be operating at any one time), two high pressure gas-turbine compressors, one low-pressure flare, and two high-pressure flares. All flares will be located on the 215-ft (66 m) flare tower. There is no seismic survey work involved with this activity or being proposed for authorization under this LOA.

Drilling began in December, 2000 and is expected to continue for about 3 years. The operational phase of Northstar is considered to begin with the first oil, likely in October or November, 2001. Production will commence while drilling is continuing. Drilling will continue until 23 development wells (15 production, 7 gas injection) are drilled. After drilling is completed, only production-related site activities will occur.

In order to support operations at Northstar, the proposed operations activity includes the annual construction of three ice roads, one built parallel to the coast from West Dock and Pt. McIntyre to the location of the pipeline shore crossing. A second road will be constructed along the pipeline route from the shore crossing to Northstar Island. A third road from Pt. McIntyre directly to Northstar is also anticipated. Ice road construction will begin sometime during the period from late-November through January, depending on ice conditions. Ice roads are expected to be completed and ready for traffic by mid-February. Ice roads will be used to resupply needed equipment, parts, foodstuffs, and products, and for hauling wastes back to existing facilities. For a description of planned ice-road activities, please refer to BPXA's 2001 application.

During the summer, barge trips will be required between West Dock or Endicott and the island for resupply. Year-round helicopter access to Northstar is planned for movement of personnel, foodstuffs and emergency movement of supplies and equipment. Helicopters will fly at an altitude of at least 1,000 ft (305 m), except for takeoffs, landings, and safe-flight operations.

Marine Mammals

The Beaufort/Chukchi seas support a diverse assemblage of marine mammals, including bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), beluga whales (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), spotted seals (*Phoca largha*) and bearded seals (*Erignathus barbatus*). Descriptions of the biology and distribution of these species can be found in Ferraro *et al.* (2000), U.S. Army

Corps of Engineers (Corps, 1999), Minerals Management Service (MMS, 2001) and the BPXA application (BPXA, 1999 and 2001). The latter two documents are available upon request (see **ADDRESSES**). Please refer to these documents for specific information on the marine mammal species.

In addition to the species mentioned in this paragraph, Pacific walrus (*Odobenus rosmarus*) and polar bears (*Ursus maritimus*) also have the potential to be taken. Appropriate application for taking these species under the MMPA has been submitted to the U.S. Fish and Wildlife Service by BPXA.

Potential Effects on Marine Mammals

Issuance of an LOA for taking marine mammals incidental to production at Northstar will be based on findings that the determinations made in the preamble to the final rule (that the total takings by Northstar construction and operations will result in only small numbers of marine mammals being taken, have no more than a negligible impact on marine mammal stocks in the Beaufort Sea, and not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses) remain valid. For that reason, the following discussion of impacts is provided. Additional supporting information on noise, and oil impacts on marine mammals and on impacts to subsistence needs can be found in BPXA, 1999, 2001. Additional information on noise impact assessments can be found in Richardson and Williams (eds.)(2000a, 2000b, 2001).

Impacts of Noise on Marine Mammals in the Beaufort Sea

Sounds and non-acoustic stimuli will be generated during oil production operations by generators, drilling, production machinery, gas flaring, camp operations and vessel and helicopter operations. The sounds generated from production operations and associated transportation activities will be detectable underwater and/or in air some distance away from the area of the activity, depending upon the nature of the sound source, ambient noise conditions, and the sensitivity of the receptor. At times, some of these sounds are likely to be strong enough to cause an avoidance or other behavioral disturbance reaction by small numbers of marine mammals or to cause masking of signals important to marine mammals. The type and significance of behavioral reaction is likely to depend on the species and season, and the behavior of the animal at the time of

reception of the stimulus, as well as the distance and level of the sound relative to ambient conditions.

Responses of seals to acoustic disturbance are highly variable, with the most conspicuous changes in behavior occurring when seals are hauled out on ice or land when exposed to human activities. Seals in open water do not appear to react as strongly. Activities planned for the ice-covered seasons during the production phase of Northstar are expected to cause no more than limited and localized displacement of ringed seals. Results of monitoring during intensive construction activities during the ice-covered season in early 2000 showed no change in seal density in the areas closest to Northstar (Moulton *et al.*, 2001). Seals were still occupying holes and lairs well inside the zone where disturbance effects had been predicted (Williams *et al.*, 2001a, 2001b).

In winter and spring, ice road construction and travel activities will displace some small numbers of ringed seals along the ice road corridors. The noise and general human activity may displace female seals away from activity areas and could negatively affect the female and young, if the female remained in the vicinity of the ice road. In addition to displacement by harassment, BPXA believes there is a small possibility of injury or mortality to a very small number of seal pups during ice road construction and transportation activities. However, planned timing of road construction (before pups are born) will minimize the probability of occurrence.

During the open-water season, all six species of whales and seals could potentially be exposed to noise from vessels, the island and from other stimuli associated with the planned operations. Vessel traffic is known to cause avoidance reactions by whales at certain times (Richardson *et al.*, 1995). Helicopter operations, and possibly other production-related activities, may also lead to disturbance of small numbers of seals or whales. In addition to disturbance, some limited masking of whale calls or other low-frequency sounds potentially relevant to bowhead whales could occur (Richardson *et al.*, 1995; BPXA, 2001).

During the late summer and autumn, almost all whales are found north of the barrier islands, and north of Northstar. In the case of belugas, most individuals follow a far-offshore migration corridor at or beyond the edge of the continental shelf. In the case of bowheads, almost all individuals travel west north of Northstar. A few individuals travel west within a few kilometers north of

Northstar, but most are 10 km (6.2 mi) or more farther offshore. Gray whales are rare in the Northstar area.

In the open-water period, the principal activities on Northstar Island will be drilling and production activities, and associated helicopter and vessel traffic. Underwater sounds from drilling and routine production activities on the islands are not expected to be detectable more than about 5–10 km (3.1–6.2 mi) offshore of Northstar Island. However, when tugs or self-propelled barges are in use, underwater sounds could be faintly detectable as much as 28 km (17.4 mi) offshore of Northstar (Blackwell and Greene, 2001). Avoidance reactions by bowhead, gray and beluga whales will be limited to substantially less than that distance. Cetaceans usually do not show overt avoidance reactions unless received levels of industrial noise are well above natural background noise level (Richardson *et al.*, 1995). Also, average noise levels from Northstar are expected to be lower during production activities in 2002 and beyond than they were during construction operations in 2000 (BPXA, 2001). Little disturbance or displacement of whales by vessel traffic is expected.

Impacts of Oil on Marine Mammals in the Beaufort Sea

For reasons stated in the application (BPXA, 1999, 2001), BPXA believes that the effects of oil on seals and whales in the open waters of the Beaufort Sea are likely to be negligible, but there could be effects on whales in areas where both oil and the whales are at least partially confined in leads or at the ice edge. In the spring, bowhead and beluga whales migrate through offshore leads in the ice. However, given the probable alongshore trajectory of oil spilled from Northstar, in relation to the whale migration route through offshore waters, interactions between oil and whales are unlikely in the spring. In the summer, bowheads are normally found in Canadian waters, and beluga whales are found far offshore. As a result, at this time of the year, these species would be unaffected should a spill occur. However, oil that persists in the Beaufort Sea into the fall or winter and is not contained and/or removed may impact bowhead whales.

In the fall, the migration route of bowheads can be close to shore. If bowheads were moving through leads in the pack ice, or were concentrated in nearshore waters, or if the oil migrated seaward of the barrier islands, some bowhead whales might not be able to avoid oil slicks and could be subject to prolonged contamination. However,

because the autumn migration of bowhead whales past Northstar extends over several weeks and because most of the whales travel along routes well north of Northstar, according to BPXA (1999), only a small minority of the whales are likely to intercept patches of spilled oil. The Corps (Corps, 1999) states that considering the limited number of days each year that bowhead whales would be migrating through the area, the low probability that a spill would occur, and the very low probability that oil would move into the migration corridor of the bowheads, it is very unlikely that bowhead whales would be contacted by oil. The effects of oil on these whales have been described in several documents (BPXA, 1999; Corps, 1999; Loughlin *et al.*, 1994; and MMS, 2001).

Ringed seals exposed to oil during the winter or early spring could die if exposed to heavy doses of oil for prolonged periods of time. Prolonged exposure could occur if fuel or crude oil was spilled in or reached nearshore waters, was spilled in a lead used by seals, or was spilled under the ice when seals have limited mobility. Individual seals residing in these habitats may not be able to avoid prolonged contamination and some would die. Studies in Prince William Sound indicated a long-term decline of 36 percent in numbers of molting harbor seals located on those haulouts affected by oil from the EXXON VALDEZ spill. In addition, newborn seal pups, if contacted by oil, will likely die from oiling through loss of insulation and resulting hypothermia (BPXA, 1999). Because the number of ringed and bearded seals in the central Beaufort Sea represents a relatively small portion of their total populations, and even large oil spills are not expected to extend over large areas, relatively few ringed and bearded seals would be impacted, and impacts on regional population size would be expected to be minor.

In addition to oil contacting marine mammals, oil spill cleanup activities could increase disturbance effects on either whales or seals, causing temporary disruption and possible displacement effects (MMS, 1996; BPXA, 1999). In the event of a large spill contacting and extensively oiling coastal habitats, the presence of response staff, equipment, and many low-flying aircraft involved in the cleanup will (depending on the time of the spill and cleanup), potentially displace seals and other marine mammals. However, the potential effects on bowhead and beluga whales are expected to be less than those on seals. The whales tend to occur well offshore where cleanup activities

(during the open water season) are unlikely to be concentrated (BPXA, 1999). Also, because bowheads are transient and during the majority of the year, absence from the area would lessen the likelihood of impact by cleanup activities.

Estimated Level of Incidental Take

BPXA (2001) estimates that, during the ice-covered period, 53 (maximum 139) ringed seals and 1 (maximum 5) bearded seals potentially may be incidentally harassed annually during oil production activities. BPXA estimated these takings by harassment during the ice-covered season by assuming that seals within 3.7 km (2.3 mi) of Seal Island, and within 0.644 km (0.4 mi) of ice roads will be "taken" annually. This constitutes a total area of 46.73 km² (18.0 mi²). These anticipated levels of potential take are estimated based on observed densities of seals during recent (1997–2000) aerial surveys in the Northstar area during spring (Miller *et al.*, 1998; Link *et al.*, 1999; Moulton *et al.*, 2000, 2001) plus correction factors for seals missed by aerial surveyors. NMFS however, concurs with BPXA (1999, 2001) that these "take" estimates could result in an overestimate of the actual numbers of seals "taken," if all seals within these disturbance distances do not move from the area. It should be noted that NMFS does not consider an animal to be "taken" if it simply hears a noise, but does not make a biologically significant response to avoid that noise.

For the ice break-up period, BPXA assumes that seals within 1 km (3.11 km²) (0.62 mi/1.2 mi²) of Northstar Island might be affected by activities on the island. Based on aerial surveys conducted in 2000 of hauled-out seals, applying correction factors for seals present on the ice but not seen and for seals not hauled out, and assuming a complete turnover of seals on a weekly basis, BPXA estimates that the total number of ringed seals harassed during the 6 week break-up period will be 25 animals.

During the open-water season, BPXA (2001) estimates that 17 (maximum 27) ringed seals, 5 spotted seals, 1–5 bearded seals, 215 (maximum 774) bowhead whales, up to 5 gray whales, and 15 (maximum 91) beluga whales may be incidentally harassed annually due to operations at Northstar. BPXA assumes that seals and beluga whales within 1 km (0.6 mi) radius of Northstar Island will be harassed incidental to construction and other activities on the island. Assumed "take" radii for bowhead whales are based on the distance at which the received level of

production-related noise from the island would diminish below 115 dB re 1 micro-Pa. This distance has been conservatively estimated at 4 km (2.5 mi), due mostly to noise from tugs and self-propelled barges.

Although the potential impacts to the several marine mammal species occurring in these areas is expected to be limited to harassment, a small number of ringed seals may incur lethal and serious injury. Most effects, however, are expected to be limited to temporary changes in behavior or displacement from a relatively small area near the Northstar site and will involve only small numbers of animals relative to the size of the populations. However, the inadvertent and unavoidable take by injury or mortality of small numbers of ringed seal pups may occur during ice clearing for construction of ice roads. In addition, some injury or mortality of whales or seals may result in the event that an oil spill occurs. As a result, BPXA requested that, because a small number of marine mammals might be injured or killed, that takings by mortality also be covered by the LOA. However, because of the unpredictable occurrence, nature, seasonal timing, duration, and size of an oil spill occurring, a specific prediction cannot be made of the estimated number of takes by an oil spill. According to BPXA, in the unlikely event of a major oil spill at Northstar or from the associated subsea pipeline, numbers of marine mammals killed or injured are expected to be small and the effects on the populations negligible. While NMFS agrees that a major oil spill is unlikely, and believes that it is even less likely that spilled oil will intercept numbers of marine mammals, NMFS cannot necessarily conclude that the effects on marine mammal populations will be negligible. Depending upon magnitude of the spill, its location and seasonality, an oil spill could have the potential to affect ringed and bearded seals, and/or bowhead and beluga whales. Because of the large population size of ringed seals and bearded seals and the small number of animals in the immediate vicinity of the Northstar facility, and because spilled oil is unlikely to disperse widely and, therefore, affect large numbers of seals, NMFS has determined that the effect on ringed and bearded seals will be negligible, even in the unlikely event that a major oil spill occurred.

Bowhead and beluga whales, however, while potentially less likely to come into contact with spilled oil because of their more prevalent offshore distribution, and potentially less seriously affected when in oiled waters provided their passage is not blocked,

may be affected more seriously, if impacted, because of their smaller population sizes. However, based upon the Corps' analysis that there is less than a 10-percent chance of a major oil spill occurring during the 20–30 year lifespan of Northstar, and because NMFS believes that the potential for a major oil spill occurring and intercepting these species would be significantly less than 10 percent (approaching 1 percent), NMFS can make a determination that the taking of these two species incidental to operation at the Northstar oil production facility will have no more than a negligible impact on them.

However, regardless of the proposed negligible impact finding, because the Clean Water Act (CWA), at 33 USC 1321 (b)(3), prohibits discharge in harmful quantities into the water and regulations at 40 CFR 110.3 define harmful quantities as violating water quality standards or causing a sheen (i.e., oil spills are considered a violation of CWA), an authorization to take marine mammals, under section 101 (a)(5)(A) of the MMPA, incidental to an oil spill cannot be issued. Even though NMFS cannot issue incidental takings for oil spills, it must continue to ensure that potential takings are reduced to the lowest level possible and therefore, provides for mitigation to ensure that oil spills do not occur.

Impacts on Habitat

Invertebrates and fish, the nutritional basis for those whales and seals found in the Beaufort Sea, may be affected by operations at the Northstar project. Fish may react to noise from Northstar with reactions being quite variable and dependent upon species, life history stage, behavior, and the sound characteristics of the water.

Invertebrates are not known to be affected by noise. Fish may have been displaced when the island was constructed. These local, short-term effects however, are unlikely to have an impact on marine mammal feeding.

In the event of a large oil spill, fish and zooplankton in open offshore waters are unlikely to be seriously affected. Fish and zooplankton in shallow nearshore waters could sustain heavy mortality if an oil spill were to remain within an area for several days or longer. These affected nearshore areas may then be unavailable for use as feeding habitat for seals and whales. However, because these seals and whales are mobile, and bowhead feeding is uncommon along the coast near Northstar, effects would be minor during the open water season. In winter, effects of an oil spill on ringed seal food

supply and habitat would be locally significant in the shallow nearshore waters in the immediate vicinity of the spill and oil slick. However, effects overall would be negligible.

Impacts on Subsistence Uses

This section contains a summary on the potential impacts from operational activities on subsistence needs for marine mammals. A more detailed description can be found in BPXA's applications (BPXA, 1999, 2001). This information, in conjunction with information provided by the Alaska Eskimo Whaling Commission (AEWC) and North Slope Borough (NSB) in their comments on the final rule, and information provided in the Corps' final Environmental Impact Statement (EIS) for Northstar, is believed by NMFS to be the best information available to date on the potential effects on the availability of marine mammals for subsistence uses in the Beaufort Sea area.

Noise Impacts on Subsistence Harvests

The disturbance and potential displacement of bowhead whales and other marine mammals by sounds from vessel traffic and production activities are one of the principle concerns related to subsistence use of the area. The harvest of marine mammals is central to the culture and subsistence economies of the coastal North Slope communities. In particular, if elevated noise levels are displacing migrating bowhead whales farther offshore, this could make the harvest of these whales more difficult and dangerous for hunters. The harvest could also be affected if bowheads become more skittish when exposed to vessel or loud noise (BPXA, 1999, 2001).

Underwater sounds from drilling and production operations on the artificial gravel island are not very strong, and are not expected to travel more than about 10 km (6.2 mi) from the source. BPXA states that even those bowheads traveling along the southern edge of the migration corridor are not expected to be able to hear sounds from Northstar until the whales are well west of the main hunting area for Nuiqsut.

Nuiqsut is the community closest to the area of the proposed activity, and it harvests bowhead whales only during the fall whaling season. In recent years, Nuiqsut whalers typically have taken zero to four whales each season (BPXA, 1999). Nuiqsut whalers concentrate their efforts on areas north and east of Cross Island, generally in water depths greater than 20 m (65 ft). Cross Island, the principle field camp location for Nuiqsut whalers, is located approximately 28.2 km (17.5 mi) east of the Northstar area.

Whalers from the village of Kaktovik search for whales east, north, and west of their village. Kaktovik is located approximately 200 km (124.3 mi) east of Northstar. The westernmost reported harvest location was about 21 km (13 mi) west of Kaktovik, near 70°10' N. 144°W. (Kaleak, 1996). That site is approximately 180 km (112 mi) east of Northstar.

Whalers from the village of Barrow search for bowhead whales much further from the Northstar area, greater than 250 km (>175 mi) to the west.

While the effects on migrating bowheads from noise created by Northstar production are not expected to extend into the area where Nuiqsut hunters usually search for bowheads and, therefore, are not expected to affect the accessibility of bowhead whales to hunters, it is recognized that it is difficult to determine the maximum distance at which reactions occur (Moore and Clark, 1992). As a result, in order to avoid any unmitigable adverse impact on subsistence needs and to reduce potential interference with the hunt, the timing of various activities at Northstar as well as barge and aircraft traffic in the Cross Island area will be addressed in a Conflict Avoidance Agreement between BPXA and the AEWC on behalf of its bowhead whale subsistence hunters. Information on impacts on subsistence seal hunting can be found in the final rule document (65 FR 34014, May 25, 2000).

Oil Spill Impacts on Subsistence Harvests

Oil spills have the potential to affect the hunt for bowhead whales. As a result, the potential for oil spills from Northstar are of significant concern to the residents of the NSB. While oil spills from production drilling or pipelines, could occur at any time of the year, NMFS believes that only if a significant spill occurred just prior to or during the subsistence bowhead hunt and spread into offshore waters would a reduction in the availability of bowhead whales for subsistence uses be possible. While unlikely, oil spills could extend into the bowhead hunting area under certain wind and current conditions. BPXA (1999, 2001) states that even in the event of a major spill, it is unlikely that more than a small number of those bowheads encountered by hunters would be contaminated by oil. However, disturbance associated with reconnaissance and cleanup activities could affect bowhead whales and, thus, accessibility of bowheads to hunters. As a result, in the unlikely event that a major oil spill occurred during the relatively short fall bowhead

whaling season, it is possible that bowhead whale hunting could be significantly affected. Moreover, even with no more than a negligible impact on those marine mammals that would be subject to subsistence hunting, individuals and communities as a whole, may perceive that the whale or seal meat or products are tainted or somehow unfit to eat or use. This could further impact subsistence hunting of these animals. However, NMFS believes that because (1) the probability of a large oil spill is less than 10 percent over the 20-30 years of Northstar operations, (2) bowhead whales in the vicinity of Northstar are hunted only in the months of September and October, limiting exposure time, (3) only under certain wind and sea conditions would it be likely that oil would reach the bowhead subsistence hunting area, (4) there will be an oil spill response program in effect that will be as effective as possible in Arctic waters, and (5) other mitigation measures have been suggested in the event that oil did contact bowheads, NMFS determined at the final rule stage (66 FR 34014, May 25, 2000) that the construction and operation at Northstar is unlikely to result in an unmitigable adverse impact on subsistence uses of marine mammals during the period of effectiveness of the regulations. During the period between that rulemaking and this document, NMFS has participated in several meetings with BPXA, the AEWC and the NSB, in recognition that, although unlikely, if an oil spill were to occur and reach the bowhead migration corridor, there was a potential for significant impacts on the subsistence hunting of bowheads. These meetings resulted in identifying several mitigation measures designed to reduce the impact.

Proposed Mitigation

To minimize the likelihood that impacts will occur to the species and stocks of marine mammals and to the subsistence use of marine mammals, all activities at Northstar will be conducted in accordance with all federal, state and local regulations. BPXA will coordinate all activities with relevant federal and state agencies.

In addition to design for safety and leak prevention (including not having any valves, flanges, or fittings in the subsea section to reduce the potential for equipment failure), the pipeline (which was installed in 2000), includes the following measures to mitigate impacts on the marine environment: (1) utilize the best available technology leak detection system to monitor for any potential leaks, (2) conduct, at a

minimum, weekly helicopter aerial surveillance of the offshore (and onshore) pipeline corridor; and (3) conduct ice-road surveillance of the pipeline, including checking for hydrocarbons under the ice by drilling ice holes.

Although the likelihood of an oil spill occurring at Northstar is unlikely, an oil spill contingency plan has been developed and was submitted to the Alaska Department of Environmental Conservation, the U.S. Department of Transportation, U.S. Coast Guard, and the MMS for review and approval in March, 1999. An updated plan will be resubmitted by BPXA in August, 2001. Also, emergency response exercises, training and evaluation drills will occur at regular scheduled intervals.

During the ice-covered season, BPXA proposes to use trained dogs to locate seal structures in previously undisturbed areas after the traditional birthing date for ringed seals of March 20. However, NMFS has a condition in current LOAs requiring the use of trained dogs after January 1st. NMFS has established this date based on a concern over the impacts on timing for seal structures for becoming birthing lairs. As a result, NMFS invites reviewers to provide scientific information on the costs and benefits of requiring mitigation from January 1 rather than from March 20.

During the open-water season, a minimum flight altitude of 1,000 ft (304.8 m) will be maintained by all aircraft unless limited by weather conditions or emergencies, and except during takeoff and landing. Helicopter flights will primarily be conducted during ice breakup or freeze-up and will occur in a specified corridor from Northstar Island to the mainland. In addition, all non-essential boat, barge and air traffic will be scheduled to avoid periods when bowhead whales are migrating through the area. Essential traffic will be closely coordinated with the NSB and the AEWC to avoid disrupting subsistence hunting. In addition, BPXA this year has installed a dock for barges at Northstar. This action, which will allow barges to tie up at Northstar instead of using diesel engines to remain in place, and thus, will reduce underwater noise levels at Northstar.

To mitigate the potential for an oil spill interacting with bowhead whales and affecting both the species and the subsistence harvest by the NSB villagers, BPXA has confirmed to NMFS that they will not drill new wells or sidetracks from existing wells into oil-bearing strata during the defined period of broken ice or open water conditions which is defined as a period from June

13, 2002, and ending with the presence of 18 inches of continuous ice cover for one-half mile in all directions.

In addition, to ensure that there will not be an unmitigable adverse impact on the subsistence uses of marine mammals, principally bowhead whales, from an oil spill (an oil spill in this context means a 1,000-barrel or greater crude oil spill into the water at Northstar, occurring within 6 months of the fall whale hunt, as confirmed by the U.S. Coast Guard), this mitigation will include planning and financial assistance that will cover the following oil-spill related costs: (a) annual transportation to alternative bowhead whale hunting areas for whaling crews, (b) annual alternate subsistence food supplies to replace subsistence food otherwise provided by a whale, (c) annual counseling and cultural assistance for NSB residents and AEWC members to handle the disruptions to their lives and culture caused by the oil spill, and (d) annual assistance to the NSB and the AEWC to restore the International Whaling Commission quota for bowhead whales in the event that an oil spill at Northstar results in a reduction or loss of the IWC quota (BPXA Good Neighbor Policy, March 14, 2001).

Monitoring

A detailed description of BPXA's proposed monitoring program for implementation during the production phase at Northstar can be found in the revised BPXA application (BPXA, 2001). The open-water season portion of BPXA's monitoring plan was reviewed by scientists and others attending the annual open-water peer-review workshop held in Seattle on June 6, 2001. Peer review on the on-ice portion of the application was conducted on October 14-15, 1999 and October, 2000. A summary of marine mammal monitoring that will be conducted during Northstar production this year is provided here; greater detail can be found in BPXA's application (BPXA, 2001).

Under the current LOA, BPXA conducted 6 monitoring tasks. These were to conduct: (1) Fixed-wing, systematic, aerial surveys of seals hauled out on the ice in spring, 2001; (2) on-ice searches, during winter 2000/2001, for ringed seal breathing holes and lairs near Northstar and, if needed, follow-up surveys; (3) measurements of underwater and in air sounds produced by any construction, drilling, and operations to document sounds and vibrations from Northstar construction, (4) island-based visual monitoring for marine mammals during the open water

season, and (5) acoustic monitoring of bowhead vocalizations during migration. Task 3, a late-winter helicopter survey to assess abandonment rates of seal holes, was not conducted in the spring, 2000, as such a survey had been attempted in spring, 1999, with limited success. The results of this monitoring program are contained in Richardson and Williams (2001a and 2001b) and were summarized previously in this document.

Monitoring During the Ice-covered Season

During late May/early June, 2002, BPXA plans to conduct systematic aerial surveys, using fixed-wing aircraft, of seals hauled out on the ice. This survey will be consistent with BPXA surveys of this type conducted from 1997 through 2001 (see Richardson and Williams, 2001a, 2001b), and will be the last in the planned series. The initial surveys (1997–1998) were to provide data on baseline distribution and density prior to construction of offshore production facilities. The subsequent surveys (1999–2002) provide comparative data during and after construction at Northstar. BPXA will also make measurements of underwater and in-air sounds, as well as ice vibration, produced by any construction, drilling, and operational activities occurring in 2002, whose sounds have not been previously measured.

If construction activities occur in previously undisturbed areas after March 19, 2002, on-ice searches using trained dogs will be employed to locate seal structures. If needed, a recheck of these structures will be conducted in May, 2002 to assess the proportion of structures abandoned relative to distance between the disturbance and the structure.

Monitoring During the Open-Water Season

During the open-water period of 2002, monitoring activities will include acoustic measurements of sounds produced by operational activities and acoustical monitoring of bowhead whales. No visual monitoring of marine mammals will be undertaken in 2002 or in subsequent years for Northstar operations. This task was undertaken in prior years primarily to ensure that no seals or whales would be exposed to potentially injurious levels of sounds from impact pipe driving, or other loud noise sources during construction. However, even during pipe driving, impulse sound levels in the water near the island did not exceed 155 dB (re 1 micro-Pa) and levels did not approach

the established 180 dB (whales) and 190 dB (seals) sound level criteria. As BPXA does not plan to conduct impact pipe driving, or other noisy activities in 2002 and beyond, there is no need to continue an observer monitoring program from Northstar.

BPXA plans to use an acoustic localization technique in 2002 to document the occurrence and locations of calling bowhead whales in the southern part of the migration corridor. This work will be a continuation of work conducted in 2000 (Greene et al., 2001) and planned for 2001 under the current LOA. The primary objective is to document the occurrence of calling bowhead whales in the southern part of the migration corridor near Northstar and to determine whether their distances from the island vary in direct relation to the sound levels emanating from the island. This will provide information on whether Northstar affected the distribution and/or the calling behavior of the whales. For a detailed description of the work being proposed, please refer to BPXA's application.

Reporting

Under its current LOA, BPXA is required to provide two 90-day reports annually to NMFS. The first report is due 90 days after either the ice roads are no longer usable or spring aerial surveys are completed, whichever is later. Under the current LOA, this report was submitted to NMFS on September 15, 2000 (Richardson and Williams (eds.), 2000). The second 90-day report is required to be forwarded to NMFS 90 days after the formation of ice in the central Alaskan Beaufort Sea prevents water access to Northstar. Under the current LOA, this report was submitted to NMFS on January 31, 2001 (Richardson and Williams (eds.), 2001a). These reports included the dates and locations of construction activities, details of marine mammal sightings, estimates of the amount and nature of marine mammal takes, and any apparent effects on accessibility of marine mammals to subsistence hunters.

Under the current LOA, a draft final technical report must be submitted to NMFS by April 1 of each year. This report was submitted to NMFS on that date (Richardson and Williams (eds.), 2001b). The draft final report was subject to peer review in Seattle, WA on June 6, 2001. The final technical report will be and will fully describe the methods and results of all monitoring tasks and a complete analysis of the data. NMFS proposes that the reporting requirements described in these

paragraphs will be continued under the new LOA.

Endangered Species Act (ESA)

On May 22, 2001 (66 FR 28141), NMFS announced receipt of a petition from the Center for Biological Diversity and the Marine Biodiversity Protection Center to designate critical habitat for the Western Arctic stock of bowhead whales under the ESA. NMFS is currently reviewing this petition to determine whether designation of critical habitat is warranted. However, there is no provision under the ESA that activities that might impact critical habitat cease while a review is underway. However, federally-permitted oil and gas exploration activities require consultation under section 7 of the ESA if endangered or threatened species are likely to be affected.

On March 4, 1999, NMFS concluded consultation with the Corps on permitting the construction and operation at the Northstar site. The finding of that consultation was that construction and operation at Northstar is not likely to jeopardize the continued existence of the bowhead whale stock. Because issuance of a small take authorization to BPXA under section 101 (a)(5) of the MMPA is a Federal action, NMFS has completed section 7 consultation on this action. The finding of this consultation was that the issuance of the small take authorization was unlikely to adversely affect the bowhead whale.

National Environmental Policy Act (NEPA)

On June 12, 1998 (63 FR 32207), the Environmental Protection Agency (EPA) noted the availability for public review and comment a draft EIS prepared by the Corps under NEPA on Beaufort Sea oil and gas development at Northstar. Comments on that document were accepted by the Corps until August 31, 1998 (63 FR 43699, August 14, 1998). On February 5, 1999 (64 FR 5789), EPA noted the availability for public review and comment, a final EIS prepared by the Corps under NEPA on Beaufort Sea oil and gas development at Northstar. Comments on that document were accepted by the Corps until March 8, 1999. Based upon a review of the final EIS, the comments received on the draft EIS and final EIS, and the comments received during the rulemaking, NMFS adopted the Corps' final EIS as its own as provided in the Council on Environmental Quality regulations (40 CFR 1501.6) and has determined that it is not necessary to prepare supplemental NEPA documentation.

Determinations

On May 25, 2000 (65 FR 34014), NMFS determined that the impact of production operations at the Northstar project in the U.S. Beaufort Sea will result in no more than a temporary modification in behavior by certain species of cetaceans and pinnipeds. During the ice-covered season, pinnipeds close to the island may be subject to incidental harassment due to the localized displacement from construction of ice roads, from transportation activities on those roads, and from production activities at Northstar. As cetaceans will not be in the area during the ice-covered season, they will not be affected.

During the open-water season, the principal operations-related noise activities will be helicopter traffic, vessel traffic, and other general oil production activities on Seal Island. Sounds from production-related activities on the island are not expected to be detectable more than about 5-10 km (3.1-6.2 mi) offshore of the island. Disturbance to bowhead or beluga whales by on-island activities will be limited to an area substantially less than that distance. Helicopter traffic will be limited to nearshore areas between the mainland and the island and is unlikely to approach or disturb whales. Barge traffic will be located mainly inshore of the whales and will involve vessels moving slowly, in a straight line, and at constant speed. Little disturbance or displacement of whales by vessel traffic is expected. While behavioral modifications may be made by these species to avoid the resultant noise, this behavioral change is expected to have no more than a negligible impact on the animals.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals (which vary annually due to variable ice conditions and other factors) in the area of operations, because the activity is in shallow waters inshore of the main migration corridor for bowhead whales and far inshore of the main migration corridor for belugas, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, except possibly for a small take by mortality incidental to ice-road construction. No rookeries, areas of concentrated mating or feeding, or other areas of special significance for marine mammals occur within or near the planned area of Northstar operations.

Because bowhead whales are east of Seal Island area in the Canadian Beaufort Sea until late August/early

September, activities at Northstar are not expected to impact subsistence hunting of bowhead whales prior to that date. Appropriate mitigation measures to avoid an unmitigable adverse impact on the availability of bowhead whales for subsistence needs is the subject of consultations between BPXA and subsistence users.

Also, while production activities at Northstar have some potential to influence seal hunting activities by residents of Nuiqsut, because (1) the peak sealing season is during the winter months, (2) the main summer sealing is off the Colville Delta, and (3) the zone of influence from Northstar on beluga and seals is fairly small, NMFS believes that Northstar production-related activities will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses.

NMFS has determined that the potential for an offshore oil spill occurring is low (less than 10 percent over 20–30 years (Corps, 1999)) and the potential for that oil intercepting whales or seals is even lower (about 1.2 percent (Corps, 1999)). Because of this low potential and because of the seasonality of bowheads, and recognizing that NMFS cannot authorize the incidental taking for oil spills, NMFS has determined that the taking of marine mammals incidental to construction and operation at the Northstar oil production facility will have no more than a negligible impact on them. In addition, because BPXA has certified to NMFS that it will not drill into oil-bearing strata during periods of open water or broken ice (the time period between June 13 and ending with the presence of 18 inches of continuous ice cover for one-half mile in all directions), because there will be an oil spill response program in effect that will be as effective as possible in Arctic waters, and because other mitigation measures have been proposed by BPXA in the event that oil did contact bowheads, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses of marine mammals.

Information Solicited

NMFS requests interested persons to submit comments, and information, concerning this request for an LOA (see ADDRESSES). However, in the preamble to the final rule (65 FR 34014, May 25, 2000), NMFS clarified that because it had made the determinations required under section 101 (a)(5)(A) of the MMPA when it published the final rule, that, in order to expedite the LOA renewal process, NMFS would open the annual LOA review process to the

following issues only: (1) New scientific data or information (including Traditional Knowledge) that indicates that the determinations made in the final rule document (and therefore in this document) are in need of reconsideration, (2) comments on the Plan of Cooperation, and (3) comments on the proposed monitoring plan. Provided the written comments are specific to the issues under consideration in this document, NMFS will give full consideration to all comments submitted when making its determination on reissuance of an LOA. Comments on issues not relevant to the potential impact on marine mammals inhabiting the Beaufort Sea or to the subsistence use of marine mammals in this area will not be considered by NMFS when making its final determination on this matter.

Dated: August 10, 2001.

Wanda L. Cain,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–20822 Filed 8–16–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081001D]

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 Pacific Fishery Management Council (Council) and its advisory bodies will hold public meetings.

DATES: The Council and its advisory bodies will meet September 9-14, 2001. The Council meeting will begin on Tuesday, September 11, at 10:30 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 10 a.m. until 10:30 a.m. on Tuesday, September 11 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings and hearing will be held at the DoubleTree Hotel Columbia River, 1401 N Hayden Island Drive, Portland, OR 97217; telephone: 503–283–2111. Council address: Pacific Fishery Management Council, 7700 NE

Ambassador Place, Suite 200, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: 503-326-6352.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order. All items listed are subject to potential Council action.

A. Call to Order

1. Opening Remarks, Introductions
2. Council Member Appointments
3. Roll Call
4. Executive Director's Report
5. Approve Agenda
6. Approve June 2001 Minutes

B. Pacific Halibut Management

1. Status of 2001 Fisheries
2. Status of Bycatch Estimate
3. Proposed Changes to the Catch Sharing Plan and Annual Regulations

C. Groundfish Management

1. National Marine Fisheries Service (NMFS) Report
2. Marine Recreational Fishery Statistics Survey Update
3. Preliminary Harvest Levels and Other Specifications for 2002
4. Groundfish Strategic Plan Implementation
5. Rebuilding Programs
6. Exempted Fishing Permits (EFP)
7. Proposed Management Measures for 2002
8. Status of Fisheries and Inseason Adjustments
9. Amendment 15 to the Groundfish Fishery Management Plan (FMP) - American Fisheries Act
10. Groundfish FMP Environmental Impact Statement
11. Full Retention Measures
12. 2002 Stock Assessment Schedule

D. Marine Reserves

1. Status Report on West Coast Marine Reserve Activities
2. Marine Reserve Proposals for Channel Island National Marine Sanctuary

E. Habitat Issues

Essential Fish Habitat Issues

F. Salmon Management

1. NMFS Report
2. Update of Ongoing Fisheries
3. Update on Scientific and Statistical Committee Methodology Review
4. Queets Coho Status Review

G. Highly Migratory Species Management

1. NMFS Report
2. Update on FMP Development

H. Coastal Pelagic Species Management

1. NMFS Report
2. Final Report on Squid Maximum Sustainable Yield Workshop
3. Pacific Sardine Fishery Update

I. Administrative and Other Matters

1. Status of Legislation
2. Appointments to Advisory Bodies
3. Report of the Budget Committee
4. Council Staff Work Load Priorities
5. November 2001 Council Meeting Draft Agenda

SCHEDULE OF ANCILLARY MEETINGS

SUNDAY, SEPTEMBER 9, 2001

No meetings currently scheduled.

MONDAY, SEPTEMBER 10, 2001

Council Secretariat	8 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Habitat Steering Group	10 a.m.
Budget Committee	10 a.m.
Groundfish Stock Assessment	3:30 p.m.

Briefing
TUESDAY, SEPTEMBER 11, 2001

Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Habitat Steering Group	8 a.m.-2 p.m.
Enforcement Consultants	Immediately following Council Session

WEDNESDAY, SEPTEMBER 12, 2001

Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Coastal Pelagic Species Advisory Subpanel	10 a.m.
Groundfish Management Team	As Necessary
Enforcement Consultants	As Necessary

THURSDAY, SEPTEMBER 13, 2001

Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.

SCHEDULE OF ANCILLARY MEETINGS—Continued

Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	As Necessary
Groundfish Management Team	As Necessary
Enforcement Consultants	As Necessary
FRIDAY, SEPTEMBER 14, 2001	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Enforcement Consultants	As Necessary

Although non-emergency issues not contained in this agenda may come before this Council for discussion, 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 Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: August 10, 2001.

Richard W. Surdi,

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

[FR Doc. 01-20823 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081001E]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Scientific and Statistical Committee's

Highly Migratory Species (HMS) Subcommittee will hold a public meeting.

DATES: The subcommittee will meet Thursday, September 13, 2001, from 9 a.m. until business for the day is completed.

ADDRESSES: The meeting will be held at the DoubleTree Hotel—Columbia River, Yakima Room, 1401 N Hayden Island Drive, Portland, OR 97217; telephone: 503-283-2111.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Waldeck, Pacific Fishery Management Council, 503-326-6352.

SUPPLEMENTARY INFORMATION: The purpose of the work session will be to review the revised draft HMS fishery management plan and regulatory document, largely focusing on Chapter 3 (e.g., maximum sustainable yield specifications) and regulatory analyses.

Although nonemergency issues not contained in the meeting agenda may come before the subcommittee for discussion, those issues may not be the subject of formal subcommittee action during this meeting. Subcommittee action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the subcommittee's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503-326-6352 at least 5 days prior to the meeting date.

Dated: August 10, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 01-20825 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-22-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in Bulgaria

August 14, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at <http://www.customs.gov>. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, carryover and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66719, published on November 7, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 14, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool and man-made fiber textile products, produced or manufactured in Bulgaria and exported during the twelve-month period which began

on January 1, 2001 and extends through December 31, 2001.

Effective on August 17, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit ¹
410/624	3,146,319 square meters of which not more than 877,262 square meters shall be in Category 410.
435	29,611 dozen.
448	32,741 dozen.

¹The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01-20759 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Dominican Republic

August 13, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting a limit.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at <http://www.customs.gov>. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 433 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 75671, published on December 4, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 13, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 28, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on August 17, 2001, you are directed to increase the current limit for Category 433 to 27,275 dozen¹, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc. 01-20760 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Macau

August 13, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

¹ The limit has not been adjusted to account for any imports exported after December 31, 2000.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at <http://www.customs.gov>. For information on embargoes and quota reopenings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, carryover and the recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69913, published on November 21, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 13, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on August 17, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit ¹
Levels in Group I	
225	6,563,109 square meters.
317	4,613,393 square meters.

Category	Adjusted twelve-month limit ¹
333/334/335/833/834/835.	449,437 dozen of which not more than 238,548 dozen shall be in Categories 333/335/833/835.
336/836	97,880 dozen.
338	508,377 dozen.
339	2,224,215 dozen.
340	510,787 dozen.
341	357,905 dozen.
342	152,267 dozen.
345	85,197 dozen.
347/348/847	1,216,339 dozen.
350/850	107,942 dozen.
351/851	114,193 dozen.
359-C/659-C ²	592,381 kilograms.
359-V ³	213,577 kilograms.
625/626/627/628/629	7,053,303 square meters.
633/634/635	964,379 dozen.
638/639/838	2,864,333 dozen.
640	213,524 dozen.
641/840	366,991 dozen.
642/842	200,393 dozen.
645/646	470,828 dozen.
647/648	883,348 dozen.
659-S ⁴	215,888 kilograms.
Group II	
400-431, 433-438, 440-448, 459pt. ⁵ , 464 and 469pt. ⁶ , as a group.	1,648,765 square meters equivalent.
Sublevel in Group II	
445/446	89,594 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 2000.

² Category 359-C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

³ Category 359-V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

⁴ Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

⁵ Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

⁶ Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,
*Acting Chairman, Committee for the
 Implementation of Textile Agreements.*
 [FR Doc. 01-20761 Filed 8-16-01; 8:45 am]
 BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Republic of Turkey

August 13, 2001.

AGENCY: Committee for the
 Implementation of Textile Agreements
 (CITA).

ACTION: Issuing a directive to the
 Commissioner of Customs increasing a
 limit.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Roy
 Unger, International Trade Specialist,
 Office of Textiles and Apparel, U.S.
 Department of Commerce, (202) 482-
 4212. For information on the quota
 status of this limit, refer to the Quota
 Status Reports posted on the bulletin
 boards of each Customs port, call (202)
 927-5850, or refer to the U.S. Customs
 website at <http://www.customs.gov>. For
 information on embargoes and quota re-
 openings, refer to the Office of Textiles
 and Apparel website at [http://
 otexa.ita.doc.gov](http://otexa.ita.doc.gov).

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural
 Act of 1956, as amended (7 U.S.C. 1854);
 Executive Order 11651 of March 3, 1972, as
 amended.

The current limit for Category 361 is
 being increased for the recrediting of
 unused carryforward.

A description of the textile and
 apparel categories in terms of HTS
 numbers is available in the
CORRELATION: Textile and Apparel
 Categories with the Harmonized Tariff
 Schedule of the United States (see
Federal Register notice 65 FR 82328,
 published on December 28, 2000). Also
 see 65 FR 66730, published on
 November 7, 2000.

D. Michael Hutchinson,
*Acting Chairman, Committee for the
 Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

August 13, 2001.

Commissioner of Customs,
 Department of the Treasury, Washington, DC
 20229.

Dear Commissioner: This directive
 amends, but does not cancel, the directive

issued to you on October 27, 2000, by the
 Chairman, Committee for the Implementation
 of Textile Agreements. That directive
 concerns imports of certain cotton, wool and
 man-made fiber textile products, produced or
 manufactured in the Republic of Turkey and
 exported during the twelve-month period
 which began on January 1, 2001 and extends
 through December 31, 2001.

Effective on August 17, 2001, you are
 directed to increase the current limit for
 Category 361 to 2,576,045 numbers¹, as
 provided for under the Uruguay Round
 Agreement on Textiles and Clothing:

The Committee for the Implementation of
 Textile Agreements has determined that this
 action falls within the foreign affairs
 exception of the rulemaking provisions of 5
 U.S.C. 553(a)(1).

Sincerely,
 D. Michael Hutchinson,
 Acting Chairman, Committee for the
 Implementation of Textile Agreements.
 [FR Doc. 01-20763 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on the Elimination of the Paper Visa Requirement for Certain Textile Products Exported from the Philippines

August 13, 2001.

AGENCY: Committee for the
 Implementation of Textile Agreements
 (CITA).

ACTION: Request for public comments.

FOR FURTHER INFORMATION CONTACT: Lori
 Mennitt, Office of Textiles and Apparel,
 U.S. Department of Commerce, (202)
 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural
 Act of 1956, as amended (7 U.S.C. 1854);
 Executive Order 11651 of March 3, 1972, as
 amended.

Pursuant to a textile visa arrangement
 between the United States and the
 Government of the Philippines, certain
 textiles and textile products exported
 from the Philippines must be
 accompanied by a visa issued by the
 Government of the Philippines in order
 to be imported into the United States.
 See 44 FR 68005 (November 28, 1979).

The Electronic Visa Information
 System (ELVIS) allows certain foreign
 governments to electronically transfer
 textile and textile product shipment
 information to the U.S. Customs Service
 and thereby issue a visa electronically.
 On August 18, 1997 (62 FR 43993),

¹ The limit has not been adjusted to account for
 any imports exported after December 31, 2000.

CITA announced that the Government
 of the Philippines would begin an
 ELVIS test implementation phase using
 both paper and electronic visas.

As a result of successful use of the
 dual visa system, preparations are under
 way to move beyond the current dual
 system to the paperless ELVIS system
 with the Philippines. Exempt goods, for
 example cottage industry handwoven
 and handloomed fabrics, handmade
 articles and garments of handwoven and
 handloomed fabric, and traditional
 folklore handicraft products, would still
 require an exempt certification issued
 by the Government of the Philippines.

CITA is soliciting public comments
 on the elimination of the paper visa
 requirement for the Philippines and
 utilization of the ELVIS system
 exclusively. Comments must be
 received on or before October 16, 2001.
 Comments may be mailed to D. Michael
 Hutchinson, Acting Chairman,
 Committee for the Implementation of
 Textile Agreements, room 3001, U.S.
 Department of Commerce, 14th and
 Constitution Avenue, N.W.,
 Washington, DC 20230.

The solicitation of comments is not a
 waiver in any respect of the exemption
 to the rulemaking provisions contained
 in 5 U.S.C. 553(a)(1) relating to matters
 which constitute a foreign affairs
 function of the United States.

D. Michael Hutchinson,

*Acting Chairman, Committee for the
 Implementation of Textile Agreements.*

[FR Doc. 01-20762 Filed 8-16-01; 8:45 am]

BILLING CODE 3510-DR-S

COMMODITY FUTURES TRADING COMMISSION

Performance of Notice Registration Processing Functions by National Futures Association With Respect to Certain Securities Brokers and Dealers

AGENCY: Commodity Futures Trading
 Commission.

ACTION: Notice and order.

SUMMARY: The Commodity Futures
 Trading Commission ("Commission") is
 authorizing the National Futures
 Association ("NFA"), effective
 September 17, 2001, to process notice
 registration filings as a futures
 commission merchant ("FCM") or
 introducing broker ("IB") in the case of
 a securities broker or dealer ("BD")
 registered with the Securities and
 Exchange Commission ("SEC") that,
 among other things, limits its
 involvement with commodity futures
 contracts to security futures products. In

addition, the Commission also is authorizing NFA (1) to terminate any such registration in the event the criteria upon which it was based are no longer satisfied, (2) to maintain, on behalf of the Commission, records regarding BDs notice-registered as an FCM or IB, and (3) to serve as the official custodian of those Commission records. This Order does not, however, authorize NFA to grant conditional registrations to BDs notice-registered as an FCM or IB or, except as stated above, to deny, revoke, suspend or take any other adverse actions with respect to such registrations. This Order also does not authorize NFA to accept or act upon requests for exemption, "no-action" or interpretative letters with respect to applicable registration requirements.

EFFECTIVE DATE: September 17, 2001.

FOR FURTHER INFORMATION CONTACT:

Barbara S. Gold, Assistant Chief Counsel, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418-5450, electronic mail: bgold@cftc.gov, or lpatent@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Authority and Background

In a separate notice published elsewhere today in the **Federal Register**, the Commission is amending its rules to implement the Congressional mandate in section 252(b) of the Commodity Futures Modernization Act of 2000 ("CFMA")¹ requiring notice registration as an FCM or IB of certain SEC-registered BDs if:

(A) The broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products;

(B) The broker or dealer files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors;

(C) The registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(D) The broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

Specifically, the Commission is amending Rule 3.10 by adding paragraph (a)(3) to provide for such notice registration.²

As proposed and as adopted, Rule 3.10(a)(3) provides that this notice registration may be made "by following such procedures . . . as may be specified" by NFA. As the Commission explained in proposing paragraph (a)(3), this is consistent with the Commission's previous delegations of registration authority to NFA under Rule 3.2 and through various Commission orders.³ The Commission further explained that this also is consistent with section 125 of the CFMA, which requires the Commission to report to Congress later this year on a study of the CEA and the Commission's rules, regulations and orders governing the conduct of persons required to be registered under the CEA. In this regard, the Commission noted that one area that the study must identify is "the regulatory functions the Commission currently performs that can be delegated to a registered futures association."⁴

NFA Registration Rule 204, like Commission Rule 3.10, concerns the registration of persons as FCMs and IBs. On May 17, 2001, NFA's Board of Directors approved a proposed amendment to Rule 204 so as to conform NFA's rule to that proposed by the Commission for notice registration of certain BDs as an FCM or IB.⁵

Upon consideration, the Commission has determined to authorize NFA, effective September 17, 2001, to perform notice registration functions as set forth in Rule 3.10 in accordance with the standards established by section 4f(a)(2) of the CEA. The Commission is further

² Commission rules referred to herein generally are found in 17 CFR Ch. I (2001).

³ See, e.g., 48 FR 15940 (April 13, 1983); 48 FR 35158 (August 3, 1983). Section 8a(10) of the Act, 7 U.S.C. 12a(10), provides that the Commission may authorize any person to perform any portion of the registration functions under the CEA, notwithstanding any other provision of law, in accordance with rules adopted by such person and submitted to the Commission for approval, or, if applicable, for review pursuant to section 17(j) of the CEA, 7 U.S.C. 21(j), and subject to the provisions of the CEA applicable to registrations granted by the Commission. See also section 17(o) of the CEA, 7 U.S.C. 21(o).

⁴ See 66 FR 27476 at 27478 (May 17, 2001).

⁵ NFA's proposed amendments to Rule 204 also provide that notice registration under that rule "shall be terminated immediately if any of the conditions set for [such] registration are no longer satisfied." Inasmuch as the Commission adopted as proposed the amendments to Rule 3.10, the Commission similarly approved as proposed NFA's amendments to Rule 204.

authorizing NFA, under specified conditions, to terminate any such registration and to perform records custodian functions with respect to notice registration under Rule 3.10. Concurrently, the Commission is separately approving on this date NFA's proposed amendment to its Registration Rule 204.⁶

The Commission further notes that section 17(p)(1) of the CEA⁷ requires that each registered futures association (such as NFA) "establish training standards and proficiency testing for * * * all persons for which it has registration responsibilities." While this provision of the CEA would appear to require NFA to establish testing requirements for securities BD applicants for notice registration as an FCM or IB, the Commission believes that it is not the intent of Congress to require testing of these applicants. This is because section 252(c) of the CFMA provides that a BD notice-registered as an FCM or IB "shall not be required to become a member of any futures association registered under section 17."⁸ The Commission also notes that testing requirements are generally intended to apply to associated persons, and associated persons of BDs that notice register as an FCM or IB are specifically exempted from registration under section 4k(5) of the Act, as added by Section 252(d) of the CFMA. In light of the foregoing, the Commission has determined to adopt a "no-action" position with respect to the establishment by NFA of a proficiency testing requirement for BDs who notice register as FCMs or IBs. Accordingly, the Commission will not institute any enforcement action under section 17(p)(1) of the CEA against NFA based solely upon NFA's failure to establish training standards and proficiency testing for these BDs even though NFA is being authorized to perform certain registration functions with respect to these BDs.⁹

⁶ Notice registration will be made on Notice Form 7-R, which was included in the NFA notice registration submission that the Commission approved.

⁷ 7 U.S.C. 21(p)(1).

⁸ This provision has been codified at section 4f(a)(4)(C) of the CEA. In proposing amendments to Rule 3.10 the Commission explained that: (a) although the Commission cannot require NFA to perform registration functions for persons that are not NFA members, the Commission may authorize NFA to perform any registration function. Commission staff have discussed this matter with NFA, and NFA has agreed to undertake the function of processing notice registrations for BDs as discussed herein. If the Commission adopts these amendments to Rule 3.10, it expects to issue an order authorizing NFA to perform this function. 66 FR 27476 at 27478.

⁹ This treatment of NFA concerning testing requirements for these BDs is similar to the

¹ Pub. L. 106-554, 114 Stat. 2763. The provision in question will be codified at Section 4f(a)(2) of the Commodity Exchange Act ("CEA"), 7 U.S.C. 6f(a)(2).

Because the CFMA speaks in terms of a "broker or dealer," the term "BD as used in this release applies equally to a broker, a dealer or a person registered as both a broker and a dealer.

Section 17(o)(2) of the CEA provides that the Commission may authorize NFA, in performing Commission registration functions, to deny, condition, suspend, restrict or revoke any registration, subject to Commission review.¹⁰ As stated above, NFA Registration Rule 204, which the Commission has today approved, provides that BD notice registration as an FCM or IB "shall be terminated immediately if the other conditions set for [such] registration are no longer satisfied." The Commission is not at this time, however, authorizing NFA to take any other adverse registration actions with respect to the BD notice registration applications that it processes pursuant to this Order. This is consistent with Section 252 of the CFMA.

By prior orders, the Commission has authorized NFA to maintain various other Commission registration records and certified NFA as the official custodian of such records for this agency.¹¹ The Commission has now determined, in accordance with its authority under section 8a(10) of the CEA,¹² to authorize NFA to maintain and serve as official custodian of the Commission's registration records with respect to BDs notice-registered as an FCM or IB.

In maintaining the Commission's registration records pursuant to this Order, NFA shall be subject to all other requirements and obligations imposed upon it by the Commission in existing or future Orders or regulations.¹³ In this regard, NFA shall also implement such additional procedures (or modify existing procedures) as are necessary to ensure the security and integrity of the BD notice-registered records in NFA's custody as acceptable to the Commission; to facilitate prompt access to those records by the Commission and its staff, particularly as described in other Commission Orders or rules; to facilitate disclosure of public or nonpublic information in those records when permitted by Commission Orders or rules and to keep logs as required by the Commission concerning disclosure of nonpublic information; and otherwise

to safeguard the confidentiality of the records.

II. Conclusion and Order

The Commission has determined, in accordance with the provisions of Section 8a(10) of the CEA, to authorize NFA, effective September 17, 2001, to perform the following registration functions:

- (1) To receive and maintain filings for notice registration under the Commodity Exchange Act as a futures commission merchant or introducing broker by those brokers and dealers registered with the Securities and Exchange Commission who meet the requirements of NFA Registration Rule 204;
- (2) To terminate the notice registration of a registered broker or dealer as a futures commission merchant or introducing broker where the broker or dealer no longer meets the requirements of NFA Registration Rule 204; and
- (3) To maintain records regarding brokers and dealers notice-registered as a futures commission merchant or introducing broker and to serve as the official custodian of those Commission records.

NFA shall perform these functions in accordance with the standards established by the CEA and the regulations promulgated thereunder.

These determinations are based upon the Congressional intent expressed in sections 8a(10) and 17(o) of the CEA and section 125 of the CFMA. This Order does not, however, authorize NFA to accept or act upon requests for exemption from registration, to render "no-action" or interpretative letters with respect to applicable registration requirements, to grant conditional registrations, or, except as stated in item (2) above, to deny or take any other adverse action with respect to such registrations.

Nothing in this Order or in sections 8a(10) or 17 of the CEA or in section 125 of the CFMA shall affect the Commission's authority to review the performance by NFA of Commission registration functions.¹⁴

Issued in Washington, DC on August 10, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01-20630 Filed 8-16-01; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received October 16, 2001.

ADDRESSES: Written comments and recommendations on the information collection should be sent to LTC Thomas V. Williams, Ph.D., M.S., U.S.A., Dir., Program Evaluation TRICARE Management Activity; HPA&E, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Please refer to the information cited above.

Title, Associated Form, and OMB Number: Military Health System (MHS) Provider Survey in Military Treatment Facilities (MTF).

Needs and Uses: The purpose of this project is to design and pilot test a survey of direct care providers within Region 1 followed by a full deployment of the survey in future years. The MHS Provider Survey is intended to provide Department of Defense (DoD) with data that contributes to the delivery of high quality healthcare. The perspective of prescriptive providers has not been collected systematically despite their important role in delivering care within the constraints of limited resources and complicated guidelines. The first goal of this work is to gain insight of direct care providers who provide care at MTFs regarding the challenges associated with

Commission's position regarding testing requirements for floor traders. See 58 FR 19657 at 19658 (April 15, 1993). The Commission further notes, however, that the futures and securities industry self-regulatory organizations, including NFA, are developing enhancements to existing proficiency examinations, as well as training modules for existing registrants, so that industry professionals will be aware of their responsibilities to the public concerning security futures products.

¹⁰ 7 U.S.C. 21(o)(2).

¹¹ See, e.g., 49 FR 39593 (October 9, 1984).

¹² 7 U.S.C. 12a(10).

¹³ See, e.g., 49 FR 39593 at 39595-97.

¹⁴ See also section 17(o)(3) of the CEA, 7 U.S.C. 21(o)(3).

treating patients under TRICARE. A survey instrument is needed that will capture information regarding provider opinions of how well TRICARE helps them provide patients with needed care. It will identify how administrative policies and practices of TRICARE health plan effect healthcare delivery. A second goal of this work is to collect information that indicates how the attitudes and opinions of physicians differ by specialty, region, and degree of participation with TRICARE. The survey data shall provide information needed to better plan, deliver, and evaluate health care services provided in the military health system (MHS).

Affected Public: Individuals—Healthcare Providers in Military Treatment Facilities.

Annual Burden Hours: 666.

Number of Respondents: 2000.

Responses Per Respondent: 1 per person.

Average Burden Per Response: 20 minutes per survey.

Frequency: One Time.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This request encompasses all activities required to develop, pilot test and implement an instrument to assess the attitudes and opinions of MHS prescriptive providers regarding their ability to provide high quality care. Of particular interest is how TRICARE and other organizational factors contribute to the effort to practice medicine in the MHS.

The survey will be designed to collect information from direct care TRICARE providers, focusing on providers who are licensed to practice independently. The provider groups surveyed will include physicians, nurse practitioners, physician assistants, and independent duty corpsmen all of whom are affiliated with Department of Defense (DoD) MTFs. Westat will conduct the information, analyze the results, and generate a report for the government. Activities include the collection and analyses of information obtained confidentially from providers (physicians, physician assistants, independent duty corpsmen, and nurse practitioners) within MTFs.

Dated: August 13, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-20742 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form, and OMB Number: Academic Certification for Marine Corps Officer Candidate Program; NAVMC Form 10469; OMB Number 0703-0011.

Type of Request: Reinstatement.

Number of Respondents: 2,500.

Responses Per Respondent: 1.

Annual Responses: 2,500.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 625.

Needs and Uses: Used by Marine Corps officer procurement personnel, this form provides a standardized method for determining the academic eligibility of applicants for all reserve officer candidate programs. Use of this form is the only accurate and specific method to determine a reserve officer applicant's academic qualifications. The form is completed by the applicant and by school officials at the educational institution where the applicant is enrolled. The form requests that a certified copy of the student's transcript be returned with the NAVMC Form 10469.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: August 13, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-20738 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Health Evaluation Assessment Review (HEAR 2.X); OMB Number 0720-[To Be Determined].

Type of Request: New Collection.

Number of Respondents: 2,106,071.

Responses Per Respondent: 1.

Annual Responses: 2,106,071.

Average Burden Per Response: 20 minutes.

Annual Burden Hours: 703,248.

Needs and Uses: The survey is a self-reported health assessment tool. The Health Evaluation Assessment Review (HEAR) is a unified approach to assess health and fitness for active duty and other DoD health care beneficiaries. The information is used by health care personnel to plan health care delivery needs and to: (1) Identify patients requiring clinical preventive care; (2) target individuals who could benefit from counseling services associated with high risk behaviors; (3) categorize patients into one of three primary care levels according to the complexity and intensity of care required; (4) predict which patients will be high users of health care resources; (5) empower individuals to take responsibility for their own health; and, (6) assess the health status of the population. The HEAR will provide information in support of Healthy People 2010 and other population health programs. These data will provide needed information to better plan, deliver, and evaluate health care provided in the Military Health System.

Affected Public: Individuals or Households.

Frequency: On Occasion; Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Stuart Shapiro.

Written comments and recommendations on the proposed information collection should be sent to Mr. Shapiro at the Office of Management and Budget, Desk Officer for DoD Health Affairs, Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: August 13, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-20739 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form, and OMB Number: Individual MCJROTC Instructor Evaluation Summary; NAVMC Form 10942; OMB Number 0703-0016.

Type of Request: Reinstatement.

Number of Respondents: 440.

Responses Per Respondent: 1.

Annual Responses: 440.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 220.

Needs and Uses: This form provides a written record of the overall performance of duty of Marine instructors who are responsible for implementing the Marine Corps Junior Reserve Officers' Training Corps (MCJROTC). The individual MCJROTC Instructor Evaluation Summary is completed by principals to evaluate the effectiveness of individual Marine instructors. The form is further used as a performance related counseling tool and as a record of service performance to document performance and growth of individual Marine instructors.

Affected Public: Individuals or Households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C.

Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer

for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: August 13, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-20740 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Supplement (DFARS) 223.570, Drug-Free Work Force, and DFARS Clause 252.223-7004, Drug-Free Work Force; OMB Number 0704-0336.

Type of Request: Extension.

Number of Respondents: 15,152.

Responses Per Respondent: 1.

Annual Responses: 15,152 (Recordkeeping Only).

Average Burden Per Response: 54 Hours (Average Recordkeeping: Established and Start-up).

Annual Burden Hours: 821,052 (Recordkeeping).

Needs and Uses: This information collection requires Department of Defense (DoD) contractors to maintain records regarding drug-free work force programs provided to contractor employees. The information is used to ensure reasonable efforts to eliminate the unlawful use of controlled substances by contractor employees. DFARS Section 223.570, Drug-Free Work Force, and the associated clause at DFARS 252.223-7004, Drug-Free Work Force, require that DoD contractors institute and maintain programs for achieving the objective of a drug-free work force, but do not require contractors to submit information to the Government. This information

collection requirement reflects the public burden of maintaining records related to a drug-free work force program.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: This is a requirement for recordkeeping only.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Lew Oleinick.

Written comments and recommendations on the proposed information collection should be sent to Mr. Oleinick at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: August 13, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-20741 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 01-09]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 01-09 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: August 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-10-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

27 JUL 2001
In reply refer to:
I-01/003174

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 01-09, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost \$590 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in black ink, appearing to read "Tome H. Walters, Jr.", is positioned above the typed name.

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 01-09

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

- (i) **Prospective Purchaser:** Egypt
- (ii) **Total Estimated Value:**
Major Defense Equipment* \$ 474 million
Other \$ 116 million
TOTAL \$ 590 million
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** A coproduction program for the possible sale of 100 M1A1 Abrams tanks kits to include 100 M256 Armament Systems, 100 M2 .50 caliber machine guns, 200 M240 7.62mm machine guns, 12 M16A2 5.56mm rifles, spare and repair parts, support and test equipment, personnel training and training equipment, U.S. Government and contractor engineering and logistics support services, technical assistance and support, and other related elements of logistics support
- (iv) **Military Department:** Army (NFR, NFS, UTY, and UTZ)
- (v) **Prior Related Cases, if any:**
FMS case NFM - \$471 million - 13Sep99
FMS case NFO - \$43 million - 13Sep99
FMS case JBP - \$42 million - 13Sep99
FMS case NER, Amd 3- \$3 million - 22Apr96
FMS case NEP, Amd 2- \$3 million - 16Apr96
FMS case NET, Amd 4- \$3 million - 16Apr96
FMS case NEM, Amd 5 - \$70 million - 05Feb96
FMS case NEM, Amd 1 - \$127 million - 14Oct92
FMS case NET, Amd 1- \$26 million - 18Aug92
FMS case NES, Amd 1 - \$55 million - 20Jan92
FMS case NER, Amd 1- \$1 million - 05Apr91
FMS case NET - \$73 million - 29Dec89
FMS case NEM - \$1.6 billion - 05Jan89
FMS case NEP - \$187 million - 05Jan89
FMS case NES - \$154 million - 05Jan89
FMS case UKJ - \$264 million - 05Jan89
FMS case NER - \$17 million - 28Oct88
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** None.
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached.
- (viii) **Date Report Delivered to Congress:** 27 JUL 2001

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt - M1A1 Abrams Tanks Coproduction

The Government of Egypt (GOE) has requested a coproduction program for the possible sale of 100 M1A1 Abrams tanks kits to include 100 M256 Armament Systems, 100 M2 .50 caliber machine guns, 200 M240 7.62mm machine guns, 12 M16A2 5.56mm rifles, spare and repair parts, support and test equipment, personnel training and training equipment, U.S. Government and contractor engineering and logistics support services, technical assistance and support, and other related elements of logistics support. The estimated cost is \$590 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The GOE is demilitarizing its Soviet fleet. This proposed sale will increase the quantity of the Abrams tank coproduction program, started in 1988, from the current level of 655 tanks, to 755 tanks. The additional M1A1 tanks will modernize Egypt's tank fleet. Egypt, which has already co-produced the M1A1 Abrams tanks, will have no difficulty absorbing the additional tanks.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be General Dynamics of Sterling Heights, Michigan. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of up to 30 U.S. contractor representatives for up to two years in Egypt. The five U.S. Government representatives already in country on HERCULES coproduction will also manage this program for production and fielding.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 01-09**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act****Annex
Item No. vi****(vi) Sensitivity of Technology:**

1. Components considered to contain sensitive technology in the proposed coproduction program are special armor, 120mm gun and ammunition, gas turbine propulsion system, Night Vision Forward Looking Infra Red, and compartmentation.

a. M1A1 Tank Special Armor:

(1) FMS armor and other special armors used in the hull and turret are classified at the Secret level. Major components of special armor are fabricated in sealed modules and in serialized removable subassemblies. Special armor components and associated vulnerability data for both chemical and kinetic energy rounds are classified Secret, SPECIAL ACCESS. The track skirts have been formally declassified but are still considered to be sensitive items and their dissemination is controlled.

(2) Release of classified information can be used by potential adversaries to develop improved munitions to defeat U.S. armor systems. The consequences would be the capabilities that neutralize or defeat the armor. The armor in question has been previously sold to Egypt as a part of the M1A1 Abrams Tank coproduction program delineating obligations and measures for the protection of special armor.

b. M1A1 Tank 120mm Gun and Ammunition:

(1) The 120mm system is composed of a smooth bore gun manufactured at Watervliet Arsenal; "long rod" Armor Piercing Fin Stabilized Discarding Sabot penetrators; and combustible cartridge case ammunition also made in the United States. The gun and ammunition are produced under license from the Federal Republic of Germany.

(2) Gun production and design technology are generally well known. Ammunition technology is much more sensitive and includes the design criteria for long rod penetration warheads and new kinds of higher energy propellants. Evidence indicates that the United States and its allies have technological advantages in these areas. Technology for the weapons has been previously released to Egypt as a part of the M1A1 Abrams Tank Coproduction Program.

c. M1A1 Tank Gas Turbine Propulsion System:

(1) The use of a gas turbine propulsion system in the Abrams tank is a unique application of armored vehicle power pack technology. The hardware is composed of the AGT 1500 engine and X1100-3B transmission, and is not classified. Manufacturing processes associated with the production of turbine blades, recuperator, bearings, and shafts, and hydrostatic pump and motor, are proprietary and therefore commercially competition sensitive.

(2) Unauthorized release and exploitation of sensitive propulsion system information would adversely impact U.S. technology advantages. Acquisition of production data by a potential enemy could enhance their capability to design and produce gas turbine propulsion systems with application to land and air vehicles.

d. Night Vision Forward Looking Infra Red (FLIR):

(1) First Generation (GEN) FLIR can be used for target acquisition such as Infra Red missile target acquisitions or air defense. It is classified as Confidential.

(2) First GEN FLIR is a fairly mature technology and this capability can be obtained in the marketplace. The First GEN FLIR has been previously sold to Egypt as a part of the M1A1 Abrams Tank Coproduction program.

e. Compartmentation:

(1) A major survivability feature of the Abrams Tank is the compartmentation of fuel and ammunition. Compartmentation is the positive separation of the crew and critical components from combustible materials. In the event that the fuel or ammunition is ignited or deteriorated by an incoming threat round, the crew is fully protected by the compartmentation. Sensitive information includes the performance of the ammunition compartments as well as the compartment design parameters.

(2) The U.S. Army has invested millions of dollars in the design, development, and integration of compartmentation in the Abrams Tank. Although the concept of compartmentation is not new and design principles are known, the U.S. currently has the advantage in the design and integration of compartmentation into combat vehicles. The design of the compartments cannot be protected. However, the guidelines, parametric inductions, and test data used to develop the compartments do not have to be disclosed to permit a sale.

2. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this proposed sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

[FR Doc. 01-20743 Filed 8-16-01; 8:45 am]
BILLING CODE 5001-10-C

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to amend one system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on September 17, 2001 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.
FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 588-0159.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: August 13, 2001.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS P28

SYSTEM NAME:

Personnel Security Operations File (June 22, 1995, 60 FR 32511).

CHANGES:

* * * * *

RETENTION AND DISPOSAL:

Delete current entry and replace with 'Active records are maintained for as long as an individual may require a security clearance or suitability certificate because of their affiliation with the agency. When this relationship ceases, files are transferred to inactive status, retained for two years and destroyed.'

* * * * *

DWHS P28**SYSTEM NAME:**

Personnel Security Operations File.

SYSTEM LOCATION:

Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Personnel Security Operations Division, 1155 Defense Pentagon, Room 3B347, Washington, DC 20301-1155.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees of, and military members assigned to, the Office of the Secretary of Defense, its components and supported organizations including the United States Court of Appeals for the Armed Forces, the Advanced Research Projects Agency, the Ballistic Missile Defense Organization, the American Forces Information Service, the Defense Legal Services Agency, the Defense Security Assistance Agency, the Defense Technology Security Administration, the Defense Medical Program Activity, the Defense POW/MIA Office, and certain personnel selected for assignment to the United States Mission to NATO.

Experts and consultants serving with or without compensation. Certain employees of the Congressional Budget Office and the U.S. Capitol Police.

Staff of Congressional committees and personnel office staff who require access to classified DoD information or material.

Employees of other agencies detailed to the Office of the Secretary of Defense.

Members and staff of DoD commissions and certain Presidential commissions.

Very important people selected to attend orientation conferences. Defense contractors requiring access to special programs.

Unsalariated students working as interns in supported organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

National Agency Checks conducted by the Directorate for Personnel and Security, Washington Headquarters Services; the Individual's Certificate of Security Clearance; security briefing and debriefing statements; security violations and other files pertinent to the security clearance or access status of an individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; E.O. 12985; E.O. 10450; and E.O. 9397 (SSN).

PURPOSE(S):

To be used by officials of the Personnel Security Operations Division,

Directorate for Personnel and Security, Washington Headquarters Services, to maintain security clearance and authorized access information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Hard copy files are maintained in a secured area, and computer files are stored on magnetic tape and disk.

RETRIEVABILITY:

Active personnel security files maintained alphabetically by last name of subject, or by Social Security Number. Inactive personnel security files serially numbered and indexed alphabetically.

SAFEGUARDS:

Files are maintained under the direct control of office personnel during duty hours. Office is locked and alarmed during non-duty hours. Computer media is stored in controlled areas. Computer terminal access is controlled by user passwords that are periodically changed.

RETENTION AND DISPOSAL:

Active records are maintained for as long as an individual may require a security clearance or suitability certificate because of their affiliation with the agency. When this relationship ceases, files are transferred to inactive status, retained for two years and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B347, 1155 Defense Pentagon, Washington, DC 20301-1155.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director for Personnel and Security, Washington Headquarters Services, Department of

Defense, Room 3B347, 1155 Defense Pentagon, Washington, DC 20301-1155.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the Director for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B347, 1155 Defense Pentagon, Washington, DC 20301-1155.

CONTESTING RECORD PROCEDURES:

The OSD's rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Applications and related forms from the individual; background investigations and summaries of information from background investigations; employment suitability related information; and forms and correspondence relating to the security clearance and access of the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.

[FR Doc. 01-20744 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE**National Reconnaissance Office; Privacy Act of 1974; System of Records**

AGENCY: National Reconnaissance Office, DOD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The National Reconnaissance Office (NRO) is proposing to amend a system of records notice to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The amendment corrects an

administrative oversight that occurred when on August 8, 2001, at 66 FR 41570, the NRO system of records notice QNRO-10, entitled 'Inspector General Investigative Records' was published without the text under the 'Purpose:' category. Therefore, the notice is being amended to include the text.

DATES: This proposed action will be effective without further notice on September 17, 2001 unless comments are received which result in a contrary determination.

ADDRESSES: National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151-1715.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Freimann at (703) 808-5029.

SUPPLEMENTARY INFORMATION: The National Reconnaissance Office systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: August 13, 2001.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

ONRO-10

SYSTEM NAME:

Inspector General Investigative Records (August 8, 2001, 66 FR 41570).

CHANGES:

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PURPOSE(S):

Add to entry 'Records are used to investigate allegations of misconduct or wrongdoing by NRO personnel related to violations of laws, rules, or regulations or to mismanagement, gross waste of funds, fraud or mismanagement on the part of persons assigned or detailed to the NRO, and to provide information to NRO management regarding personnel matters and for evaluating current and proposed programs, policies and activities, assignments, and requests for awards or promotions.

Records are used by the NRO Inspector General and his/her staff, the NRO Director, the Director of the Central Intelligence Agency, and the

Secretary of Defense to effect corrective personnel or other administrative action; to provide facts and evidence upon which to base prosecution; to provide information to other investigative elements of the Department of Defense, other Federal, State, or local agencies having jurisdiction over the substance of the allegations or a related investigative interest; to provide information upon which determinations may be made for individuals' suitability for various personnel actions including but not limited to retention, promotion, assignment, retirement in grade or selection for sensitive or critical positions in the Armed Forces or Federal service.'

* * * * *

QNRO-10

SYSTEM NAME:

Inspector General Investigative Records.

SYSTEM LOCATION:

Office of the Inspector General, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151-1715.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are interviewed by or provide information to the National Reconnaissance Office (NRO) Office of Inspector General, and persons involved with or who have knowledge about a matter being investigated or reviewed by the Office of the Inspector General. These persons include NRO civilian and military personnel assigned or detailed to the NRO, persons with a contractual relationship with the NRO or who perform work under NRO contracts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigations, reports of interviews, signed statements, correspondence, government forms, internal NRO memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended, 50 U.S.C. 401 et seq.; 5 U.S.C. 301, Departmental Regulations; NRO Directive 22-3A; E.O. 12333; E.O. 12958; E.O. 12968; and E.O. 9397 (SSN).

PURPOSE(S):

Records are used to investigate allegations of misconduct or wrongdoing by NRO personnel related to violations of laws, rules, or regulations or to mismanagement, gross waste of funds, fraud or mismanagement on the part of persons assigned or detailed to the NRO, and to provide information to NRO management

regarding personnel matters and for evaluating current and proposed programs, policies and activities, assignments, and requests for awards or promotions.

Records are used by the NRO Inspector General and his/her staff, the NRO Director, the Director of the Central Intelligence Agency, and the Secretary of Defense to effect corrective personnel or other administrative action; to provide facts and evidence upon which to base prosecution; to provide information to other investigative elements of the Department of Defense, other Federal, State, or local agencies having jurisdiction over the substance of the allegations or a related investigative interest; to provide information upon which determinations may be made for individuals' suitability for various personnel actions including but not limited to retention, promotion, assignment, retirement in grade or selection for sensitive or critical positions in the Armed Forces or Federal service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To appropriate officials within the Intelligence Community (Central Intelligence Agency, other Federal departments, agencies, inspectors generals and elements thereof) to the extent that the records concern NRO funds, personnel, property programs, operations, or contracts or when relevant to the official responsibilities of those organizations and entities; regarding personnel matters; and to evaluate current and proposed programs policies and activities, selected assignments and requests for awards or promotions.

To Federal, state, local, foreign or international agencies, or to an individual or organization, when necessary to elicit information relevant to an NRO Inspector General investigation, inquiry, decision or recommendation.

To the Department of Justice or any other agency responsible for representing NRO interests in connection with a judicial, administrative, or other proceeding.

To the Department of Justice or other Intelligence Community Inspector General or agency to the extent

necessary to obtain information or advice on any matter relevant to an Office of Inspector General investigation;

To the President's Foreign Intelligence Advisory Board, and the Intelligence Oversight Board, and any successor organizations, when requested by those entities, or when the Inspector General determines that disclosure will assist in the performance of their oversight functions; and

The DoD "Blanket Routines Uses" published at the beginning of the NRO compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM;

STORAGE:

Paper files and automated information system, maintained in computers and computer output products.

RETRIEVABILITY:

Name or Social Security Number.

SAFEGUARDS:

Records are stored in a secure, gated facility, guard, badge, and password access protected. Access to and use of these records are limited to the Inspector General staff whose official duties require such access.

RETENTION AND DISPOSAL:

Records are permanently maintained by NRO.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151-1715.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151-1715.

Request should include the individual's full name and any aliases or nicknames, address, Social Security Number, current citizenship status, date and place of birth, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty or perjury under the laws of the

United States of America that are foregoing is true and correct. Executed on (date). (Signature)'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty or perjury that the foregoing is true and correct. Executed on (date). (Signature)'

Record access procedures:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151-1715.

Request should include the individual's full name, and any aliases or nicknames, address, Social Security Number, current citizenship status, date and place of birth, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'

CONTESTING RECORD PROCEDURES:

The NRO rules for accessing records, for contesting contents and appealing initial agency determinations are published in NRO Directive 110-3A and NRO Instruction 110-5A; 32 CFR part 326; or may be obtained from the Privacy Act Coordinator, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151-1715.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual, parties other than the individual, as well as by personal records and documentation; subjects and suspects of NRO investigations; interview of witnesses, victims, and confidential sources. All types of records and information maintained by all levels of government, private industry, and non-profit organizations reviewed during the course of the investigation or furnished the NRO; and any other type of record deemed necessary to complete the NRO investigation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j) (2) if the information is compiled and maintained by a component of the agency which performs as its principle function any

activity pertaining to the enforcement of criminal laws.

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

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 326. For additional information contact the system manager.

[FR Doc. 01-20747 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Army.

EFFECTIVE DATE: August 14, 2001.

FOR FURTHER INFORMATION CONTACT:

David Stokes, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower & Reserve Affairs, 111 Army, Washington, DC 20310-0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives'

performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the Office of the Surgeon General are:

1. MG Patrick D. Sculley, Deputy Surgeon General, Office of The Surgeon General
2. Dr. Zita M. Simutis, Technical Director, Army Research Institute
3. Mr. James Sizelove, Assistant Deputy Undersecretary of the Army (Operations Research), Office of the DUSA(OR)

John A. Hall,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 01-20756 Filed 8-16-01; 8:45 am]

BILLING CODE 3910-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Army.

DATES: August 14, 2001.

FOR FURTHER INFORMATION CONTACT:

David Stokes, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower & Reserve Affairs, 111 Army, Washington, DC 20310-0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the U.S. Army Materiel Command are:

1. Mr. James L. Bacon, Program Manager for Chemical Demil Operations, Office of the Army Acquisition Executive.
2. Mr. James J. Barbarello, Director, C2 and Systems Integration, CECOM RD&E Center, U.S. Army Communications-Electronics Command.
3. Mr. Thomas C. Boyle, Director, Integrated Materiel Management Center,

U.S. Army Tank-automotive and Armaments Command.

4. MG John S. Caldwell, Jr., U.S. Army Tank-automotive and Armaments Command.

5. Ms. Lucretia M. Cruze, Executive Director, Acquisition Center, U.S. Army Aviation and Missile Command.

6. Dr. Chine I. Chang, Director, U.S. Army Research Office, U.S. Army Research Laboratory.

7. MG John J. Deyermond, Deputy Chief of Staff for Logistics, and Operations, U.S. Army Materiel Command.

8. Mr. Robert Doto, Director, Intelligence and Information, Warfare Directorate, CECOM RD&E Center, U.S. Army Communications-Electronics Command.

9. Mr. Mitra Dutta, Director, Research and Technology Integration, U.S. Army Research Office.

10. Mr. Victor J. Ferlise, Deputy to the Commander, U.S. Communications-Electronics Command, Dr. James D. Gantt, Deputy Director, Computational and Information Sciences Directorate, U.S. Army Research Laboratory.

11. Mr. Truman W. Howard, Director for Weapon Sciences, Aviation and Missile RD&E Center, U.S. Army Aviation and Missile Command.

12. Dr. Joseph A. Lannon, Director, Warheads, Energetics and Combat-Support, Armaments Center, U.S. Army Armament Research, Development and Engineering Center, U.S. Army Tank-automotive and Armaments Command.

13. Mr. Anthony A. LaPlaca, Director, CECOM RD&E Logistics & Readiness Center, U.S. Army Communications-Electronics Command.

14. Mr. John C. Lawkowski, Assistant Deputy Chief of Staff for Resource Management, U.S. Army Materiel Command.

15. Mr. Anthony Lisuzzo, Associate Technical Director, CECOM RD&E Center, U.S. Army Communications-Electronics Command.

16. Dr. Louis C. Marquet, Director, CECOM RD&E Center, U.S. Army Communications-Electronics Command.

17. MG Michael R. Mazzuchi, Program Executive Office, C3 Systems, Office of the Army Acquisition Executive.

18. Mr. Daniel G. Mehney, Director, Acquisition Center, U.S. Army Tank-automotive and Armaments Command.

19. Dr. John M. Pellegrino, Director, Sensors and Electron Devices Directorate, U.S. Army Research Laboratory.

20. Ms. Renata F. Price, Assistant Deputy Chief of Staff for RDA—Science, Technology, and Engineering, U.S. Army Materiel Command.

21. Dr. N. Radhakrishnan, Director, Computational and Information, Sciences Directorate, U.S. Army Research Laboratory.

22. Mr. Vemula P. Rao, Vice President for Customer Engineering, Tank-Automotive RD&E Center, U.S. Army Tank-automotive and Armaments Command.

23. Mr. Michael C. Schexnayder, Associate Director for Missile Systems, Aviation and Missile RD&E Center, U.S. Army Aviation and Missile Command.

24. Mr. David J. Schaffer, Director, U.S. Army Materiel Systems Analysis Activity.

25. Ms. Sandra O. Sieber, Associate Director, CECOM Acquisition Center, U.S. Army Communications-Electronics Command.

26. Mr. Brian M. Simmons, Deputy to the Commander and Technical Director, U.S. Army Test and Evaluation Center, U.S. Army Test and Evaluation Command.

27. MG James R. Snider, Deputy Chief of Staff for Research, Development and Acquisition, U.S. Army Materiel Command.

28. Mr. Robert J. Spazzarini, Chief Counsel, U.S. Army Aviation and Missile Command.

29. Ms. Kathryn T. H. Szymanski, Chief Counsel, U.S. Army Communications-Electronics Command.

30. Mr. Joseph H. Zarzycki, Technical Director, Edgewood Chemical and Biological Center, U.S. Army Soldier and Biological Chemical Command.

John A. Hall,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 01-20757 Filed 8-16-01; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Army.

EFFECTIVE DATES: August 14, 2001.

FOR FURTHER INFORMATION CONTACT:

David Stokes, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower & Reserve Affairs, 111 Army, Washington, DC 20310-0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C.,

requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the Office of the Chief of Staff, Army are:

1. Lt. Gen Russell Davis, Chief, National Guard Bureau
2. MG Raymond Rees, Vice Chief, National Guard Bureau
3. Ms. Maureen Lischke, NGB Chief, Information Officer, National Guard Bureau
4. Mr. Chris Gardner, Director, NGB Joint Staff, National Guard Bureau
5. Mr. Mark J. O'Konski, Executive Director, USA Logistics Intergration Agency, Office, Deputy Chief of Staff for Logistics
6. Mr. Wimpy D. Pybus, Director for Aviation and Munitions, Office, Deputy Chief of Staff for Logistics
7. Mr. William P. Neal, Assistant Director for Force Projection and Distribution, Office, Deputy Chief of Staff for Logistics
8. Ms. Donna L. Shands, Associate Director for Sustainment, Office, Deputy Chief of Staff for Logistics
9. Mr. Joe R. Billman, Director for Program Development, Office, Deputy Chief of Staff for Logistics
10. BG Jeannette K. Edmunds, Director for Sustainment, Office, Deputy Chief of Staff for Logistics
11. BG Jerome Johnson, Director for Plans, Operations and Logistics Automation, Office, Deputy Chief of Staff for Logistics
12. BG Donald D. Parker, Director for Force Projection and Distribution, Office, Deputy Chief of Staff for Logistics
13. Ms. Jean Bennett, Director of Intelligence Programs, Plans, and Studies, Office, Deputy Chief of Staff for Intelligence
14. Mr. Terrance Ford, Assistant Deputy Chief of Staff for Intelligence, Office, Deputy Chief of Staff for Intelligence
15. Mr. Thomas Dillon, Director, Foreign Disclosure, Office, Deputy Chief of Staff for Intelligence
16. LTG Robert W. Noonan, Jr., Deputy Chief of Staff for Intelligence, Office, Deputy Chief of Staff for Intelligence
17. MG Robert A. Harding, Assistant Deputy Chief of Staff for Intelligence, Office, Deputy Chief of Staff for Intelligence

18. BG Nicholas P. Grant, Special Assistant to the Deputy Chief of Staff for Intelligence, Office, Deputy Chief of Staff for Intelligence

19. Mr. Vernon M. Bettencourt, Technical Advisor to the DCSOPS, Deputy Chief of Staff for Operations

20. Mr. Wendell H. Luncford, Jr., Director, Army Models Simulation Office (AMSO), Deputy Chief of Staff for Operations

21. LTG Larry R. Ellis, Deputy Chief of Staff for Operations, Office, Deputy Chief of Staff for Operations

22. MG Phillip R. Kensinger, Jr., Assistant Deputy Chief of Staff for Operations, Office, Deputy Chief of Staff for Operations

23. BG Robert W. Chestnut, Assistant Deputy Chief of Staff for Operations for Mobilization/IMA, Office, Deputy Chief of Staff for Operations

24. BG Raymond T. Odierno, Director, Force Management, Office, Deputy Chief of Staff for Operations

25. MG Michael D. Maples, Director, Operations Readiness and Mobilization, Office, Deputy Chief of Staff for Operations

26. BG Clyde A. Vaughn, Deputy Director, Operations Readiness and Mobilization, Office, Deputy Chief of Staff for Operations

27. MG John R. Wood, Director, Strategy, Plans and Policy, Office, Deputy Chief of Staff for Operations

28. BG Karl W. Eikenberry, Deputy Director, Strategy, Plans and Policy, Office, Deputy Chief of Staff for Operations

29. BG William G. Webster, Director, Training, Office, Deputy Chief of Staff for Operations

30. BG(P) Gene M. LaCoste, Assistant Deputy Chief of Staff for Personnel, Office, Deputy Chief of Staff for Personnel

31. Mr. John W. Matthews, Director, Army Records Management and Declassification Agency, Office, Deputy Chief of Staff for Personnel

32. Dr. Edgar Johnson, Director, Army Research Institute

33. Dr. Zita Simutis, Technical Director, Army Research Institute

34. MG Lawrence R. Adair, Commander, U.S. Total Army Personnel Command

35. BG William P. Heilman, Director, Well-Being, Office, Deputy Chief of Staff for Personnel

36. BG Katherine G. Frost, Adjutant General, U.S. Total Army Personnel Command

37. BG Elbert N. Perkins, Director, Military Personnel Management, Office, Deputy Chief of Staff for Personnel

38. BG Dorian T. Anderson, Director, Officer Personnel Management, U.S. Total Army Personnel Command

39. BG Harry B. Axson, Director, Military Personnel Management, Office, Deputy Chief of Staff for Personnel

40. Dr. Craig E. College, Assistant Deputy Chief of Staff for Programs, Office, Deputy Chief of Staff for Programs

41. BG Craig A. Peterson, Director of Integration, Office, Deputy Chief of Staff for Programs

42. MG A.J. Madora, Director, Program Analysis & Evaluation, Office, Deputy Chief of Staff for Programs

43. Mr. Donald E. Tison, Deputy Director, Program Analysis & Evaluation, Office, Deputy Chief of Staff for Programs

44. Edgar B. Vandiver III, Director, U.S. Army Center for Army Analysis

45. Daniel J. Shedlowski, Technical Director, U.S. Army Center for Army Analysis

46. Robert N. Kittel, Special Assistant for Communications & Transportation, Office, The Judge Adjutant General

47. Janet C. Menig, Deputy Assistant Chief of Staff for Installation Management, Office, Assistant Chief of Staff for Installation Management

48. Jeffrey J. Clarke, Chief Historian, Center of Military History

49. Barr, Brian, Technical Director, Army Test & Evaluation Command

50. Brown C. David, Director for Technical Mission (APG, MD), Army Test & Evaluation Command

51. Orlicki, George A. Technical Director/Chief Scientist (White Sands, NM), Army Test & Evaluation Command

52. Pasini, Harold C., Jr., Technical Director, Test & Experimentation Command, Army Test & Evaluation Command

53. Simmons, Brian M., Deputy to Cmdr/Technical Director (APG, MD), Army Test & Evaluation Command

54. Streilein, James J., Director, Army Evaluation Center, Army Test & Evaluation Command

John A. Hall,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 01-20758 Filed 8-16-01; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Department of the Navy proposes to add a system of records

notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective on September 17, 2001 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOA Policy Branch, Chief of Naval Operations (N09B10), 2000 Navy Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685-6545 or DSN 325-6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above. The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, was submitted on August 8, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: August 13, 2001.

L.M. Bynum,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.

N06150-5

SYSTEM NAME:

Millennium Cohort Study

SYSTEM LOCATION:

Naval Health Research Center,
Emerging Illness Division, P.O. Box
85122, San Diego CA 92186-5122.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

An initial probability-based, cross-sectional sample of 100,000 U.S. Armed Forces personnel (active duty Army, Navy, Marine Corps, and Coast Guard and reserve/National Guard), as of October 2000, that will be followed prospectively by postal surveys every 3 years over a 21-year period. The initial sample of 100,000 persons will be comprised of 30,000 individuals who have been deployed to Southwest Asia, Bosnia, or Kosovo since August 1997, and 70,000 individuals who have not been deployed to these conflicts. In October 2004 and October 2007, a random sample of 20,000 new Armed Forces personnel will be added to the

cohort. The total of 140,000 individuals will be followed until the year 2022.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic data, such as name, Social Security Number, rank, grade, gender, military occupational specialty. Health data, such as self-reported medical conditions and symptoms, smoking and drinking behaviors. Validated instruments will be incorporated to capture self-assessed physical and mental functional status (Short Form-36 Veterans), psychosocial assessment (Patient Health Questionnaire), and posttraumatic stress disorder (Patient Checklist-17).

Information obtained from the survey responses will be supplemented with deployment, occupational, vaccination, and healthcare utilization data) related to individual health status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; and E.O. 9397 (SSN); DoD Protocol Number 32227; Sec 743, National Defense Authorization Act for Fiscal Year 1999; Sec 735, National Defense Appropriations Act for Fiscal Year 2001; Defense Technology Objective MD.25 Deployed Force Health Protection; Predicting Warfighter Resilience.

PURPOSE(S):

To create a probability-based, cross sectional database of selected veterans who have, or have not, deployed overseas so that various longitudinal health and research studies may be conducted over a 21 year period. The database will be used:

- a. To systematically collect population-based demographic and health data to evaluate the health of Armed Forces personnel throughout their careers and after leaving service.
- b. To evaluate the impact of operational deployments on various measures of health over time including medically unexplained symptoms and chronic disease such as cancer, heart disease and diabetes.
- c. To serve as a foundation upon which other routinely captured medical and deployment data may be added to answer future questions regarding the health risks of operational deployment, occupations, and general service in the Armed Forces.
- d. To examine characteristics of service in the Armed Forces associated with common clinician-diagnosed diseases and with scores on several standardized self-reported health inventories for physical and psychological functional status.

e. To provide a data repository and available representative Armed Forces cohort that future investigators and policy makers might use to study important aspects of service in the Armed Forces including disease outcomes among a Armed Forces cohort.

In addition to revealing changes in veterans' health status over time, the Millennium Cohort Study will serve as a data repository, providing a solid foundation upon which additional epidemiologic studies may be constructed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 522a(b)(3):

To the Department of Veterans Affairs (DVA) for (1) considering individual claims for benefits for which that DVA is responsible; and (2) for use in scientific, medical and other analysis regarding health outcomes research associated with military service.

To the Department of Health and Human Services, Centers for Disease Control and Prevention for use in scientific, medical and other analysis regarding health outcome research associated with military service.

Note: All disclosures to the DVA and HHS must have prior approval of the Naval Health Research Center Institutional Review Board and a Memorandum of Understanding must be entered into to ensure the right and obligations of the signatories are clear. Access to data (1) is provided on need-to-know basis only; (2) must adhere to the rule of minimization in that only information necessary to accomplish the purpose for which the disclosure is being made is releasable; and (3) must follow strict guidelines established in the data sharing agreement.

To the Social Security Administration (SSA) for considering individual claims for benefits for which that SSA is responsible.

The DoD "Blanket Routine Uses" that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases; electronic records are stored on magnetic media.

RETRIEVABILITY:

Records are retrieved by military service member's name and Social Security Number.

SAFEGUARDS:

Access to areas where records are maintained is limited to authorized personnel. Access control devices protect areas during working hours and intrusion alarm devices during non-duty hours. Access to data is provided on need-to-know basis only. Password or other user code controls access to data.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration has approved the retention and disposition schedule for these records, treat then as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commanding Officer, Naval Health Research Center, Box 85122, San Diego, CA 92186-5122.

Record Holder: Senior Investigator, The Millennium Cohort Study, Naval Health Research Center, Emerging Illness Division, P.O. Box 85122, San Diego, CA 92186-5122.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Senior Investigator, The Millennium Cohort Study, Naval Health Research Center, Emerging Illness Division, P.O. Box 85122, San Diego, CA 92186-5122.

The request should contain the service member's name and Social Security Number and must be signed by the service member requesting the information.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Senior Investigator, The Millennium Cohort Study, Naval Health Research Center, Emerging Illness Division, PO Box 85122, San Diego, CA 92186-5122.

The request should contain the service member's name and Social Security Number and must be signed by the service member requesting the information.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual participant survey instruments; Composite Health Care System; Corporate Executive Information Systems; Defense Manpower Data Center; Defense Enrollment Eligibility Reporting System; Civilian Health and Medical Program of the Uniformed Services; survey research instruments and health research records at Naval Medical Center, San Diego; and individual physical exams and biological specimens.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01-20748 Filed 8-16-01; 8:45 am]

BILLING CODE 5001-08-M

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, 2001.

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 13, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Education Longitudinal Study of 2002 (ELS:2002).

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 46,539.

Burden Hours: 54,102.

Abstract: Full-scale study in Spring, 2002 in 800 schools in all 50 states and the District of Columbia. Data collection from students, parents, teachers, administrators and library media center specialists. Data collection will constitute the baseline of a longitudinal study of school effectiveness and impact on postsecondary and labor market outcomes. A field test was conducted in Spring, 2001.

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 Kathy Axt at (540) 776-7742 or via her internet address Kathy@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. 01-20712 Filed 8-16-01; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION**[CFDA No. 84.016A]****Office of Postsecondary Education;
Undergraduate International Studies
and Foreign Language Program;
Notice Inviting Applications for New
Awards for Fiscal Year (FY) 2002**

Purpose of Program: The Undergraduate International Studies and Foreign Language Program provides grants to strengthen and improve undergraduate instruction in international studies and foreign languages.

Eligible Applicants: Institutions of higher education; combinations of institutions of higher education; partnerships between nonprofit educational organizations and institutions of higher education; and public and private non-profit agencies and organizations, including professional and scholarly associations.

Applications available: September 5, 2001.

Deadline for Transmittal of Applications: November 5, 2001.

Deadline for Intergovernmental Review: January 4, 2002.

Estimated Available Funds: The Administration has requested \$4,500,000 for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications at this time to allow enough time to complete the grant process, if Congress appropriates funds for this program.

Estimated Range of Awards: \$40,000–\$130,000 per year.

Estimated Average Size of Awards: \$76,267 per year.

Estimated Number of Awards: 32.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months for grants to single institutions of higher education, and up to 36 months for grants to combinations of institutions of higher education and partnerships.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, 86, 97, 98 and 99; and (b) The regulations for this program in 34 CFR parts 655 and 658.

SUPPLEMENTARY INFORMATION: Matching requirement: Under title VI, part A, section 604(a)(3) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1124(a)(5), Undergraduate International Studies and Foreign Language grantees must provide matching funds in either of the following ways: (a) Cash contributions

from the private sector equal to one-third of the total project costs; or (b) a combination of institutional and non-institutional cash or in-kind contributions equal to one-half of the total project costs.

The Secretary may waive or reduce the required matching share for institutions that are eligible to receive assistance under part A or part B of title III, or under title V of the Higher Education Act of 1965, as amended.

Priorities

This competition focuses on projects designed to meet the priority in section 604(a)(5) of the HEA (20 U.S.C. 1124(a)(5)) (see 34 CFR 75.105(b)(2)(iv)).

Applications from institutions of higher education or combinations or partnerships that: (a) Require entering students to have successfully completed at least two years of secondary school foreign language instruction; (b) require each graduating student to earn two years of postsecondary credit in a foreign language or have demonstrated equivalent competence in the foreign language; or (c) in the case of a two-year degree granting institution, offer two years of postsecondary credit in a foreign language.

Under 34 CFR 75.105(c)(2)(i) we award an additional five points to an application that meets the priority.

Invitational Priority

Within the competitive priority specified in this notice, we are particularly interested in applications that meet the following invitational priority:

Applications from institutions of higher education that propose activities that enrich or enhance the effectiveness of educational programs abroad, including pre-departure and post-return programs, and integrate education programs abroad into the curriculum of the home institution.

Under 34 CFR 75.105(c)(1) we do not give an application that meets the invitational priority a competitive or absolute preference over other applications.

FOR APPLICATIONS AND FURTHER

INFORMATION CONTACT: Christine Corey, Undergraduate International Studies and Foreign Language Program, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street, NW., Suite 600, Washington, DC 20006–8521. Telephone: 202–502–7629 or via Internet: chris.corey@ed.gov

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT**.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access To This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/legislation/FedRegister>

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>

Program Authority: 20 U.S.C. 1124.

Dated: August 13, 2001.

Robert L. Belle, Jr.,

Director, Higher Education, Preparation and Support Services, Office of Postsecondary Education.

[FR Doc. 01–20704 Filed 8–16–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION**National Educational Research Policy
and Priorities Board; Teleconference**

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of meeting by teleconference.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting by teleconference of the Executive Committee of the National Educational Research Policy and Priorities Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

The public is being given less than 15 days' notice of this meeting because of the need to expedite a decision on funding a major initiative of the Board.

DATES: August 21, 2001.

Time: 1:30–2:30 p.m., EDT.

Location: Room 100, 80 F St., NW., Washington, DC 20208–7564.

FOR FURTHER INFORMATION CONTACT:

Thelma Leenhouts, Designated Federal Official, National Educational Research Policy and Priorities Board, Washington, DC 20208–7564. Tel.: (202) 219–2065; fax: (202) 219–1528; e-mail: Thelma.Leenhouts@ed.gov. The main telephone number for the Board is (202) 208–0692.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office. The meeting is open to the public. Persons who wish to attend should contact the Board office at (202) 208–0692. The Executive Committee will review and approve decisions on contract activity for the remainder of FY 2001. Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 80 F St., NW., Washington, DC 20208–7564.

Dated: August 14, 2001.

Rafael Valdivieso,

Executive Director.

[FR Doc. 01–20826 Filed 8–01–01; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Golden Field Office; Notice of Issuance of Supplemental Announcement.

AGENCY: The Department of Energy (DOE).

ACTION: Notice of issuance of supplemental announcement.

SUMMARY: The U. S. Department of Energy (DOE) pursuant to the DOE Financial Assistance Rules, 10 CFR 600.8, is announcing its intention to

solicit Applications under this Supplemental Announcement 08, titled “Enhancing Economic Viability and Long-term Sustainability of Operating Geothermal Power Plants” of the Fiscal Year 2001 Broad-based Solicitation for Submission of Financial Assistance Applications Involving Research, Development and Demonstration, DE–PS36–01GO90000. The Financial Assistance award(s) resulting from this Supplemental Announcement will be cooperative agreement(s).

DATES: DOE expects to issue the Supplemental Announcement in mid-August, 2001.

ADDRESSES: To obtain a copy of the Supplemental Announcement and the Broad-based Solicitation once it is issued, interested parties must access the DOE Golden Field Office Home Page at <http://www.golden.doe.gov/businessopportunities.html> under “Solicitations”, then locate the Solicitation number and Supplemental Announcement number. DOE does not intend to issue written copies of the solicitation.

FOR FURTHER INFORMATION CONTACT:

Ruth E. Adams, Contracting Officer, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393 or via Facsimile to Ruth E. Adams at 303–275–4788 or electronically to Ruth-Adams@nrel.gov. Responses to questions will be made by Amendment and posted on the DOE Golden Field Office Home Page.

SUPPLEMENTARY INFORMATION: DOE is seeking applications from a team that includes geothermal power plant operators, owners, and assessors for plant-wide assessments that will lead to substantial improvements in energy output, conversion efficiency, parasitic power reduction, and long-term sustainability. The goal in supporting such plant assessments is to develop case studies, which illustrate the benefits of adopting a plant-wide systems approach strategy across an entire production facility.

Geothermal Power plant applicant teams that take a comprehensive, plant-wide, systems approach to increasing energy conversion efficiency, production capacity, and improving sustainability are of interest. Specifically, proposals are sought where teams are considering the adoption of best available and emerging technologies using a variety of tools, information, process engineering techniques, and support systems. We anticipate that the plant would conduct the assessment by initially profiling the entire plant's energy requirements and energy-intensive processes. This would

be conducted in the form of an energy audit using state-of-the-art process modeling tools. Further assessment would then focus on specific components or systems that would offer the largest cost savings and return on investment. Assessment methodologies and strategies that aim to discover opportunities where the plant's investment in energy conversion efficiency and capacity are maximized will be of most interest.

Applications submitted by Federally Funded Research and Development Centers (FFRDC's), as defined by Federal Acquisition Regulation (FAR) 35.017, will not be considered for award. All questions concerning this Supplemental Announcement must be submitted in writing to Ruth E. Adams, Contracting Officer, at the locations specified under the contact for further information above.

Issued in Golden, Colorado, on August 9, 2001.

Jerry L. Zimmer,

Procurement Director, Golden Field Office.

[FR Doc. 01–20772 Filed 8–16–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–425–000]

Algonquin Gas Transmission Company; Notice of Application

August 13, 2001.

Take notice that on August 6, 2001, Algonquin Gas Transmission Company (Algonquin), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP01–425–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to uprate certain compression facilities at its Burrillville, Rhode Island, compressor station in order to render up to 10,000 dekatherms per day of firm transportation service to Colonial Gas Company (Colonial), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the “RIMS” link, select “Docket#” and follow the instructions (call 202–208–2222 for assistance).

Algonquin states that each of the two existing compressor units at the Burrillville compressor station has a design capacity of 6,950 HP and each is certificated by the Commission to

operate at 5,700 HP. Also, Algonquin states that system controls on the compressors currently limit the horsepower of each unit to 5,700 HP. Algonquin proposes to modify the software controls so that each compressor unit may be operated at 6,950 HP. It is stated that the uprates will not require any installation, construction or facility reconfiguration beyond the modifications of the software controls. Algonquin states that the horsepower uprates at Burrillville will increase pressures and capacity on the G-System, thereby accommodating additional deliveries to Colonial at the Bourne and Sagamore delivery points in Massachusetts while maintaining required pressures at existing delivery points along Algonquin's system.

Algonquin states that Colonial has entered into a service agreement for a primary term of 15 years, under which Colonial will receive 10,000 dekatherms per day of firm transportation service under Rate Schedule AFT-1. Algonquin further states that the costs of the compressor station uprates are estimated to be \$84,000, and will be expensed.

Questions regarding the details of this proposed project should be directed to Steven E. Tillman, Director of Regulatory Affairs for Algonquin Gas Transmission Company, P.O. Box 1642, Houston, Texas 77251-1642.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 4, 2001 file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene 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). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition

to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a

final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-20710 Filed 8-16-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01-423-000]

Dynegy LNG Production Terminal, LP; Notice of Petition for a Declaratory Order

August 13, 2001.

On August 3, 2001, Dynegy LNG Production Terminal, LP (Dynegy LNG), filed a petition for a declaratory order by the Commission disclaiming jurisdiction over the siting, construction and operation of the Hackberry, Louisiana LNG facility or, alternatively, assert such jurisdiction solely to determine that the facility is not inconsistent with the public interest, all as more fully set forth in the petition which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket #" and follow the instructions (call 202-208-2222 for assistance).

Dynegy LNG states that it requests the Commission issue a declaratory order disclaiming jurisdiction over the siting, construction and operation of the Hackberry LNG facility, in light of the Energy Policy Act amendment to Section 3 of the Natural Gas Act. Alternatively, if this primary request for relief is not granted, Dynegy LNG states that it requests the Commission issue a declaratory order finding that the project is not inconsistent with the public interest and should be authorized on that basis without any further proceedings or conditions.

Dynegy LNG states that it would convert an existing LPG terminal to an LNG terminal, using the existing dock and ship berthing structure. Dynegy LNG states that it would add an LNG tank and necessary vaporization facilities and that the new LNG import facility would have the capacity to receive and vaporize 750 MMcf/day and that the facility will be expandable up to 1.5 Bcf/day. A header pipeline would be constructed connecting the terminal to multiple interstate pipelines (none of

which are affiliated with Dynegy LNG).¹ Dynegy LNG states that the target in-service date for this project is fourth quarter 2003 and with the granting of this petition, Dynegy LNG would assume 100% of the economic risk associated with the facilities.

Dynegy LNG states that it requests a Commission determination by September 12, 2001, so that Dynegy LNG could begin conversion of the terminal to meet a fourth quarter 2003 in-service date, convert the LPG tanker under construction to an LNG tanker, and compete in a timely manner for additional dedicated LNG tankers for year 2004 delivery.

Dynegy states that the basis of this petition is that LNG ought to be able to compete with other gas supply in meeting the country's future energy needs. Dynegy LNG asserts that if LNG labors under unique regulatory barriers, dating back to a by-gone age of pervasive gas supply regulation, then LNG resources will not develop in a timely and natural way to meet market requirements.

Dynegy LNG claims that historically, the regulation of LNG has not worked well. Dynegy LNG believes LNG projects were not built when they were needed—instead they were built when they were not needed. Consumers paid for this in the form of “minimum bills” that guaranteed recovery of various project costs to the LNG subsidiaries of interstate pipelines. This early form of “stranded costs” materialized in the early 1980s when LNG imports ceased due to delivered prices way above market prices.

Dynegy LNG asks that history not be repeated. Dynegy LNG believes LNG should be treated like any other gas supply—no unique regulatory burden and no unique regulatory benefit.

Dynegy LNG asserts that this relief is, in fact, what Congress included in the Energy Policy Act of 1992. Importation of LNG is to be treated as a “first sale” over which the Commission has no jurisdiction. The legislative history of this provision shows that Congress wants importation of LNG to be deregulated like all other gas supply.

Giving effect to the intent of the Energy Policy Act, Dynegy LNG believes will allow LNG to play an appropriate, market-driven role in America's energy future. LNG facilities will be efficiently located in the United States instead of being built in foreign countries (with interconnecting pipelines to the U.S.), or not built at all. And consumers will not be at risk for project failure.

To the extent that the Commission determines that, notwithstanding the Energy Policy Act, it retains jurisdiction to impose conditions on LNG projects, Dynegy LNG requests, in the alternative, that the Commission assert jurisdiction solely to determine that the project is not inconsistent with the public interest and grant import authority to Dynegy LNG without any further proceedings or conditions.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 4, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed

documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the “e-Filing” link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-20709 Filed 8-16-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-53-000]

Kinder Morgan Interstate Gas Transmission, LLC; Notice of Settlement Conference

August 13, 2001.

Pursuant to Rule 601 of the Commission's Rules of Practice and Procedure, 18 CFR 385.601 (2001), a settlement conference in the above docketed proceeding will be held on

¹ Dynegy LNG in this petition is not requesting any ruling with respect to the header pipeline.

Wednesday, October 10 and Thursday, October 11, 2001, to address the outstanding ad valorem tax issues on the Kinder Morgan Interstate Gas Transmission, LLC system. The conference will be held in the offices of Kinder Morgan, 370 Van Gordon Street, Lakewood, Colorado, 80228. The settlement conference will begin at 10:00 a.m.

The purpose of the conference is to resolve all matters pending in the above docketed proceeding. As agreed at the July 31, 2001 settlement conference, the economic terms of the settlement will be determined at the October 10th session, and the final language of the settlement agreement, including the economic terms, will be determined at the October 11th session. All parties in the above docketed proceeding are directed to participate in both days of this settlement conference or have principals present with full and complete authority to act on all matters addressed, and approve and accept a settlement.

Steven A. Rothman is the mediator for the conference. He will be available to communicate in private with any party prior to the conference. If a party has any questions regarding the conference, please call Mr. Rothman at 202/208-2278 or send an e-mail to steven.rothman@ferc.fed.us. Parties may also communicate with Richard Miles, the Director of the Commission's Dispute Resolution Service at 1 877 FERC ADR (337-2237) or 202/208-0702 and his e-mail address is richard.miles@ferc.fed.us.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-20711 Filed 8-16-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1951-079]

Lester C. Reed v. Georgia Power Company; Notice of Complaint

August 10, 2001.

Take notice that on August 7, 2001, Lester Reed filed a complaint pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 (2001), and Part I of the Federal Power Act, 16 U.S.C. 791, *et seq.*, against Georgia Power Company, licensee of the Sinclair Project No. 1951, located on the Oconee River in Baldwin County, Georgia. Mr. Reed alleges that, on 34 days between October 25, 2000, and July 31, 2001, the licenses violated

the minimum flow requirements of Article 401(f) of the March 19, 1996 order issuing new license¹ and paragraph B of the October 10, 1997 order modifying and approving a final plan for monitoring and recording project operations.² Copies of the complaint are on file with the Commission and are available for public inspection in the Commission's Public Reference Room. The complaint may also be viewed on the Internet at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance).

As required by 18 CFR 385.206(c), when Mr. Reed filed his complaint, he was required to simultaneously serve a copy of the complaint on the licensee and affected regulatory agencies. No later than August 15, 2001, Mr. Reed must provide evidence that he served the complaint on these entities.

The licensee may file an answer to the complaint. Any person desiring to be heard or to protest this filing should file comments, 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The licensee's answer and all comments, motions, or protests must be filed on or before September 4, 2001. Any entity wishing to become a party must file a motion to intervene. Comments, motions to intervene, and protests may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii), and the instructions on the Commission's web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-20708 Filed 8-16-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01-277-000, et al.]

Acadia Power Partners, LLC, et al. Electric Rate and Corporate Regulation Filings

August 13, 2001.

Take notice that the following filings have been made with the Commission:

¹ 74 FERC ¶ 62,146 (1996).

² 81 FERC ¶ 62,034 (1997).

1. Acadia Power Partners, LLC

[Docket No. EG01-277-000]

Take notice that on August 6, 2001, Acadia Power Partners, LLC (Acadia) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Acadia, a Louisiana limited liability company, proposes to own and operate an electric generating facility and sell the output at wholesale to electric utilities, an affiliated power marketer and other purchasers. The facility is a natural gas-fired, combined cycle generating facility, which is under construction near Eunice, Louisiana.

Comment date: September 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Duke Energy Lee, LLC

[Docket No. ER01-1988-001]

Take notice that on August 6, 2001, Duke Energy Lee, LLC (Duke Lee) tendered for filing its revised Emergency Redispatch Tariff in compliance with the Federal Energy Regulatory Commission's (Commission) letter order of July 6, 2001.

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Kansas City Power & Light Co

[Docket No. ER01-2200-001]

Take notice that on August 6, 2001, Kansas City Power & Light Company (KCPL) filed the designation page to Service Agreement No. 24 under its FERC Electric Tariff, First Revised Volume No. 4, providing for the long-term sale of capacity and energy to the City Utilities of Springfield, Missouri. This filing was made to comply with the Order of the Commission in this docket issued on July 23, 2001.

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. ODEC Power Trading, Inc.

[Docket No. ER01-2783-000]

Take notice that on August 7, 2001, ODEC Power Trading, Inc. (OPT) filed a Petition for blanket authority to sell wholesale power at market-based rates. OPT's Petition is filed pursuant to Section 205 of the Federal Power Act and Rules 205 and 207 of Commission's rules of Practice and Procedure, 18 CFR 385.205 and 385.207. OPT also seeks waiver of the 60-day notice requirement of 18 CFR 35.3 in order to permit OPT

to commence sales of power at market-based rates as of the earlier of 60 days from the date of the filing of its Petition or the date of an order accepting its market-based rate schedule.

Comment date: August 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Company

[Docket No. ER01-2791-000]

Take notice that on August 6, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing an agreement entitled Special Facilities Agreement for the Interconnection of the City of Santa Clara's 115kV Northern Receiving Station (SFA) between PG&E and the City of Santa Clara (CSC) (collectively, Parties). The SFA permits PG&E to recover its costs for installing, owning, operating and maintaining Special Facilities necessary for the interconnection of a new CSC receiving station with PG&E's transmission system. PG&E has requested certain waivers.

Copies of this filing have been served upon CSC, the California Independent System Operator, and the California Public Utilities Commission (CPUC).

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket No. ER01-2792-000]

Take notice that the California Independent System Operator Corporation, (ISO) on August 6, 2001, tendered for filing a Participating Generator Agreement between the ISO and Wellhead Power Panoche, LLC for acceptance by the Commission. The ISO states that this filing has been served on Wellhead Power Panoche, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective July 31, 2001.

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket No. ER01-2793-000]

Take notice that the California Independent System Operator Corporation, (ISO) on August 6, 2001, tendered for filing a Participating Generator Agreement between the ISO and Wellhead Power Gates, LLC for acceptance by the Commission. The ISO states that this filing has been served on Wellhead Power Gates, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective July 31, 2001.

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Exelon Generation Company, LLC

[Docket No. ER01-2794-000]

Take notice that on August 6, 2001, Exelon Generation Company, LLC, filed with the Federal Energy Regulatory Commission its market-based rate wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2 (Tariff No. 2).

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER01-2795-000]

Take notice that the California Independent System Operator Corporation, (ISO) on August 6, 2001, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Wellhead Power Gates, LLC for acceptance by the Commission. The ISO states that this filing has been served on Wellhead Power Gates, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective July 31, 2001.

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER01-2796-000]

Take notice that the California Independent System Operator Corporation, (ISO) on August 6, 2001, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Wellhead Power Panoche, LLC for acceptance by the Commission. The ISO states that this filing has been served on Wellhead Power Panoche, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective July 31, 2001.

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER01-2797-000]

Take notice that the California Independent System Operator Corporation, (ISO) on August 7, 2001, tendered for filing a Participating Generator Agreement between the ISO and Wellhead Power Tesla, LLC for acceptance by the Commission. The ISO states that this filing has been served on Wellhead Power Tesla, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective July 31, 2001.

Comment date: August 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Poquonock River Funding, L.L.C.

[Docket No. ER01-2799-000]

Take notice that on August 7, 2001, Poquonock River Funding, L.L.C. (Poquonock), filed with the Federal Energy Regulatory Commission an application for approval of its initial rate schedule (FERC Electric Tariff Original Volume No. 1), and for blanket approval for market-based rates pursuant to Part 35 of the Commission's regulations.

Poquonock is a limited liability company formed under the laws of Delaware. Poquonock does not own any generating facilities.

Comment date: August 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER01-2800-000]

Take notice that the California Independent System Operator Corporation, (ISO) on August 7, 2001, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Wellhead Power Tesla, LLC for acceptance by the Commission. The ISO states that this filing has been served on Wellhead Power Tesla, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective July 31, 2001.

Comment date: August 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Arizona Public Service Company

[Docket No. ER99-3288-003]

Take notice that on August 6, 2001, Arizona Public Service Company (APS)

tendered for filing Quarterly Refund payments to eligible wholesale customers under the Company's Fuel Cost Adjustment Clause (FAC).

A copy of this filing has been served upon the affected parties, the California Public Utilities Commission, and the Arizona Corporation Commission.

Comment date: August 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

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 this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-20775 Filed 8-16-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01-136-000, et al.]

Aquila Energy Marketing Corporation, et al.; Electric Rate and Corporate Regulation Filings

August 10, 2001.

Take notice that the following filings have been made with the Commission:

1. Aquila Energy Marketing Corporation

[Docket No. EC01-136-000]

Take notice that on August 8, 2001, Aquila Energy Marketing Corporation

(AEMC), filed with the Federal Energy Regulatory Commission (Commission) an application for approval pursuant to section 203 of the Federal Power Act and section 33 of the Commission's regulations of the internal restructuring resulting from the merger of AEMC into its parent Aquila, Inc. (Aquila) with Aquila as the surviving corporation. All jurisdictional assets of AEMC will be transferred to Aquila. AEMC has asked the Commission to approve the Application within thirty days of filing.

Comment date: August 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Conectiv Bethlehem, Inc.

[Docket No. EG01-278-000]

Take notice that on August 3, 2001, Conectiv Bethlehem, Inc. (CBI) filed an Application for Determination of Exempt Wholesale Generator Status (Application) pursuant to Section 32(a)(1) of the Public Utilities Holding Company Act of 1935 (PUHCA), all as more fully explained in the Application.

CBI will own and operate a facility located in Bethlehem, Pennsylvania (the "Eligible Facility" for purposes of PUHCA and the Commission's EWG regulations). The Eligible Facility, a natural gas-fired combined cycle turbine, will have a generating capacity of approximately 1100 MW. The Eligible Facility will be interconnected to PP&L, Inc.'s transmission system via PP&L, Inc.'s transmission voltage facilities. CBI has served this filing on Pennsylvania Public Utility Commission, Maryland Public Service Commission, Delaware Public Service Commission, New Jersey Board of Public Utilities, Virginia State Corporation Commission and the Securities and Exchange Commission (SEC).

Comment date: August 31, 2001, 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 Allegheny Energy Supply Company, LLC

[Docket No. ER01-2649-001]

Take notice that on August 3, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed First Revised Service Agreement No. 137 to complete the filing requirement for one (1) new Customer of the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply continues to requests a

waiver of notice requirements to maintain the effective date of June 26, 2001 for Service Agreement has also been requested.

Copies have been proved to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Indianapolis Power & Light Company

[Docket No. ER01-2683-001]

Take notice that on August 3, 2001, Indianapolis Power & Light Company filed a First Revised Service Agreement for Non-Firm Point-to-Point Transmission Service between Indianapolis Power & Light Company and Dayton Power & Light Company, under its open access transmission tariff in the above-captioned proceeding.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. ER01-2780-000]

Take notice that on August 3, 2001, Public Service Company of New Mexico (PNM) submitted for filing an executed service agreement with Nevada Power Company (Nevada), under the terms of PNM's Open Access Transmission Tariff. The agreement is for short-term firm point-to-point transmission service and is effective as of July 13, 2001, the execution date of the agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Nevada and to the New Mexico Public Regulation Commission.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Koch Trading, L.P. formerly known as Axia Energy, L.P.

[Docket No. ER01-2781-000]

Take notice that on August 3, 2001, Axia Energy, L.P. (Axia) filed (1) a Notice of Succession informing the Commission that the corporate name of Axia Energy, L.P. (Axia) was changed to Entergy Koch Trading, LP (EKT), effective August 1, 2001; (2) a Notice of Cancellation for the existing Axia market rate tariff (FERC Electric Rate Schedule No. 1); and (3) new tariff sheets for FERC Electric Rate Schedule

No. 1 under the name of EKT. The new EKT tariff sheets are identical to those of Axia except for the change in corporate name. Axia was granted market rate authority by the Commission in Docket No. ER01-667-000.

Axia Energy, L.P. stated that it served a copy of the foregoing on the Arkansas Public Service Commission, Mississippi Public Service Commission, Louisiana Public Service Commission, Texas Public Utility Commission, and the Council of the City of New Orleans.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Florida Power & Light Company

[Docket No. ER01-2782-000]

Take notice that on August 3, 2001 Florida Power & Light Company (FPL) tendered for filing proposed service agreements with Exelon Generation Company, LLC for Non-Firm transmission service and Firm transmission service under FPL's Open Access Transmission Tariff. FPL requests that the proposed service agreements become effective on August 1, 2001.

FPL states that this filing is in accordance with Section 35 of the Commission's regulations.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Calpine Construction Finance Company, L.P.

[Docket No. ER01-2784-000]

Take notice that on August 3, 2001, Calpine Construction Finance Company, L.P. (CCFC) filed three executed long-term power marketing agreements under which CCFC will make wholesale sales of electric energy to Calpine Energy Services, L.P. at market-based rates. CCFC requests confidential treatment of these agreements.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Nevada Power Company

[Docket No. ER01-2785-000]

Take notice that on August 3, 2001, Nevada Power Company (Nevada Power) filed pursuant to Section 205 of the Federal Power Act, an executed Transmission Service Agreement between Nevada Power and Las Vegas Cogeneration II, LLC.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Koch Energy Trading, Inc.

[Docket No. ER01-2786-000]

On August 3, 2001, Koch Energy Trading, Inc. (KET) tendered for a notice of cancellation in operations pursuant to 18 CFR § 35.15 in order to reflect the cancellation of its market-rate tariff originally accepted for filing by the Commission in Docket ER96-1615-000.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Power Marketing Corp.

[Docket No. ER01-2787-000]

On August 3, 2001, Entergy Power Marketing Corp. (EPMC) tendered for a notice of cancellation in operations pursuant to 18 CFR § 35.15 in order to reflect the cancellation of its market-rate tariff originally accepted for filing by the Commission in Docket ER96-1615-000.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER01-2788-000]

Take notice that on August 3, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed First Revised Service Agreement No. 138 to add one new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply continues to requests a waiver of notice requirements to maintain the effective date of August 2, 2001 for service to OGE Energy Resources, Inc. Confidential treatment of information in the Service Agreement has been requested.

Copies have been proved to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporate Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Caledonia Power I, L.L.C.

[Docket No. ER01-2789-000]

Take notice that on August 3, 2001, Caledonia Power I, LLC (Caledonia) tendered for filing a Master Power Sales Agreement under Caledonia's Market-Based Rate Schedule FERC No. 1, entered into between Caledonia and Cinergy Capital & Trading, Inc. (CCT).

Caledonia and CCT are requesting an effective date of July 5, 2001.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Brownsville Power I, L.L.C.

[Docket No. ER01-2790-000]

Take notice that on August 3, 2001, Brownsville Power I, LLC (Brownsville) tendered for filing a Master Power Sales Agreement under Brownsville's Market-Based Rate Schedule FERC No. 1, entered into between Brownsville and Cinergy Capital & Trading, Inc. (CCT).

Brownsville and CCT are requesting an effective date of July 5, 2001.

Comment date: August 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

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 this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-20707 Filed 8-16-01; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7036-4]

Agency Information Collection Activities: Proposed Collection; Comment Request; National Emission Standards for Hazardous Air Pollutants (NESHAP) for Marine Tank Vessel Loading Operations (40 CFR Part 63, Subpart Y)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): National Emission Standards for Hazardous Air Pollutants (NESHAP) for Marine Tank Vessel Loading Operations (40 CFR part 63, subpart Y), EPA ICR Number 1679.04, OMB Control Number 2060-0289, Expiration Date: 2/28/02. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 16, 2001.

ADDRESSES: Compliance Monitoring and Water Programs Branch, Office of Compliance, Office of Enforcement and Compliance Assurance, Mail Code 2223A, U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460. A hard copy of this ICR may be obtained without charge by calling the identified information contact individual.

FOR FURTHER INFORMATION CONTACT: Virginia Lathrop at (202) 564-7057 and FAX at (202) 564-0050, or by E-mail at lathrop.virginia@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which load marine tank vessels.

Title: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Marine Tank Vessel Loading Operations (40 CFR part 63, subpart Y), EPA ICR Number 1679.04, OMB Control Number 2060-0289, Expiration Date: 2/28/02.

Abstract: The respondents are owners and operators of new and existing marine tank vessel loading facilities that are in operation after promulgation of the federal standards and the NESHAP in 1995. There are an estimated 1,500 marine tank vessel loading facilities nationwide. Of these approximately 20

have annual gasoline throughput greater than 10 million barrels (bbl) or annual crude oil throughput greater than 200 million bbl. These facilities are required to control emissions of volatile organic compound and hazardous air pollutants under section 183(f) for the Clean Air Act. These facilities generally must install reasonably available control technology (RACT). There are 20 such facilities. Excluding the 20, about 85 have annual HAP emissions of greater than 15 tons and must control emissions under section 112 (d). These facilities are subject to the National Emissions Standards for Hazardous Air Pollutants and require maximum available control technology (MACT). The number of new marine tank vessel loading facilities is expected to be low because no net new growth is predicted for this industry. Facilities required to install controls under these standards have to fulfill the applicable reporting and record keeping requirements of 40 CFR 63.560 (subpart Y). These include reports: (1) initial notification of applicability report; (2) notification of intent to do performance testing and monitoring system performance evaluation; (3) initial notification of compliance status; (4) operation and maintenance records, including inspection schedule; (5) monitoring records; and (6) annual reports of exceedences of the emissions limits. There are also annual reports of exceedences of monitoring values and description and timing of steps take to address the cause of exceedences. Facilities maintain documentation that the vessels they load are vapor tight. All information is made available to the Administrator or delegated state authority upon request for a minimum of 5 years. The records and reports allow the administrator to identify new, modified, reconstructed and existing facilities subject to the standards and ensure the standards are being achieved. Records and reports are required under the general provisions at 40 CFR part 63, subpart A and 40 CFR 63.560.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The Standard Industrial Classification Code for this industry is 4491, Marine Cargo Handling. The information is used by the Agency to assure existing sources are subject to the standards, to ensure the RACT and MACT are being applied correctly, and to ensure that the emissions control system used are properly operated. Based on records and

reports the Agency can decide what facilities should be inspected. To minimize burden, much of the information is kept as records and would not be routinely reported to the Agency.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement

In the currently approved ICR, it is estimated that there are 105 respondents and that the recordkeeping and reporting total annual burden is 28,131 hours. The estimated cost to the respondents is \$999,273. Since the frequency of response is once per year (annual reporting), the average annual burden per response is 268 hours per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: August 6, 2001.

Lisa C. Lund,

Acting Director, Office of Compliance.

[FR Doc. 01-20792 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7036-6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Federal Plan Recordkeeping and Reporting Requirements for Large Municipal Waste Combustors Constructed on or before September 20, 1994 (Subpart FFF)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Federal Plan Recordkeeping and Reporting Requirements for Large Municipal Waste Combustors Constructed on or before September 20, 1994 (Subpart FFF); EPA ICR Number 1847.02; OMB Control Number 2060-0390; expiration date December 31, 2001. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 16, 2001.

ADDRESSES: Compliance Assistance and Sector Program Division, Office of Compliance, Office of Enforcement and Compliance Assurance, Mail Code 2224A, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW.; Washington D.C. 20460. A hard copy of this ICR may be obtained without charge by calling the identified information contact individual.

FOR FURTHER INFORMATION CONTACT: Carolyn Young at (202) 564-7062, fax at (202) 564-0009, or by E-mail at www.young.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which are owners and operators of municipal waste combustors (MWCs) with a capacity to combust greater than 250 tons per day located in States that do not have EPA-approved State plans.

Title: Federal Plan Recordkeeping and Reporting Requirements for Large Municipal Waste Combustors Constructed on or before September 20, 1994 (Subpart FFF); OMB Control Number 2060-0390, EPA ICR Number 1847.01, expiration date December 31, 2001.

Abstract: This information collection is required as a result of a Federal plan to implement and enforce the Clean Air Act (CAA) emission guidelines (40 CFR part 60, subpart Cb) for large municipal waste combustors that were promulgated under the authority of CAA sections 111 and 129. The emission guidelines are not Federally enforceable. Under the CAA section 129(b)(2), States were required to submit State plans to the Environmental Protection Agency (EPA) for approval by December 19, 1996 that implement and enforce the guidelines. Section 129(b)(3) requires EPA to promulgate a Federal plan to implement and enforce the guidelines in those States that have not submitted an approvable plan to EPA by December 19, 1997. Such a plan was promulgated at 40 CFR part 62, subpart FFF (the rule). The reporting and recordkeeping requirements of the rule apply to MWC units with capacities to combust greater than 250 tons per day. The EPA Regional Offices collect the required information to ensure that the Federal plan is being implemented and enforced for affected facilities in States that have not submitted an approvable State plan by December 19, 1997.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who respond through the use of automated, electronic, mechanical, or other forms of information technology.

Burden Statement

The EPA estimates that there are 56 respondents that would submit 112 responses per year to the EPA. The annual burden is projected to be 59,366 hours annually at a cost of between \$2,059,000 per year to meet the monitoring, recordkeeping, and reporting requirements of the rule. The

frequency of response is semiannual and the estimated average burden hour cost per response is estimated to be 530 hours. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: August 6, 2001.

Lisa C. Lund,

Acting Director, Office of Compliance.

[FR Doc. 01-20793 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-7035-4]

RIN 2060-AE55

Agency Information Collection Activities: Proposed Collection; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): "Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Architectural Coatings," EPA ICR No. 1750.02, OMB Control No. 2060-0393, expires January 31, 2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 16, 2001.

ADDRESSES: *Comments.* By U.S. Postal Service, written comments should be

submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-92-18, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-92-18, U.S. Environmental Protection Agency, 401 M Street, SW., Room M-1500, Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed in **FOR FURTHER INFORMATION CONTACT.**

Information concerning the ICR and the rule. Information on the ICR and the Architectural Coatings Rule can be obtained from the docket (below) and is also available for downloading from EPA's internet website for this rule at <http://www.epa.gov/ttn/uatw/183e/aim/aimpg.html>.

Docket. Docket Number A-92-18, containing the ICR and supporting statement, is available for public inspection and copying from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M-1500, Ground Floor, 401 M Street, SW., Washington, DC 20460, telephone number (202) 260-7548. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Herring, Coatings and Consumer Products Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number (919) 541-5358; facsimile number (919) 541-5689; electronic mail (e-mail) address: herring.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected Entities

Entities potentially affected by this action are those which manufacture or import architectural coatings for sale or distribution in the United States, including the District of Columbia and all United States territories.

Title: National Volatile Organic Compound Emission Standards for Architectural Coatings, OMB Control No. 2060-0393; EPA ICR No. 1750.02; expires January 31, 2002.

Abstract

The information collection includes initial reports, annual reporting, and recordkeeping necessary for EPA to ensure compliance with Federal standards for volatile organic compounds in architectural coatings.

Respondents are manufacturers and importers of architectural coatings. Responses to the collection are mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings. All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of EPA, including whether the information will have practical utility;

(ii) evaluate the accuracy of EPA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previous applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. Total industry burden is estimated to be 23,411 hours per year, at a total labor cost of \$1,425,382 per year. Labor costs were estimated based on Table 2 of the

Bureau of Labor Statistics (BLS) Employment Cost Trends. After adding overhead costs of 100 percent to the BLS figures, the resulting hourly labor rates for management, technical, and clerical labor are \$74, \$52, and \$34, respectively. There are no capital costs associated with this collection. Burden was calculated based on the following assumptions:

(i) Initial Notification Reports will have been submitted by nearly all the estimated 500 regulated entities prior to expiration of the existing ICR. Therefore, the burden calculation is based on 5 notifications per year beginning in 2002.

(ii) Reading the rule to obtain the recordkeeping and reporting instructions would require 2 hours per respondent.

(iii) Completion of the Initial Notification Report, including the date code explanation, would require 3 hours per respondent.

(iv) Notification of change in date code would require 2 hours per respondent.

(v) Annual planning for recordkeeping activities would require 8 hours per respondent.

(vi) Labeling products would require 67 hours per respondent.

(vii) An additional recordkeeping and annual reporting burden, required only for those who choose the recycled coating provision, exceedance fee provision, or tonnage exemption in lieu of meeting the coating volatile organic compound content limits, is based on the assumptions that 25 manufacturers/importers per year will use the recycled coating provision; 120 will use the exceedance fee provision; and 100 will use the tonnage exemption. The burden estimates for these provisions are 121 hours, 100 hours, and 43 hours, respectively.

Dated: August 7, 2001.

Thomas C. Curran,
Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 01-20796 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 7035-1]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's

(OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at 260-2740, or email at Farmer.sandy@epa.gov, and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1698.04; Reporting and Recordkeeping Requirements Under EPA's Waste Wise Program; was approved 05/09/2001; OMB No. 2050-0139; expires 05/30/2004.

EPA ICR No. 1442.17; Land Disposal Restrictions; on 40 CFR Part 268; was approved 02/08/2001; OMB No. 2050-0085; expires 02/29/2004.

EPA ICR No. 1961.01; Meat Products Industry Survey; was approved 03/01/2001; OMB No. 2050-0225; expires 02/29/2004.

EPA ICR No. 1198.06; Chemical-Specific Rules, TSCA section 8(a); in 40 CFR part 704, subpart B was approved 04/05/2001; OMB No. 2070-0067; expires 04/30/2004.

EPA ICR No. 1135.07; New Source Performance Standards (NSPS) for Magnetic Tape Coating Facilities; 40 CFR part 60, subpart SSS; was approved 02/15/01; OMB No. 2060-0171; expires 02/29/2004.

EPA ICR No. 1630.07; Oil Pollution Act Facility Response Plans—40 CFR part 112.20; was approved 05/02/2001; OMB No. 2050-0135; expires 05/31/2004.

EPA ICR No. 1647.03; Exports from and Imports to the United States under International and Bilateral Waste Agreements; in 40 CFR part 262, subparts E, F, and H was approved 04/23/2001; OMB No. 2050-0143; expires 04/30/2004.

EPA ICR No. 1049.09; Notification of Episodic Releases of Oil and Hazardous Substances (Renewal); in 40 CFR parts 110, 117 & 302 was approved 04/24/2001; OMB No. 2050-0046; expires 04/30/2004.

Short Term Extensions

EPA ICR No. 0586.08; Preliminary Assessment Information Rule (PAIR)—TSCA Section 8(a); in 40 CFR part 712;

OMB No. 2070-0054; on 03/30/2001 OMB extended the expiration date through 05/31/01.

EPA ICR No. 1812 Public Water System Annual Compliance Report; OMB No. 2020-0020; on 03/20/01 OMB extended the expiration date through 04/30/2001.

EPA ICR No. 1000.06; Polychlorinated Biphenyls (PCBs) Used in Electrical Equipment; in 40 CFR part 761.20(a)(1)(iii), (iv), (xi), (xii) and (xv); OMB No. 2070-0033; on 03/26/2001 OMB extended the expiration date through 06/30/2001.

EPA ICR No. 1012.06; Polychlorinated Biphenyls (PCBs) Disposal Permitting Regulation; in 40 CFR parts 761.60, 761.70 and 761.75; OMB No. 2070-0011; on 03/26/2001 OMB extended the expiration date through 06/30/2001.

EPA ICR No. 1425.04; Application for Reimbursement to Local Governments for Emergency 123; in 40 CFR part 310; OMB No. 2050-0077; on 03/26/2001 OMB extended the expiration date through 06/30/2001.

EPA ICR No. 1445.04; Continuous Release Reporting Regulations (CRRR); in 40 CFR part 308.8; OMB No. 2050-0086; on 03/26/2001 OMB extended the expiration date through 09/30/2001.

EPA ICR No. 0916.08; Annual Updates of Emission Data to the Aerometric Information Retrieval System (AIRS); in 40 CFR part 51.321 to 51.333 inclusive; OMB No. 2060-0088; on 04/30/2001 OMB extended the expiration date through 05/31/2001.

Comment Filed

EPA ICR No. 0801.13; Requirements for Generators, Transporters, and Hazardous Waste Management Facilities Under the RCRA Hazardous Waste Manifest; in 40 CFR parts 262, 263, 264, and 265; OMB No. 2050-0039; on 04/23/2001 OMB filed comment and continue.

Withdrawn/Continued

EPA ICR No. 1648.03; Control Technology Determination for Equivalent Emission Limitations by Permit; OMB No. 2060-0266; in 40 CFR 63.1-15, 63.50-56; this ICR was withdrawn from OMB review.

OMB Withdrawals

EPA ICR No. 1984.01; National Emission Standards for Hazardous Air Pollutants (NESHAP) for Plywood and Composite Wood Products Manufacturing Plants (Proposed rule); on 02/13/2001 this ICR was withdrawn from OMB review.

EPA ICR No. 1958.01; State Clean Air Act Section 507 Program Cooperative Agreement Demonstration Outreach

Program Evaluation; on 03/12/2001 this ICR was withdrawn from OMB review.

EPA ICR No. 1941.01; Proposed Information Collection Request for the Evaluation of PrintSTEP; on 03/12/2001 this ICR was withdrawn from OMB review.

Transfer

EPA ICR No. 1487.06; Cooperative Agreements and Superfund Contracts for Superfund Response Actions; OMB No. 2030-0038; was transferred to OMB No. 2050-0179 effective 05/17/01.

Dated: August 2, 2001.

Oscar Morales,

Director, Collections Strategies Division.

[FR Doc. 01-20789 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[W106-01-7336; FRL-7036-5]

Adequacy Status of the Ozone Attainment Demonstration and Post 1999 Rate of Progress Plan Motor Vehicle Emissions Budgets for the Milwaukee Severe Ozone Area, the Manitowoc Moderate Ozone Area, and the Sheboygan Ozone Maintenance Area for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that EPA has found that the Motor Vehicle Emissions Budgets (MVEB) in the Wisconsin ozone attainment demonstration and post 1999 Rate of Progress (ROP) plan are adequate for conformity purposes. These MVEBs cover the Milwaukee severe ozone area, the Manitowoc moderate ozone area, and the Sheboygan ozone maintenance area for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_x) for 2002, 2005, and 2007. On March 2, 1999, the D.C. Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, Milwaukee, Manitowoc, and Sheboygan areas can use the MVEBs from the submitted ozone attainment demonstration and the submitted post 1999 ROP plan for future conformity determinations. These budgets are effective September 4, 2001.

FOR FURTHER INFORMATION CONTACT: The finding and the response to comments will be available at EPA's conformity website: <http://www.epa.gov/otaq/>

transp/, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Michael Leslie, Environmental Engineer, Regulation Development Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6680, leslie.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

Background

Today's notice is simply an announcement of a finding that we have already made. EPA Region 5 sent a letter to the Wisconsin Department of Natural Resources on July 25, 2001, stating that the Milwaukee, Manitowoc, and Sheboygan MVEBs in the submitted ozone attainment demonstration and ROP plan for 2002, 2005 and 2007 are adequate. This finding will also be announced on EPA's conformity website: <http://www.epa.gov/otaq/transp/>, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Transportation conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudice EPA's ultimate approval of the SIP. Even if we find a budget adequate, the EPA may later disapprove the SIP.

We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision"). We followed the guidance in making our adequacy determination.

Authority: 42 U.S.C. 7401-7671q.

Dated: August 6, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01-20788 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6621-1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal activities at (202) 564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27164).

Draft EISs

ERP No. D-AFS-L65384-OR Rating EC2, Drew Creek, Diamond Rock and Divide Cattle Allotments, Issuance of Term Grazing Permits on Livestock Allotments on Tiller Ranger District, Implementation, Umpqua National Forest, Douglas and Jackson Counties, OR.

Summary

EPA expressed environmental concerns for the Clean Water Act 303(d)-listed streams in the three remaining cattle allotments. EPA requested that the final EIS include costs to administer the proposed new grazing allotments and disclose impacts of grazing fewer cattle on aquatic and terrestrial resources as well as including details of how the Forest Service will meet the Aquatic Conservation Strategy to restore and maintain watersheds and aquatics.

ERP No. D-BPA-L08054-OR Rating LO, Condon Wind Project, Execution of One or More Power Purchase and Transmission Services Agreements to Acquire and Transmit up to the Full Electrical Output, NPDES Permits and Right-of-Way Permit for Public Land, Gilliam County, OR.

Summary

EPA commented that the EIS was well written and complete, and satisfactorily addressed EPA's scoping comments regarding the potential for avian

mortality. EPA requested additional clarification regarding cumulative effects and potential impacts to power rates.

ERP No. D-COE-K39066-CA Rating EC2, Port of Long Beach Pier J South Terminal, Redevelopment of two existing Marine Container Terminals into One Terminal, COE Section 404, 401 and 10 Permits, City of Long Beach, CA.

Summary

EPA expressed concerns, and requested additional information regarding: coordination of dredge and fill activities in the Port area, water quality impacts, compliance with Clean Water Act Section 404, and air quality impacts.

ERP No. D-GSA-C81032-NY Rating EC2, U.S. Mission to the United Nations (USUN), Demolition of Current USUN and the Construction of a New Facility on the Same Site, Located at 799 United Nations Plaza, New York, NY.

Summary

EPA expressed concerns regarding air quality conformity issues and requested that this issue be resolved in the final EIS.

ERP No. D-USA-J13000-CO Rating EC2, Pueblo Chemical Depot, Destruction of Chemical Munitions and Design, Construction, Operation and Closure of a Facility to Destroy the Mustard Chemical Agent and Munitions

Summary

EPA expressed concerns about the comparative analysis of the four alternatives for destroying chemical weapons at Pueblo. More information is also needed on air emissions and hazardous waste generation.

Dated: August 14, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01-20820 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6620-9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or www.epa.gov/oeca/ofa. Weekly receipt of Environmental Impact Statements. Filed August 6, 2001 Through August 10, 2001. Pursuant to 40 CFR 1506.9.

EIS No. 010299, Final EIS, SFW, CA, Metro AirPark Habitat Conservation Plan, Issuance of an Incidental Take Permit, To Protect, Conserve and Enhance Fish, Wildlife and Plants and their Habitat, Natomas Basin, Sacramento County, CA, Wait Period Ends: September 17, 2001, Contact: Julie Concannon (503) 231-2068.

EIS No. 010300, Draft EIS, FRC, CA, Big Creek No. 4 Hydroelectric Project, Issuing New License, (FERC Project No. 2017), San Joaquin River Basin, Sierra National Forest, Fresno, Madera and Tulare Counties, CA, Comment Period Ends: October 16, 2001, Contact: John Ramer (202) 219-2833.

EIS No. 010301, Draft EIS, FTA, FL, Tampa Rail Project, Transportation Improvements, Light Rail Transit (LRT) or Diesel Multiple Unit (DMU) Vehicles, City of Tampa, Hillsborough County, FL, Comment Period Ends: October 5, 2001, Contact: Derek Robert Scott (404) 562-3524.

EIS No. 010302, Draft EIS, DOE, NM, ID, NV, Technical Area 18 (TA-18) Relocation of Capabilities and Materials at the Los Alamos National Laboratory (LANL), Operational Activities Involve Research in and the Design, Development, Construction, and Application of Experiments on Nuclear Criticality, NM, NV and ID, Comment Period Ends: October 5, 2001, Contact: James J. Rose (866) 357-4345.

EIS No. 010303, Draft EIS, AFS, WA, Crystal Mountain Master Development Plan, To Provide Winter and Summer Recreational Use, Special-Use-Permit, Mt. Baker-Snoqualmie National Forest, Silver Creek Watershed, Pierce County, WA, Comment Period Ends: October 16, 2001, Contact: Larry Donovan (425) 744-3403. This document is available on the Internet at: www.fs.fed.us/r6/mbs/.

EIS No. 010304, Final EIS, AFS, OR, Mill Creek Timber Sales and Related Activities, To Implement Ecosystem Management Activities, Prospect Ranger District, Rogue River National Forest, Jackson County, OR, Wait Period Ends: September 17, 2001, Contact: Joel T. King (541) 560-3400.

Amended Notices

EIS No. 010241, Draft EIS, FHW, RI, Sakonnet River Bridge Rehabilitation or Replacement Project, Portsmouth & Tiverton, Newport County, RI, Due: October 5, 2001, Contact: Daniel J. Berman (401) 528-4541. Revision of FR Notice Published on 7/13/2001: CEQ Review Period Ending 9/7/2001 has been Extended to 10/05/2001.

EIS No. 010229, Draft EIS, NOA, CA, San Francisco Bay National Estuarine Research Reserve, Proposes to Designate

Three Sites: China Camp State Park, Brown's Island Regional Parks District, and Rush Ranch Open Space Preserve, Contra Costa, Marin and Solano Counties, CA, Due: August 31, 2001, Contact: Nina Garfield (301) 713-3132. Revision of FR Notice Published on 7/13/2001: CEQ Review Period Ending 9/7/2001 to 10/5/2001 has been extended.

Dated: August 14, 2001.

Joseph C. Montgomery,
Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01-20821 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7035-5]

Proposed Prospective Purchaser Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of a prospective purchaser agreement and covenant not to sue the city of Vineland, New Jersey for a property within the vineland company chemical superfund site.

SUMMARY: The United States Environmental Protection Agency (EPA) is proposing to enter into a Prospective Purchaser Agreement to provide the City of Vineland, New Jersey, a covenant not to sue under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), as amended, in connection with its proposed purchase and development of a property related to the Vineland Chemical Company Superfund Site. The property is currently owned by the WaWa Corporation. This agreement is intended to resolve a potentially responsible party's liability for certain response costs incurred by the EPA at the Vineland Chemical Superfund Site in Vineland, New Jersey. Notice is being published to inform the public of the Proposed Prospective Purchaser Agreement and of the opportunity to comment.

DATES: Comments must be provided on or before September 17, 2001.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007 and should refer to: In the Matter of the Vineland

Chemical Company Superfund Site: The City of Vineland, New Jersey, U.S. EPA Index No. CERCLA 2001-2012.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007, Attention: Virginia Curry, Esq. (212) 637-3134, or curry.virginia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a Proposed Prospective Purchaser Agreement with the City of Vineland, New Jersey resolving the City's potential liability for a property within the Vineland Chemical Company Superfund Site. CERCLA authorizes EPA to enter this agreement. The Department of Justice approved this agreement pursuant to the inherent settlement authority of the Attorney General to settle claims of the United States.

A copy of the Proposed Prospective Purchaser Agreement, as well as background information relating to the agreement, may be obtained by mail from EPA's Region II Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007.

Proposed Prospective Purchaser Agreement under CERCLA—Vineland Chemical Company Superfund Site.

Dated: June 6, 2001.

Kathleen C. Callahan,

Acting Regional Administrator, Region 2.

[FR Doc. 01-20794 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7035-2]

Chemet Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Chemet Site located in Moscow, Tennessee (Site), with ContiGroup Companies, Inc., Harcross Chemicals, Inc., Kewanee Industries, Inc. and Chevron Environmental Management Company and Pechiney World Trade (U.S.A.), Inc.

EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw or modify the proposed settlement should such comments disclose facts or

considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, GA 30303, 404-562-8887.

Written comments may be submitted to Ms. Batchelor at the above address within thirty (30) days of the date of publication.

Dated: August 2, 2001.

James T. Miller,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01-20795 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7006-1]

Proposed CERCLA Administrative Cost Recovery Settlement; Peterson Puritan, Inc. Superfund Site, Cumberland, RI

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning Operable Unit Two of the Peterson Puritan, Inc. Superfund Site in Cumberland, Rhode Island with the following settling parties: Bestfoods and CCL Custom Manufacturing, Inc. The settlement requires the settling parties to pay \$609,754.87 plus an additional sum for interest on that amount calculated from April 13, 2001 through the date of payment to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling parties pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a). For thirty (30) days following the date of publication of this notice, the United States Environmental Protection Agency will receive written comments relating to the settlement. The United States will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the

settlement is inappropriate, improper, or inadequate. The United States Environmental Protection Agency's response to any comments received will be available for public inspection at the Cumberland Public Library, Cumberland, Rhode Island, the Lincoln Public Library, Lincoln, Rhode Island and U.S. Environmental Protection Agency, Region 1, One Congress Street, Suite 1100, Boston, MA 02114.

DATES: Comments must be submitted on or before September 17, 2001.

ADDRESSES: The proposed settlement is available for public inspection at U.S. Environmental Protection Agency, Region 1, One Congress Street, Suite 1100, Boston, MA 02114. A copy of the proposed settlement may be obtained from Diane Boudrot, Office of Environmental Stewardship, U.S. EPA, Region 1, One Congress Street, Suite 1100 (SES), Boston, MA 02114, (617) 918-1776. Comments should reference the Peterson Puritan, Inc. Superfund Site, Cumberland, Rhode Island and EPA Docket No. CERCLA 01-2001-0057 and should be addressed to Michelle Lauterback, Office of Environmental Stewardship, U.S. EPA, Region 1, One Congress Street, Suite 1100 (SES), Boston, MA 02114.

FOR FURTHER INFORMATION CONTACT: For legal questions, Michelle Lauterback, Office of Environmental Stewardship, U.S. EPA, Region 1, One Congress Street, Suite 1100 (SES), Boston, MA 02114, (617) 918-1774 or for technical questions, Dave Newton, Office of Site Remediation and Restoration, U.S. EPA, Region 1, One Congress Street, Suite 1100 (HBO), Boston, MA 02114, (617) 918-1243.

Dated: June 21, 2001.

Richard Cavagnero,

Acting Director, Office of Site Remediation and Restoration, Region 1.

[FR Doc. 01-20797 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7034-7]

(PRC Patterson Superfund Removal Site); Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for public comments.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of an proposed Administrative Order on Consent ("AOC," Region 9 Docket No. 2000-15) pursuant to Section 122(h) of CERCLA concerning the PRC Patterson Superfund Removal Site (the "Site"), located in Patterson, California. The respondents to the AOC include all parties that participated or cooperated in the removal action to the satisfaction of EPA, except Chevron U.S.A. Inc. and Atlantic Richfield Company, which are negotiating individual settlements in recognition of their distinct commitments at the Site. Through the proposed AOC the respondents will complete the removal action addressing certain above ground storage tanks at the Site. The AOC provides the respondents with a covenant not to sue and contribution protection for matters addressed in the AOC. To date, EPA has incurred approximately \$900,000.00 in response costs related to the Site; however, EPA's response costs incurred at the Site are less than twenty-five percent (25%) of the total costs of the response action at the Site. EPA is waiving all claims for recovery of its response costs against the respondents consistent with EPA's established policy regarding allocation of "orphan shares," which are those of potentially responsible parties that are insolvent or defunct. EPA anticipates recovery of all or a significant portion of its costs from other potentially responsible parties at the Site. For thirty (30) days following the date of publication of this Notice, the Agency will receive written comments relating to the proposed AOC. The Agency's response to any comments received will be available for public inspection at EPA's Region IX offices, located at 75 Hawthorne Street, San Francisco, California 94105.

DATES: Comments must be submitted on or before September 17, 2001.

ADDRESSES: The proposed AOC may be obtained from Danielle Carr, Hearing Clerk, telephone (415) 744-1389. Comments regarding the proposed AOC should be addressed to Danielle Carr (ORC-3) at 75 Hawthorne Street, San Francisco, California 94105, and should reference the PRC Patterson Superfund Removal Site, and Region IX Docket No. 2000-15.

FOR FURTHER INFORMATION CONTACT: J. Andrew Helmlinger, Office of Regional Counsel, (415) 744-1325, U.S.

Environmental Protection Agency,
Region 9, 75 Hawthorne Street, San
Francisco, CA 94105.

Dated: August 7, 2001.

Kathy Moore,

Acting Director, Superfund Division.

[FR Doc. 01-20791 Filed 8-16-01; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Advisory Committee was established by P.L. 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

Time and Place: Thursday, September 6, 2001, at 9:30 AM to 12:30 PM. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW, Washington DC 20571.

Agenda: This meeting will include discussions on the proposed Economic Impact Procedures, Ex-Im Bank's Annual Competitiveness Report, and how Ex-Im Bank can use technology to better serve its customers.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to August 29, 2001, Nichole Westin, Room 1257, 811 Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565-3542 or TDD (202) 565-3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Nichole Westin, Room 1257, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565-3542.

Peter Saba,

General Counsel.

[FR Doc. 01-20827 Filed 8-16-01; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

August 8, 2001.

SUMMARY: The Federal Communications Commissions, 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, 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 September 17, 2001. 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 Commission, Room 1-A804, 445 12th Street, SW., 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 Control Number: 3060-0024.

Title: Section 76.29, Special Temporary Authority.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 1.

Estimated Time per Response: 3 hrs.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 3 hrs.

Total Annual Costs: None.

Needs and Uses: 47 CFR Section 76.29 states that in circumstances requiring the temporary use of community units for operations not authorized by FCC rules, a cable television system may request special temporary authority to operate. The Commission may grant special temporary authority, upon finding that the public interest would be served. Requests for special temporary authority may be submitted informally by letter.

OMB Control Number: 3060-0501.

Title: Section 76.206, Candidate Rates.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 5,200.

Estimated Time per Response: 0.5 to 10 hrs.

Frequency of Response: One time reporting requirement; Third party disclosure.

Total Annual Burden: 135,200 hrs.

Total Annual Costs: None.

Needs and Uses: 47 CFR Section 76.206 requires cable system operators to disclose and make available to candidates all discount privileges available to commercial advertisers. In addition, Section 76.206 requires cable systems to disclose any station practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time—immediately preemptible, preemptible with notice, fixed, fire sale, and make good. It also requires cable systems to calculate the lowest unit charge.

OMB Control Number: 3060-0560.

Title: Section 76.911, Petition for Reconsideration of Certification.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and State, local, or tribal governments.

Number of Respondents: 45.

Estimated Time per Response: 2 to 10 hrs.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 410 hrs.

Total Annual Costs: None.

Needs and Uses: Cable television operators can file petitions for reconsideration to challenge a franchising authority's certification. The

Commission uses information derived from these petitions for reconsideration of certification to resolve disputes concerning the presence or absence of effective competition in franchise areas and to determine whether there are grounds for denying franchising authority certifications to regulate rates.

OMB Control Number: 3060-0595.

Title: Updating Maximum Permitted Rates for Regulated Services and Equipment.

Form Number: FCC 1210.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and State, local, or tribal governments.

Number of Respondents: 3,900.

Estimated Time per Response: 2 to 10 hrs.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 36,000 hrs.

Total Annual Costs: \$1,500,000.

Needs and Uses: FCC Form 1210 is used by cable operators to file for adjustments in maximum permitted rates for regulated services to reflect external costs. Regulated cable operators submit this form to local franchising authorities (LFAs) or the Commission (in situations where the FCC has assumed jurisdiction). It is also filed with the Commission when responding to a complaint filed with the Commission concerning cable programming service rates and associated equipment. The Commission and LFAs use the data to adjudicate permitted rates for regulated cable services and equipment, for the addition of new programming tiers, to account for the addition and deletion of channels, and for the allowance for pass throughs of external costs and costs due to inflation.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-20703 Filed 8-16-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1376-DR]

North Dakota; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North

Dakota (FEMA-1376-DR), dated May 28, 2001, and related determinations.

EFFECTIVE DATE: August 7, 2001.

FOR FURTHER INFORMATION CONTACT:

Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now March 1, 2001, through and including, July 31, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01-20727 Filed 8-16-01; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1376-DR]

North Dakota; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of North Dakota, (FEMA-1376-DR), dated May 28, 2001, and related determinations.

EFFECTIVE DATE: August 7, 2001.

FOR FURTHER INFORMATION CONTACT:

Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of North Dakota is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 28, 2001:

Adams, Golden Valley and Grant Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used

for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Albaugh,

Director.

[FR Doc. 01-20728 Filed 8-16-01; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1386-DR]

Virginia; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia, (FEMA-1386-DR), dated July 12, 2001, and related determinations.

EFFECTIVE DATE: August 9, 2001.

FOR FURTHER INFORMATION CONTACT:

Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby amended to include Public Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 12, 2001:

Buchanan, Dickenson, Russell, Smyth, Tazewell and Wise Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Joe M. Allbaugh,

Director.

[FR Doc. 01-20729 Filed 8-16-01; 8:45 am]

BILLING CODE 6718-02-P

**FEDERAL EMERGENCY
MANAGEMENT AGENCY****Open Meeting of the Federal
Interagency Committee on Emergency
Medical Services (FICEMS).**

AGENCY: Federal Emergency
Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: FEMA announces the
following open meeting.

Name: Federal Interagency Committee
on Emergency Medical Services
(FICEMS).

Date of Meeting: September 6, 2001.

Place: Room N-408, Building N,
National Emergency Training Center
(NETC), 16825 South Seton Avenue in
Emmitsburg, Maryland 21727.

Time: 10:30 a.m.

Proposed Agenda: Review and
submission for approval of previous
FICEMS Committee Meeting Minutes;
Ambulance Design Subcommittee and
Technology Subcommittee Reports; and
presentation of member agency reports;
reports of other Interested parties.

SUPPLEMENTARY INFORMATION: This
meeting will be open to the public with
limited seating available on a first-come,
first-served basis. Members of the
general public who plan to attend the
meeting should contact Cindy Wivell,
United States Fire Administration,
16825 South Seton Avenue,
Emmitsburg, Maryland 21727, (301)
447-1083, on or before Tuesday,
September 4, 2001.

Minutes of the meeting will be
prepared and will be available upon
request 30 days after they have been
approved at the next FICEMS
Committee Meeting on December 6,
2001. The minutes will also be posted
on the United States Fire
Administration website at [http://
www.usfa.fema.gov/ems/ficems.htm](http://www.usfa.fema.gov/ems/ficems.htm)
within 30 days after their approval at
the December 6, 2001 FICEMS
Committee Meeting.

Dated: August 7, 2001.

Kenneth O. Burris, Jr.,

*Acting U.S. Fire Administrator, United States
Fire Administration.*

[FR Doc. 01-20726 Filed 8-16-01; 8:45 am]

BILLING CODE 6718-08-P

FEDERAL MARITIME COMMISSION

[Docket No. 01-08]

**The Impact of the Government
Paperwork Elimination Act and the
Electronic Signatures in Global and
National Commerce Act**

August 14, 2001.

AGENCY: Federal Maritime Commission.

ACTION: Notice of Inquiry; Extension of
Time.

SUMMARY: The Federal Maritime
Commission ("Commission") by notice
published July 18, 2001, 66 FR 37468,
initiated an inquiry to solicit
information and comments concerning
the impact of the Government
Paperwork Elimination Act and the
Electronic Signatures in Global and
National Commerce Act on all sectors of
the U.S. ocean shipping industry. Upon
request of an interested party, the
Commission has determined to enlarge
the time for comment on the inquiry.

DATES: Comments due on or before
September 17, 2001.

ADDRESS COMMENTS TO: Bryant L.
VanBrakle, Secretary, Federal Maritime
Commission, 800 North Capitol St.,
NW., Room 1046, Washington, DC
20573-0001, (202) 523-5725, E-mail:
secretary@fmc.gov

FOR FURTHER INFORMATION CONTACT:
Florence A. Carr, Deputy Executive
Director, Office of the Executive
Director, Federal Maritime Commission,
800 North Capitol Street, NW.,
Washington, DC 20573-0001, (202) 523-
5800, E-mail: florence@fmc.gov

By the Commission.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 01-20754 Filed 8-16-01; 8:45 am]

BILLING CODE 6730-01-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****Office of the Secretary****Agency Information Collection
Activities: Proposed Collections;
Comment Request**

The Department of Health and Human
Services, Office of the Secretary will
periodically publish summaries of
proposed information collections
projects and solicit public comments in
compliance with the requirements of
Section 3506(c)(2)(A) of the Paperwork
Reduction Act of 1995. To request more
information on the project or to obtain
a copy of the information collection
plans and instruments, call the OS

Reports Clearance Officer on (202) 690-
6207.

Comments are invited on: (a) Whether
the proposed collection of information
is necessary for the proper performance
of the functions of the agency, including
whether the information shall have
practical utility; (b) the accuracy of the
agency's estimate of the burden of the
proposed collection of information; (c)
ways to enhance the quality, utility and
clarity of the information to be
collected; and (d) ways to minimize the
burden of the collection of information
on respondents, including through the
use of automated collection techniques
or other forms of information
technology.

Proposed Projects 1. Surveys of SCHIP
Enrollees and Disenrollees for the
Congressionally Mandated Evaluation of
the State Children's Health Insurance
Program—NEW—As part of the
Evaluation of the State Children's
Health Insurance Program (SCHIP), the
Office of the Assistant Secretary for
Planning and Evaluation is proposing to
conduct a survey about children
currently and previously covered by the
program. These surveys, to be conducted
in ten states, will provide detailed
description of the children's
characteristics, their movement in and
out of the program, access to care,
service use and experiences with the
program. A supplemental survey about
Medicaid children will be conducted in
three states. Respondents: individuals or
households; Burden Information for
SCHIP Survey—Number of
Respondents: 18,000; Frequency of
Response: one time; Average Burden per
Response: .59 hours; Burden for SCHIP
Survey: 10,620 hours—Burden
Information for Medicaid Survey:
Number of Respondents: 5,400;
Frequency of Response: one time;
Average Burden per Response: .59
hours; Burden for Medicaid Survey:
3,186 hours—Total Burden: 13,806
hours.

Send comments to Cynthia Agens
Bauer, OS Reports Clearance Officer,
Room 503H, Humphrey Building, 200
Independence Avenue SW., Washington
DC, 20201. Written comments should be
received within 60 days of this notice.

Dated: August 6, 2001.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 01-20694 Filed 8-16-01; 8:45 am]

BILLING CODE 4154-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention****[Program Announcement 02002]****Grants for Rape Prevention and Education; Notice of Availability of Funds****A. Purpose**

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for grants to state and territorial health departments, to support programs addressing violence against women. The Rape Prevention and Education Grant Program strengthens violence against women prevention efforts by supporting increased awareness, education and training, and the operation of hotlines. The purpose of this program is to award formula grants to States and Territories to be used for rape prevention and education programs conducted by rape crisis centers, State sexual assault coalitions, and other public and private nonprofit entities. This announcement addresses the "Healthy People 2010" focus areas of injury and violence prevention.

B. Eligible Applicants

Assistance will be provided only to the health departments of States and territories, or their bona fide agents who are current recipients of Rape Prevention and Education funding, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

C. Availability of Funds

Approximately \$42,000,000 is available in FY 2002, for funding under this formula based grant program (refer to attachment 1 in the application kit). It is expected that the awards will be made on two cycles. The first cycle will begin on or about January 1, 2002, and the second cycle will begin on or about June 1, 2002. The awards will be made for a 12-month budget period within a project period of up to five years.

The funding formula is based on population. The population used for the States, the District of Columbia, and Puerto Rico is based on the Census conducted April 1, 2000. This information is available at www.census.gov/population/www/cen2000/resp.html. The population

used for the remaining territories is based on the U.S. Census International Data Base dated May 10, 2000. This information can be accessed at (www.census.gov/ipc/www/idbsum.html). Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and availability of funds.

Use of Funds

Pre-award cost is authorized up to three months before the effective date of the award.

Funds will be used for Rape Prevention and Education Programs specifically to conduct:

1. Educational seminars;
2. The operation of hotlines;
3. Training programs for professionals;
4. The preparation of informational material;
5. Training programs for students and campus personnel designed to reduce the incidence of sexual assault at colleges and universities;
6. Education to increase awareness about drugs used to facilitate rapes or sexual assault; and
7. Other efforts to increase awareness of the facts about, or to help prevent sexual assault, including efforts to increase awareness in under-served communities and awareness among individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

Applicants must adhere to Congressional legislation (section 393B of the Public Health Service Act (42 U.S.C. 280b *et seq.*)).

The Legislation stipulates the following:

1. Applicants may not use more than five percent of the amount received for each fiscal year (exclusive of Direct Assistance) for administrative expenses. This five percent limitation is in lieu of, and replaces, the indirect cost rate.
2. An applicant may not use more than two percent of the amount received for each fiscal year for surveillance studies or prevalence studies.
3. Amounts provided to applicants must be used to supplement, and not supplant Preventive Health and Health Services Block Grant, other Federal, State, and local public funds expended to provide the services described above.
4. Grant funds cannot be used for construction, renovation, the lease/purchase of passenger vehicles or the development of major software applications.

D. Application Content

Applications may be submitted electronically using the Rape Prevention and Education Grant System (RPEGS) format. The RPEGS application will include the following:

1. Executive Summary;
2. Program Narrative including goals and objectives;
3. Budget and Justification; and
4. Cost Allocations for Surveillance and Core RPE activities.

All eligible applicants will receive the RPEGS software no later than September 4, 2001. CDC will provide technical and administrative support to ensure the timely submission of applications. To provide technical assistance for this RFA, CDC will conduct pre-application conference calls with PA 02002 eligible applicants on August 27, 2001 and September 5, 2001. Details are as follows:

To provide technical assistance for this RFA, CDC will conduct pre-application calls with PA 02002 recipients on August 27, 2001 and September 5, 2001. Details are as follows:

1. Date: August 27, 2001 (Monday)
Time: 2:00 PM–4:00 PM (EST)
Telephone: USA Toll Free Number: (888) 394-4822; USA Toll Number: (712) 257-3329
PASSCODE: CDC RPE CONF
Conference Host: Neil Rainford
2. Date: September 5, 2001 (Wednesday)
Time: 2:00 PM–4:00 PM (EST)
Telephone: USA Toll Free Number (800) 713-1971; USA Toll Number (404) 639-4100
Conference Code: 585112

F. Submission and Deadline**Application**

Submit the original copy and two copies of PHS form 5161-1, (OMB Number 0937-0189). Forms are located in the RPEGS certifications section. Forms are also available at: www.forms.psc.gov

Deadline: Applications shall be considered as meeting deadline if they are either:

- (a) Received on or before the deadline dates; or
- (b) Postmarked on or before the deadline dates and received in time for orderly processing.

Late: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

Application Due Dates

Cycle A: November 1, 2001. For States and Territories that require FY 2002

RPE funds prior to February 28, 2002.
Award Date: January 1, 2002.

Cycle B: April 1, 2002. For all other States and Territories. Award Date: June 1, 2002.

G. Human Subjects

a. The applicant should describe the degree to which human subjects may be at risk and what protections will be in place to assure protection and confidentiality.

b. The applicant should demonstrate that it has adequately addressed the requirements of Title 45 CFR Part 46 for the protection of human subjects.

H. Other Requirements

Technical Reporting Requirements

1. a progress report shall be submitted annually, no later than 90 days after the end of each budget period.

2. a financial status report shall be submitted, no later than 90 days after the end of each budget period.

3. a final financial status report shall be submitted, no later than 90 days after the end of the five year project period.

The following additional requirements are applicable to this program. For a complete description of each see Addendum 1.

AR-1 Human Subjects Requirements

AR-7 Executive Order 12372 Review

AR-9 Paperwork Reduction Act Requirements

AR-10 Smoke-Free Workplace Requirements

AR-11 Healthy People 2010

AR-12 Lobbying Restrictions

AR-13 Prohibition on Use of CDC Funds for Certain Gun Control Activities

AR-22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

In addition to being authorized under 301 (a) (42 U.S.C. 241(a)) of the Public Health Service Act, this program announcement is also authorized under 391 (a) and 393B (42 U.S.C. 280(b) et seq) of the Public Health Service Act. The catalog of Federal Domestic Assistance number is 93.136.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC homepage on the Internet <http://www.cdc.gov>. Click on "Funding" then "Grants and Cooperative Agreements."

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sheryl Heard, Grants Management

Specialist, Grants Management Branch, Procurement and Grants Office, Program Announcement 02002, Centers for Disease Control and Prevention (CDC) 2920 Brandywine Road, Room 3000 Atlanta, Georgia 30341 Telephone: (770) 488-2723 Email address: slh3@cdc.gov

For program technical assistance, contact: Wendy Watkins, Program Manager, Division of Violence Prevention, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (CDC) 4770 Buford Highway, NE, Mailstop K-58 Atlanta, GA 30341-3724 Telephone: (770) 488-1567 Email address: dmw7@cdc.gov.

Dated: August 13, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01-20753 Filed 8-16-01; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N-0174]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; FDA Recall Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by September 17, 2001.

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

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA

has submitted the following proposed collection of information to OMB for review and clearance.

FDA Recall Regulations—Part 7 (21 CFR Part 7 (Subpart C))—(OMB Control Number 0910-0249)—Extension

Section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371) and part 7, subpart C sets forth the recall regulations (guidelines) and provides guidance to manufacturers on recall responsibilities. The guidelines apply to all FDA-regulated products (i.e., food, including animal feed; drugs, including animal drugs; medical devices, including in vitro diagnostic products; cosmetics; and biological products intended for human use). These responsibilities include development of a recall strategy that requires time by the firm to determine the actions or procedures required to manage the recall (§ 7.42); providing FDA with complete details of the recall including reason(s) for the removal or correction, risk evaluation, quantity produced, distribution information, firm's recall strategy, copy of any recall communication(s), and a contact official (§ 7.46); notifying direct accounts of the recall, providing guidance regarding further distribution, giving instructions as to what to do with the product, providing recipients with a ready means of reporting to the recalling firm (§ 7.49); and submitting periodic status reports so that FDA may assess the progress of the recall. Status report information may be determined by, among other things, evaluating return reply cards, effectiveness checks, and product returns (§ 7.53); and providing the opportunity for a firm to request in writing that FDA terminate the recall (§ 7.55).

A search of the FDA database was performed to determine the number of recalls that took place during fiscal year 2000. The resulting number of recalls from this database search (1,933) is used in estimating the current annual reporting burden for this report. FDA estimates the total annual industry burden to collect and provide the above information to be 157,675 burden hours.

In the **Federal Register** of May 1, 2001 (66 FR 21767), FDA published a 60-day notice requesting public comment on the information collection provisions. One comment was received on the information collection.

We agree with the comment that the agency is slow in providing the recall classification letter to recalling firms and are taking steps to streamline the classification process which, in turn, will improve the timeliness of the classification letter. However, we

believe that recalling firms are usually aware of the significance of the defect in a recalled product and know the likely FDA classification. This may be based on the firm's own health hazard evaluation, by precedent recalls and information published on FDA's Web sites, and/or by verbal communication with FDA district office recall coordinators. The latter is especially true regarding the classification of serious to potentially life-threatening hazard-to-health recall actions (class I). In such situations, the delivery of a classification letter usually follows extensive communications between recalling firms and FDA in which classification, recall strategy, and press releases are immediately discussed.

We have accepted the commenter's estimate of the time expended to conduct recalls and have used those figures, coupled with revised recall numbers, to develop what we believe to be a more realistic estimate of the time expended by FDA-regulated industry to develop and report recall information requested by FDA.

FDA agrees with the comment to have a process whereby reports and any other

necessary information can be submitted by e-mail. In many cases, this has become routine for some firms and FDA district offices. Certainly there is no reason not to use e-mail or facsimile communications in most recall situations; however, FDA would maintain the prerogative for investigational visits and other in-person communications where the agency considers it appropriate. In fact, FDA is currently working toward providing "industry guidance" online which will provide a format for industry responses to recall situations.

At the present time, the names and telephone numbers of FDA's district office recall coordinators may be found on the Internet at <http://www.fda.gov/ora/inspect-ref/iom/iomoradir-monitors.html#RECALL>. Unfortunately, this provides information from FDA's latest published location directory and is not always current. We will see that this list is updated if it is possible to do so. Additionally, changes to the FDA Web site's recall information and reporting systems which are currently under development, will maintain an easy to locate, user-friendly recall

section that will include a current listing of all district coordinators that will include names, telephone and facsimile numbers, mail, and e-mail addresses.

At this time, we will refer to the Center for Food Safety and Applied Nutrition your suggestion to allow processing authorities to authorize reconditioning/destruction of thermally processed low acid and acidified foods in hermetically sealed containers and for the recalling firm to then submit a summary of the disposition action to FDA.

As a result of the comment received, the following is a revised summary of the estimated annual burden hours for manufacturers, processors, and distributors to comply with the voluntary reporting requirements of FDA's recall regulations.

Recognizing that there may be a vast difference in the information collection and reporting time involved in different recalls of FDA's regulated products, FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
7.42	1,855	1	1,855	15	27,825
7.26 and 7.49	1,855	1	1,855	20	37,100
7.53	1,855	4	7,420	10	74,200
7.55(b)	1,855	1	1,855	10	18,550
Total					157,675

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

Dated: August 13, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01-20842 Filed 8-16-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anti-Infective Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Anti-Infective Drugs Advisory Committee.

General Function of the Committee:

To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 13, 2001, from 8 a.m. to 5 p.m.

Location: Holiday Inn, Kennedy Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Contact: Thomas H. Perez, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-6758, e-mail: PerezT@cder.fda.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will hear presentations on the proposed approach

for selection of delta in noninferiority (equivalence) clinical trials. The impact of this approach on studies of anti-infective drug products will be considered, with a focus on acute exacerbation of chronic bronchitis and hospital-acquired pneumonia.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by September 4, 2001. Oral presentations from the public will be scheduled between approximately 2 p.m. and 3 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 4, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and

an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 10, 2001.

Bonnie H. Malkin,

Acting Senior Associate Commissioner.

[FR Doc. 01-20801 Filed 8-16-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Ophthalmic Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Ophthalmic Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 21, 2001, from 8 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 20B, 9200 Corporate Blvd., Rockville, MD.

Contact: Sara M. Thornton, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-2053, SMT@CDRH.FDA.GOV, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12396. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application (PMA) for soft contact lenses for the correction of refractive ametropia (myopia or hyperopia) in phakic or aphakic persons with nondiseased eyes exhibiting astigmatism of 2.00 diopters (D) or less that does not interfere with visual acuity. The lenses may be prescribed for daily wear or extended wear for 1 to 30 days between removals for cleaning and disinfection or for disposal of the lens, as recommended by the eye care professional. The lens may be

prescribed in spherical powers ranging from +20.00 D to -20.00 D. The committee will also discuss, make recommendations, and vote on a conductive keratoplasty refractive surgical device for the reduction of previously untreated spherical hyperopia in patients 40 years of age or greater, who have 0.75 D to 3.25 D of cycloplegic spherical hyperopia, with less than or equal to 0.75 D of refractive astigmatism (minus cylinder format), a cycloplegic spherical equivalent of 0.75 D to 3.00 D, and no more than 0.50 D difference between preoperative manifest refraction spherical equivalent and cycloplegic refraction spherical equivalent which shows some regression of the initial effect over time. Background information, including the agenda and questions for the committee, will be available to the public on September 20, 2001, on the Internet at <http://www.fda.gov/cdrh/panelmtg.html>.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by September 14, 2001. Oral presentations from the public will be scheduled between approximately 8:15 a.m. and 8:45 a.m. Near the end of the committee deliberations on each PMA, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Those desiring to make formal oral presentations should notify the contact person before September 7, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 10, 2001.

Bonnie H. Malkin,

Acting Senior Associate Commissioner.

[FR Doc. 01-20802 Filed 8-16-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4644-N-33]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: August 17, 2001.

FOR FURTHER INFORMATION CONTACT:

Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless.

Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: August 9, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01-20440 Filed 8-16-01; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Final Environmental Impact Statement for the Proposed Issuance of an Incidental Take Permit for the Metro Air Park Habitat Conservation Plan, Sacramento County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public of the availability of the Final Environmental Impact Statement on the application to incidentally take 2 federally listed species and 12 currently unlisted species should any of them become listed under the Endangered Species Act of 1973, as amended (Act), during the life of the permit. The Metro Air Park Property Owners Association (Association) has applied to the Fish and Wildlife Service (Service) for a 50-year incidental take permit pursuant to

section 10(a)(1)(B) of the Act. The Association seeks this permit because urban development and rice farming associated with the Metro Air Park 1,892-acre Special Planning Area may result in take of threatened and endangered species. The Final Environmental Impact Statement on our proposed action of issuing an incidental take permit to the Association analyzes four alternatives, addresses public comments, and discloses effects of the proposed permit on the environment. This notice is provided pursuant to section 10 of the Act and National Environmental Policy Act Regulation (40 CFR 1506.6).

DATES: A Record of Decision and permit decision will occur no sooner than 30 days from the date of publication of this notice.

ADDRESSES: Copies of the Metro Air Park Habitat Conservation Plan (Plan), Implementing Agreement, and Final Environmental Impact Statement are available for public inspection, during regular business hours, at the Sacramento Fish and Wildlife Office, 2800 Cottage Way, Sacramento, CA; State Library, 914 Capitol Mall, Sacramento, CA; the State Library, 828 I Street, Sacramento, CA; and the State Library, 1620 W. El Camino Avenue, Sacramento, CA.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Campbell, Chief, Conservation Planning Division, at the Sacramento Fish and Wildlife Office (see address above); telephone: (916) 414-6600.

SUPPLEMENTARY INFORMATION: Section 9 of the Act and Federal regulation prohibit the "take" of animal species listed as endangered or threatened. Take is defined under the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, under limited circumstances, the Service may issue permits to authorize "incidental take" of listed animal species. "Incidental take" is defined by the Act as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

The Association seeks a permit for take of the following federally listed species: the threatened giant garter snake (*Thamnophis gigas*) and the threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*). This take would be incidental to urban development of the Metro Air Park industrial park project and from rice farming activities within

the 1,892-acre Special Planning Area and on 119 acres of lands outside the Special Planning Area in Sacramento County, California. The proposed permit would also authorize future incidental take of the currently unlisted Swainson's hawk (*Buteo swainsoni*), Aleutian Canada goose (*Branta canadensis leucopareia*), Peregrine falcon, (*Falco peregrinus anatum*), greater sandhill crane (*Grus canadensis tubida*), bank swallow (*Riparia riparia*), tricolored blackbird (*Agelaius tricolor*), northwestern pond turtle (*Clemmys marmorata marmorata*), white-faced ibis (*Plegadis chihi*), loggerhead shrike (*Lanius ludovicianus*), burrowing owl (*Athene cunicularia*), delta tule pea (*Lathyrus jepsonii* ssp. *jepsonii*), and Sanford's arrowhead (*Sagittaria sanfordii*) should any of these species become listed under the Act during the life of the permit. Collectively, the 14 listed and unlisted species are referred to as the "covered species" for the Association's Plan.

The Metro Air Park Special Planning Area comprises 1,892 acres within the Natomas Basin in Sacramento County, California. Agriculture is the dominant land use in the Natomas Basin and on the Metro Air Park site. The predominant crops are rice, corn, sugar beets, grain, tomatoes, and pasture. Natural and uncultivated vegetation types are interspersed throughout the agricultural areas of the Natomas Basin. Natural areas are found primarily along irrigation canals, drainage ditches, pastures, and uncultivated fields. The borders of drainage canals are often associated with narrow strips of emergent vegetation and/or wooded riparian areas.

Portions of the Natomas Basin that are within the jurisdiction of the City of Sacramento are included in the Natomas Basin Habitat Conservation Plan which was completed by the City of Sacramento in November, 1997. The Metro Air Park Project is described in the Natomas Basin Habitat Conservation Plan, but because the Metro Air Park Project is outside of the City limit lines, the project cannot be covered by the City's incidental take permit. Therefore, the Association is seeking a separate incidental take permit for the Metro Air Park project. Take of listed species could occur as a result of urban development of the Metro Air Park industrial park project and from rice farming activities.

Under the Plan, the Association proposes to minimize and mitigate the effects of urban development by participating in the basin-wide conservation program set up for the entire Natomas Basin which is

described in the Natomas Basin Habitat Conservation Plan. The focus of this basin-wide conservation program is the preservation, enhancement, and restoration of ecological communities which support species associated with the wetland and upland habitats. Through the payment of development fees, one-half acre of mitigation land would be established for every acre of land developed within the Plan area. The mitigation land would be acquired and managed by the Natomas Basin Conservancy, a non-profit conservation organization established to implement the Natomas Basin Habitat Conservation Plan. Mitigation fee amounts and the mitigation strategy for the Plan would be subject to the same adjustments required under the Natomas Basin Habitat Conservation Plan. To mitigate for the loss of Swainson's hawk nest trees on-site, the Association will secure 200 contiguous acres, in perpetuity, and transfer the lands to the Natomas Basin Conservancy to manage them for the benefit of Swainson's hawk; or the Association will provide funds to the Natomas Basin Conservancy to secure and manage 200 contiguous acres, in perpetuity for the benefit of Swainson's hawk. The Plan also includes take avoidance and minimization measures that include the requirement for landowners to conduct pre-construction surveys for covered species and to carry out minimization measures prior to site development.

The Plan will be implemented by the Association with assistance from the County of Sacramento and environmental consultants. The Natomas Basin Conservancy will serve as the Plan Operator, receive mitigation fees from the County, and be responsible for using the fees to acquire and manage habitat lands in accordance with the Plan.

Funding for the Plan will be financed through a combination of development fees charged at the time grading permits are issued, Mello-Roos Community Facilities District bond proceeds, and Property Owners Assessments.

On December 5, 2000, a notice was published in the **Federal Register** (65 FR 75946) announcing that the Service had received an application for an incidental take permit from the Association for implementation of the Plan and the availability of a Draft Environmental Impact Statement for the application. The Draft Environmental Impact Statement analyzed the potential environmental impacts that may result from the Federal action of authorizing incidental take anticipated to occur with implementation of the Plan, and identified various alternatives. Nine

comment letters were received on the Draft Environmental Impact Statement. A response to each comment received in these letters has been included in the Final Environmental Impact Statement.

The Final Environmental Impact Statement considers four alternatives, including the Proposed Action and the No-Action/No Take Alternative. Under the No-Action/No Take Alternative, no section 10(a)(1)(B) permit would be issued for take of listed species during urban development and other activities in the Plan area. Landowners within the Plan area would continue to apply for individual incidental take permits on a case-by-case basis, resulting in piecemeal planning that would establish smaller and more isolated patches of mitigation land. This could result in cumulatively significant adverse impacts to those species which would benefit from larger tracts of interconnected habitats.

The Increased Mitigation Ratio Alternative examines the environmental effects of applying a higher mitigation ratio than is required under the Natomas Basin Habitat Conservation Plan and the proposed Plan for addressing impacts to the giant garter snake and the Swainson's hawk. This alternative would require a site-specific analysis of habitat values in order to determine specific mitigation obligations.

The Reduced Development Alternative would result in reduced development of the Metro Air Park site. The 18-hole golf course situated on approximately 279 acres would be reduced to a 140-acre 9-hole golf course. This would reallocate 140 acres on-site for the creation of habitat as a mitigation area for covered species. Because an on-site mitigation area would eventually be surrounded by urban development it should be anticipated that adverse urban "edge effects" will occur.

The analysis provided in the Final Environmental Impact Statement is intended to accomplish the following: inform the public of the proposed action and alternatives; address public comments received on the Draft Environmental Impact Statement; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

Dated: August 3, 2001.

John Engbring,

Acting Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 01-20068 Filed 8-16-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Revised Notice of Intent to Prepare an Environmental Impact Statement for Issuance of Permits, to Incidentally Take Threatened and Endangered Species, to the City of Sacramento, Sutter County, Reclamation District No. 1000, and Natomas Central Mutual Water Company in Association With a Revised Natomas Basin Habitat Conservation Plan, Sacramento and Sutter Counties, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Revised notice of intent.

SUMMARY: On December 18, 2000, the Fish and Wildlife Service (Service) issued a Notice of Intent (NOI) regarding an Environmental Impact Statement for a revised Natomas Basin Habitat Conservation Plan (Plan) and Incidental Take Permits (Permits) under section 10(a)(1)(B) of the Endangered Species Act. At that time, the Service was considering amending the Permit for the City of Sacramento and issuing a Permit to Sutter County. Reclamation District No. 1000 (RD 1000) and Natomas Central Mutual Water Company (Natomas Mutual) have now joined the City of Sacramento and Sutter County as applicants for Permits. RD 1000 plans to participate as a co-lead agency with the City of Sacramento and Sutter County. In addition, Sacramento County may also apply for a Permit.

The Permits would authorize incidental take of listed species and unlisted species that may be listed in the future. The original scope of the Environmental Impact Statement, as described in the December 18, 2000 NOI, was to consider incidental take occurring as a result of urban development within the City of Sacramento and Sutter County, certain farming activities, and management of habitat reserves. Take resulting from Sacramento County is anticipated to be similar in scope to the City of Sacramento and Sutter County. With the proposed addition of the RD 1000 and Natomas Mutual Permits, the Environmental Impact Statement will also consider incidental take associated with RD 1000's and Natomas Mutual's operation and maintenance of water delivery and drainage canals and ditches, as well as the previously identified urban development, farming activities, and management of habitat reserves.

Pursuant to the National Environmental Policy Act, the Service

intends to prepare an Environmental Impact Statement addressing the proposed action of amending the Plan and issuing Permits. This Environmental Impact Statement will be prepared jointly with an Environmental Impact Report pursuant to the California Environmental Quality Act. Pursuant to the prior NOI, the Service conducted public scoping from December 18, 2000 to January 16, 2001, including three meetings in the project vicinity. This notice reopens the scoping process and solicits written comments because the project description has changed to include the participation of RD 1000 and Natomas Mutual. Comments previously submitted during the initial scoping period will be addressed in the Environmental Impact Report/Environmental Impact Statement.

DATES: Written comments are encouraged and should be received on or before September 17, 2001.

ADDRESSES: Information, written comments, or questions related to the inclusion of RD 1000 and Natomas Mutual into the Plan and Environmental Impact Report/Environmental Impact Statement should be submitted to Vicki Campbell, Division Chief, Conservation Planning, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825; FAX (916) 414-6713. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Lori Rinek or Kelly Hornaday, Fish and Wildlife Biologists, Sacramento Fish and Wildlife Office at (916) 414-6600. Additional information can also be obtained from the City of Sacramento [Grace Hovey, (916) 264-7601], Sutter County [Jeff Pemstein, (916) 361-8384], RD 1000 [Jim Clifton, (916) 922-9173], and Natomas Mutual [Peter Hughes, (916) 419-5936].

Dated: August 10, 2001.

Daniel Walsworth,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.
[FR Doc. 01-20696 Filed 8-16-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[OR-020-1220-EA; G 01-0165]

Revocation of the Moratorium on the Number of Commercial Outfitting Permits and Designation of Special Areas for the Public Land Administered by the BLM, Burns District**AGENCY:** Bureau of Land Management (BLM), Burns District, Interior.**ACTION:** Revocation of the moratorium on the number of commercial outfitting permits and designation of special areas for the public land administered by the BLM, Burns District.**SUMMARY:** The BLM, Burns District is revoking the existing moratorium on new commercial outfitting Special Recreation Permits (SRPs). New commercial outfitting SRP applications will be accepted for the entire BLM, Burns District which includes the Andrews and Three Rivers Resource Areas. All commercial, competitive, and organized group permit applications must be received at least 180 days before the intended use unless otherwise approved by the Authorized Officer.

The lifting of this moratorium does not guarantee specific SRP approval and issuance. BLM will consider evidence of user conflicts, resource impacts, and consistency with recreation management objectives, and other relevant information in determining whether or not to issue a specific SRP. Processing of an SRP application that is accepted will include appropriate environmental analysis and documentation.

The BLM, Burns District established a moratorium on all new commercial outfitting permits for public land on June 15, 1999 (**Federal Register**, Volume 64, No. 95, on Tuesday, May 18, 1999/Notices). The moratorium provided that BLM would hold commercial use at the 1999 levels while conducting an environmental review of commercial outfitting. Shortly after this time, Congress began consideration of special legislation to govern management of the Steens Mountain Area. On October 30, 2000, the Steens Mountain Cooperative Management and Protection Area (CMPA) and the Steens Mountain Wilderness Area were designated through the Steens Mountain Cooperative Management and Protection Act (Act) of 2000, Public Law 106-399. Section 111 of the Act provides a number of criteria for BLM management of the land, including managing the

land in a manner that "recognizes and allows current and historic recreational use." The legislation also obligates BLM to develop, within 4 years after the date of the enactment of the Act, a comprehensive plan for the long-range protection and management of the Federal land included in the CMPA, including the Wilderness Area.

BLM will meet this planning requirement through preparation of the Andrews Resource Area/Steens Mountain CMPA Resource Management Plan (RMP) and Environmental Impact Statement (EIS), which is scheduled to begin later this fiscal year and to be completed in 2004. The RMP currently in affect for the Three Rivers Resource Area is scheduled to be updated within the next 3 years. Long-term use levels for organized groups and commercial permittees will now be determined through the RMP process. SRPs are a means to manage commercial, competitive, and organized group recreational users of public land. They are issued as a means to control visitor use, protect recreational and natural resources, monitor impacts, and provide for the health and safety of visitors. Relevant regulations are found in 43 CFR 8372.

Given the current recreational interest in the Burns District, the BLM finds that it is preferable to lift the moratorium rather than delay issuance of SRPs until the planning efforts are completed. To delay SRP issuance until after the plans are completed would potentially deny compatible forms of recreational use in the interim without just consideration of the public's needs. Any applications received by BLM will also provide valuable data for preparation of the comprehensive plan, because BLM will be able to gauge current interest in commercial and organized group recreational use in the area. The environmental analysis and documentation to be done for each new permit will also be used in the development of the RMPs.

The BLM is also designating the CMPA and the Wilderness Study Areas within the Burns District as special areas as provided for in 43 CFR 8372.1-2. This special area designation will require organized groups to obtain a SRP or other proper authorization to conduct certain activities within these areas. The Authorized Officer determines when a permit is required based on resource concerns, user conflicts, and/or the need for monitoring.

FOR FURTHER INFORMATION CONTACT:

Additional information may be obtained from Evelyn Treiman, Outdoor

Recreation Planner, Burns District Office, HC 74-12533 Hwy 20 West, Hines, Oregon 97738, (541) 573-4442.

Dated: August 2, 2001.

Thomas H. Dyer,
District Manager.

[FR Doc. 01-20776 Filed 8-16-01; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF LABOR**Office of the Secretary****Submission for OMB Review; Comment Request**

July 31, 2001.

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 contact Darrin King at (202) 693-4129 or E-Mail to King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Stuart Shapiro, OMB Desk OSHA, 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: Occupational Safety and Health Administration (OSHA).

Title: Gear Certification—29 CFR Part 1919.

OMB Number: 1218–0003.

Frequency: On occasion; Annually; and Quadrennially.

Affected Public: Business or other for-profit; Not-for-profit institutions;

Federal Government; and State, Local or Tribal Government.

Total: 76.

Number of Respondents: 80.

Form/activity	Annual responses	Frequency	Average response time (hours)	Burden hours
OSHA–70	80	On occasion	.75	60
OSHA–71	0	Annually	0	0
OSHA–72	0	Quadrennial	0	0
Record keeping	260	Annually	.06	16
Total	340			76

Total Annualized capital/startup costs: \$0.

Total Annualized costs (operating/maintaining systems or purchasing services): \$692,782.

Description: The information collection requirements contained in the Gear Certification Standard (29 CFR part 1919) address the burden hours associated with gathering information to complete three forms, the OSHA 70, OSHA 71, and OSHA 72, that are required by OSHA's maritime employment regulations. These maritime regulations require employers to have an OSHA 71 Form issued for equipment found to be in a safe condition and the OSHA 72 Form issued for equipment that is unsafe. These forms are issued by third parties who have applied to OSHA, on the OSHA 70 Form, for accreditation to certificate gear used in maritime employment.

The OSHA 70 Form is used by applicants seeking accreditation from OSHA to be able to test or examine certain equipment and material handling devices, as required under the maritime regulations, part 1917 (Marine Terminals), and part 1918 (Longshoring). The OSHA 70 Form application for accreditation provides an easy means for companies to apply for accreditation.

The OSHA 71 Form is required to be issued by those accredited by OSHA to employers in the maritime industry to make known that certain equipment and material handling devices are safe to use or operate. The OSHA 72 Form is required to be issued by those accredited by OSHA to employers in the maritime industry when the equipment or material handling device is found to be unsafe to use.

The collection of the information needed to complete these forms is necessary to provide an effective and efficient means of enabling employers and employees to determine if cargo gear, equipment and/or other material handling devices are safe to use.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Concrete and Masonry Construction.

OMB Number: 1218–0095.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Total Burden Hours: 22,400 hours.

Number of Respondents: 280,000.

Annual Responses: 280,000.

Estimated Time Per Respondent: 0.

Total Annualized capital/startup costs: \$0.

Total Annualized costs (operating/maintaining systems or purchasing services): \$0.

Description: The concrete and masonry construction standard (§ 1926.703(a)(2)) requires that employers retain drawings or plans for cast-in-place concrete construction, including all revisions, for the jack layout, formwork (including shoring equipment), working decks, and scaffolds at the jobsite.

Type of Review: Revision of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Design of Cave-in Protection Systems.

OMB Number: 1218–0137.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Total Burden Hours: 20,011.

Number of Respondents: 10,000.

Annual Responses: 10,000.

Estimated Time per Respondent: 11 hours.

Total Annualized capital/startup costs: \$0.

Total Annualized costs (operating/maintaining systems or purchasing services): \$306,500.

Description: In OSHA's construction standard for excavations, 29 CFR 1926, Subpart P, employers are required to protect employees from cave-in hazards by using one of several protective

systems. The information required to be collected by this standard is used by employers or engineers to design proper cave-in systems that will support the walls of the excavation or trench.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Course Evaluation.

OMB Number: 1218–0173.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Total Burden Hours: 2,716.

Number of Respondents: 16,300.

Annual Responses: 16,300.

Estimated Time per Respondent: 10 minutes.

Total Annualized capital/startup costs: \$0.

Total Annualized costs (operating/maintaining systems or purchasing services): \$0.

Description: Information collected on the Course Evaluation Form from the students completing OSHA Training Institute and Education Center training courses is used to evaluate course usefulness, effectiveness, quality, and content and to make course improvements.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Methylene Chloride—1910.1052.

OMB Number: 1218–0179.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; and State, Local or Tribal Government.

Total Burden Hours: 101,816.

Number of Respondents: 95,921.

Requirement	Annual responses	Average response time (hours)	Burden hours
Exposure Monitoring (1910.1052(d))			
Initial Determination (1910.1052(d)(2))	3,829	.33	1,264
Periodic Monitoring (1910.1052(d)(3))	51,114	.33	16,868
Additional Monitoring (1910.1052(d)(4))	25,948	.33	8,563
Employee Notification of Monitoring Results (1910.1052(d) (5))	80,891	.08	6,471
Medical Surveillance (1910.1052(j))			
Initial Surveillance (1910.1052(j)(4)(i))	3,570	1	3,570
Periodic Medical Surveillance (1910.1052(j)(4)(ii))	47,592	1	47,592
Information to Physician or Other Health Care Professional—Initial Medical Examinations (1910.1052(j)(8))	3,570	.25	893
Information to Physician or Other Health Care Professional—Periodic Medical Examinations (1910.1052(j)(8))	47,592	.08	3,807
Information to Physician or Other Health Care Professional—Medical Removal Protection Examinations (1910.1052(j)(8))	474	.08	38
Medical Removal Protection—Second Additional Examination (1910.1052(j)(11))	474	1	474
Recordkeeping (1910.1052(m))			
Exposure Measurements (1910.1052(m)(2))	86,635	.08	6,931
Medical Surveillance (1910.1052(m)(3))	51,636	.08	4,131
Availability—Employee Access	13,827	.08	1,106
Availability—Federal Access	1,343	.08	107
Transfer of Records (1910.1052(m)(5))	1 1	1	
Total	418,496		101,816

Total Annualized capital/startup costs: \$0.

Total Annualized costs (operating/maintaining systems or purchasing services): \$23,700,000.

Description: The purpose of this Standard and the associated information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to methylene chloride. Employers are required to monitor employee exposure, reduce employee exposures to within the permissible exposure limits, provide medical examinations, training and other information.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Cadmium in Construction.

OMB Number: 1218-0186.

Frequency: On occasion.

Number of Respondents: 10,000.

Requirement	Annual response	Average response time	Burden hours
Exposure Monitoring (1926.1127(d))			
Initial Monitoring	10,000	.25	2,500
Reporting Exposures Below the Action Level	189,000	.08	15,120
Periodic Monitoring	6,999	.5	3,500
Additional Monitoring	500	.5	250
Employee Notification of Monitoring Results	21,500	.08	1,720
Compliance Program (1926.1127(f)(5))	1,000	.5	500
Medical Surveillance (1926.1127(l))			
Initial Examinations	3,750	1.5	5,625
Biological Monitoring	14,500	.25	3,625
Information Provided to Physician and Test	11,000	.08	880
Physician's Written Opinion	11,000	.08	880
Employee Information and Training (1926.1127(m)(4))	3,500	1	3,500
Recordkeeping (1926.1127(n))			
Training Records	70,000	.03	2,100
Availability, Federal Access	140	.08	11
Availability, Employee Access	7,000	.08	560
Total	349,889		40,771

Total Annualized capital/startup costs: \$0.

Total Annualized costs (operating/maintaining systems or purchasing services): \$2,237,460.

Description: The Cadmium standard and its information collection requirements provide protection for employees from the adverse health effects associated with occupational exposure to Cadmium. The Standard requires that employers establish a compliance program, including exposure monitoring and medical records. These records are used by employees, physicians, employers and OSHA to determine the effectiveness of the employers' compliance efforts. The standard also requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Grain Handling Facilities—29 CFR 1910.272.

OMB Number: 1218-0206.

Frequency: On occasion; Monthly; and Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government.

Number of Respondents: 23,770.

Requirement	Annual responses	Average response time	Burden hours
Emergency Action Plan—1910.272(d), Housekeeping Program—1910.272(j), and Procedures for Tags and Locks—1910.272(m)(4)	486	3	1,458
Hot Work Permit—1910.272(f)(1)	475,400	.08	38,032
Permit for Entering Bins, Silos, or Tanks, Issuing Permits—1910.272(f)(1)(i)	13,200	.08	1,056
Permit for Entering Bins, Silos, or Tanks, Affixing Tag—1910.272(f)(1)(i)	52,800	.03	1,584
Deenergization of Equipment, Using Permits—1910.272(g)(1)(ii)	79,500	.08	6,360
Deenergization of Equipment, Affixing Tags—1910.272(g)(1)(ii)	79,500	.03	2,385
Preventive Maintenance Inspections/Certification Record, Bulk Raw Grain Dryers—1910.272(m)	167,700	.08	13,416
Preventive Maintenance Inspections/Certification Record, Grain Stream Processing Equipment—1910.272(m)	368,940	.08	29,515
Preventive Maintenance Inspections/Certification Record, Dust Collection—1910.272(m)	285,240	.08	22,819
Preventive Maintenance Inspections/Certification Record, Bucket Elevators—1910.272(m)	251,400	.08	20,112
Total	1,774,166		136,737

Total Annualized capital/startup costs: \$0.

Total Annualized costs (operating/maintaining systems or purchasing services): \$0.

Description: Paragraph (d) of 29 CFR 1910.272 (the standard) requires the employer to develop and implement an emergency action plan so that employees will be aware of the appropriate actions to take in the event of an emergency.

Paragraph (e)(1) requires that employers provide training to employees at least annually and when changes in job assignment will expose them to new hazards.

Paragraph (f)(1) requires the employer to issue a permit for all hot work. Under paragraph (f)(2) the permit shall certify that the requirements contained in 1910.252(a) have been implemented prior to beginning the hot work operations and shall be kept on file until completion of the hot work operation.

Paragraph (g)(1)(i) requires the employer to issue a permit for entering bins, silos, or tanks unless the employer or the employer's representative is present during the entire operation. The permit shall certify that the precautions contained in paragraph (g) have been implemented prior to employees entering bins, silos or tanks and shall be kept on file until completion of the entry operations. Paragraph (m)(4) requires the employer to implement procedures for the use of tags and locks which will prevent the inadvertent application of energy or motion to equipment being repaired, serviced, or adjusted.

Paragraphs (i)(1) and (i)(2) require the employer to inform contractors performing work at the grain handling facility of known potential fire and

explosion hazards related to the contractor's work and work area and to explain to the contractor the applicable provisions of the emergency action plan.

Paragraph (j)(1) requires the employer to develop and implement a written housekeeping program that establishes the frequency and method(s) determined best to reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other exposed surfaces.

The purpose of the housekeeping program is to require employers to have a planned course of action for the control and reduction of dust in grain handling facilities reducing the fuel available in a grain facility. The housekeeping program must specify in writing the frequency that housekeeping will be performed and the dust control methods that the employer believes will best reduce dust accumulations in the facility.

Under paragraph (m)(1), the employer is required to implement preventive maintenance procedures consisting of regularly scheduled inspections of at least the mechanical and safety control equipment associated with dryers, grain stream processing equipment, dust collection equipment including filter collectors, and bucket elevators. Paragraph (m)(3) requires a certification be maintained of each inspection.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Welding, Cutting, and Brazing "29 CFR 1910, Subpart Q.

OMB Number: 1218-0207.

Frequency: Semi-annually.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government.

Total Burden Hours: 8,119.

Number of Respondents: 25,373.

Annual Responses: 101,492.

Estimated Time per Respondent:

Approximately 7 minutes to perform an inspection and generate an inspection certification record; approximately 3 minutes to maintain and disclose a certification record.

Total Annualized capital/startup costs: \$0.

Total Annualized costs (operating/maintaining systems or purchasing services): \$0.

Description: Section 1910.255(e) of the Welding, Cutting and Brazing Standard requires employers to inspect resistance welding equipment periodically. A certification record is to be generated and maintained which includes the date of the inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the equipment inspected. The record shall be made available to an OSHA inspector upon request. The maintenance inspection ensures that welding equipment are in safe operating condition while the maintenance record provides evidence to employees and Agency compliance officers that employers performed the required inspections.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Voluntary Protection Programs (VPP) Application Information.

OMB Number: 1218-0239.

Frequency: On occasion, 1 time and 1 time every 3 years.

Affected Public: Business or other for-profit; Not-for-profit institutions;

Individuals or households; Federal Government; and State, Local or Tribal Government.

Number of Respondents: 957.

Information collection	Annual responses	Frequency of response	Estimated annual burden hours	Burden hours
VPP Application	171	1 time	200	34,200
Annual Evaluation	711	Annually	20	14,220
VPP Volunteers, General Eligibility Information Sheet	75	Every 3 years	.13	
VPP Volunteers, Waiver of Claims Against the Government.	75	Every 3 years	-0-	-0-
VPP Volunteers, Department of Labor Request for Name Check (DL-68).	75	Every 3 years	.17	13
Total	1,107			48,433

Total Annualized capital/startup costs: \$0.

Total Annualized costs (operating/maintaining systems or purchasing services): \$0.

Description: The information collection is necessary to determine if the applicant has a safety and health program that should qualify for participation in one of OSHA's Voluntary Protection Programs.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01-20719 Filed 8-16-01; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional

statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related

Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled "General Wage determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut

CT010001 (Mar. 2, 2001)

CT010003 (Mar. 2, 2001)

CT010004 (Mar. 2, 2001)

Volume II

West Virginia

WV010002 (Mar. 2, 2001)

WV010003 (Mar. 2, 2001)

WV010006 (Mar. 2, 2001)

Volume III

Florida

FL010017 (Mar. 2, 2001)

Georgia

GA010003 (Mar. 2, 2001)

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GA010022 (Mar. 2, 2001)

GA010031 (Mar. 2, 2001)

GA010032 (Mar. 2, 2001)
 GA010033 (Mar. 2, 2001)
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Louisiana

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 LA010005 (Mar. 2, 2001)
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 LA010016 (Mar. 2, 2001)
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 LA010045 (Mar. 2, 2001)
 LA010054 (Mar. 2, 2001)

New Mexico

NM10001 (Mar. 2, 2001)

Texas

TX010001 (Mar. 2, 2001)
 TX010002 (Mar. 2, 2001)
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 TX010117 (Mar. 2, 2001)

Volume VI

North Dakota

ND010004 (Mar. 2, 2001)

Wyoming

WY010004 (Mar. 2, 2001)
 ND010013 (Mar. 2, 2001)
 ND010023 (Mar. 2, 2001)

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage

Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at www.access.gpo.gov/davisbacon. They are also available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 9th day of August 2001.

John Frank,

Acting Chief, Branch of Construction Wage Determination.

[FR Doc. 01-20464 Filed 8-16-01; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; PTE 86-128

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and other federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired

format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Class Exemption 86-128 for certain transactions involving employee benefit plans and securities broker-dealers. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted on or before October 16, 2001.

ADDRESSES: Mr. Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N-5647, Washington, D.C. 20210. Telephone: (202) 219-4782; FAX (202) 219-4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 86-128 permits persons who serve as fiduciaries for employee benefit plans to effect or execute securities transactions on behalf of employee benefit plans. The exemption also allows sponsors of pooled separate accounts and other pooled investment funds to use their affiliates to effect or execute securities transactions for such accounts in order to recapture brokerage commissions for benefit of employee benefit plans whose assets are maintained in pooled separate accounts managed by the insurance companies. This exemption provides relief from certain prohibitions in section 406(b) of the Employee Retirement Income Security Act of 1974 (ERISA) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code) by reason of Code section 4975(c)(1)(E) or (F).

II. Desired Focus of Comments

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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.

II. Current Actions

The Office's of Management and Budget (OMB's) approval of this ICR will expire on November 30, 2001. OMB's approval should be extended because without the relief provided by this exemption, broker-fiduciaries who provide investment management services to accounts for which they also effect transactions for the purchase or sale of securities, may be barred by ERISA from providing these combined services to employee benefit plans, causing disruption of the existing business practices of plans and the businesses that service them.

In order to insure that the exemption is not abused, that the rights of participants and beneficiaries are protected, and that the exemption's conditions are being complied with, the Department has included in the exemption five information collection requirements. The first requirement is written authorization executed in advance by an independent fiduciary of the plan whose assets are involved in the transaction with the broker-fiduciary. The second requirement is, within three months of the authorization, the broker-fiduciary furnish the independent fiduciary with any reasonably available information necessary for the independent fiduciary to determine whether an authorization should be made. The information must include a copy of the exemption, a form for termination, and a description of the broker-fiduciary's brokerage placement practices. The third requirement is that the broker-fiduciary must provide a termination form to the independent fiduciary annually so that the independent fiduciary may terminate the authorization without penalty to the plan; failure to return the form constitutes continuing authorization. The fourth requirement is for the broker-fiduciary to report all transactions to the independent fiduciary, either by confirmation slips or through quarterly

reports. The fifth requirement calls for the broker-fiduciary to provide an annual summary of the transactions. The annual summary must contain all security transaction-related charges incurred by the plan, the brokerage placement practices, and a portfolio turnover ratio.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: PTE 86-128 for Certain Transactions Involving Employee Benefit Plans and Securities Broker-Dealers.

Type of Review: Extension of a currently approved collection.

OMB Numbers: 1210-0059.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Total Respondents: 23,000.

Total Responses: 292,000.

Frequency of Response: Quarterly; Annually.

Total Annual Burden: 98,200 hours.

Total Annual Cost (Operating & Maintenance): \$188,200.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: August 10, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01-20717 Filed 8-16-01; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Pension and Welfare Benefits Administration (PWBA) is announcing that collections of information included in the following Prohibited Transaction Class Exemptions (PTE) have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA 95). This notice announces the OMB approval numbers and expiration dates.

FOR FURTHER INFORMATION CONTACT: Address requests for copies of the

information collection requests (ICRs) to Gerald B. Lindrew, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 219-4782. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 22, 2001 (66 FR 11181), the Agency announced its intent to request renewal of its current OMB approval for the information collection provisions of PTE 81-6, Certain Security Lending by Employee Benefit Plans. In accordance with PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210-0065. The approval expires July 31, 2004.

In the **Federal Register** of February 15, 2001 (66 FR 10512), the Agency announced its intent to request renewal of its current OMB approval for the information collection provisions of PTE 85-68, Employee Benefit Plans Investing in Customer Notes of Employers. In accordance with PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210-0094. The approval expires July 31, 2004.

Under 5 CFR 1320.5 (b), 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 control number.

Dated: August 10, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01-20718 Filed 8-16-01; 8:45 am]

BILLING CODE 4510-29-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44681; File No. SR-CBOE-00-12]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment No. 1 by Chicago Board Options Exchange, Inc. Relating to the Expansion of the Equity Hedge Exemption From Position and Exercise Limits

August 10, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on March 31, 2001, the Chicago Board Options Exchange, Inc. ("CBOE" or

¹ 15 U.S.C. 78s(b)(1).

"Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On July 20, 2001, the CBOE filed Amendment No. 1 with the Commission.² The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposed to expand the current equity hedge exemption to eliminate position and exercise limits for certain qualified hedge strategies. The current reporting procedures, which serve to identify and document hedged positions, would remain in place. The text of the proposed rule change is set forth below. Proposed additions are *italicized* and proposed deletions are in brackets.

* * * * *

CHAPTER IV—BUSINESS CONDUCT

Position Limits

Rule 4.11 No change.

Interpretations and Policies * * *

.01–.03 No change.

.04 Equity Hedge Exemption

(a) [The following positions, where each option contract is "hedged" by 100 shares of stock or securities convertible into such stock, or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract, shall be exempted from established position and exercise limits up to that number of option contracts, equal to the limit as computed in Interpretation .02 above: (I) long call and short stock; (ii) short call and long stock; (iii) long put and long stock; and (iv) short put and short stock.] *The following qualified hedging transactions and positions shall be exempt from established position and exercise limits as prescribed under Interpretation .02 above:*

(1) *Where each option contract is "hedged; or "covered" by 100 shares of the underlying security or securities convertible into such underlying security, or, in the case of an adjusted*

option contract, the same number of shares represented by the adjusted contract; (i) long call and short stock; (ii) short call and long stock; (iii) long put and long stock; (iv) short put and short stock.

(2) *A long call position accompanied by a short put position, where the long call expires with the short put, and the strike price of the long call and short put is equal, and where each long call and short put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock ("reverse conversion").*

(3) *A short call position accompanied by a long put position where the short call expires with the long put, and the strike price of the short call and long put is equal, and where each short call and long put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock ("conversion").*

(4) *A short call position accompanied by a long put position, where the short call expires with the long put, and the strike price of the short call equals or exceeds the long put, and where each short call and long put position is hedged with 100 shares of the underlying security (or other adjusted number of shares). Neither side of the short call, long put position can be in-the-money at the time the position is established ("collar").*

(5) *A long call position accompanied by a short put position with the same strike price and a short call position accompanied by a long put position with a different strike price ("box spread").*

(6) *A listed option position hedged on a one-for-one basis with an over-the-counter ("OTC") option position on the same underlying security. The strike price of the listed option position and corresponding OTC option position must be within one strike of each other and no more than one expiration month apart.*

(7) *For those strategies described under (2), (3), and (4) above, one component of the option strategy can be an OTC option contract guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.*

(8) *An OTC option contract is defined as an option contract that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.*

(b) The equity hedge exemption is in addition to the standard limit and other exemptions available under Exchange rules, interpretation and policies. [In no

event may the equity hedge exemption for any class of stock options exceed twice the standard limit established by Rule 4.11, except that the equity hedge exemption for a Market-Maker who also receives a market-maker exemption from the standard limit pursuant to Interpretation .05 below may not exceed twice the market-maker exempted position.]

.05–.07 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity option position.³ In May 1988, the Exchange exempted from established position and exercise limits four commonly used hedge positions: (i) Long call and short stock; (2) short call and long stock; (iii) long put and long stock; and (iv) short put and short stock.⁴ This equity hedge exemption was in addition to the standard limit and other exemptions available under Exchange rules, interpretations, and policies. The total aggregate option position held by a member or customer account could not exceed two times the standard limit. In November 1993, the definition of a hedged position was expanded to include securities readily convertible into common stock.⁵ In October 1995, the equity hedge exemption was further expanded so that the total unhedged

² Letter from Steve Youhn, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated July 19, 2001 ("Amendment No. 1"). In response to comments from Commission staff, the Exchange submitted Amendment No. 1, which (i) deletes language contained in Exchange Rule 4.11 Interpretation .04(b) regarding the limitation on the number of contracts that can be maintained under equity hedge exemption and (ii) includes examples of the proposed qualified hedge strategies.

³ The Pacific Exchange, Inc. ("PCX") has filed a similar proposed rule change to eliminate position and exercise limits for certain qualified hedge strategies. Securities Exchange Act Release No. 44680 (August 10, 2001) (File No. SR-PCX-00-45).

⁴ Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201 (June 2, 1988) (SR-CBOE-87-27).

⁵ Securities Exchange Act Release No. 33212 (November 17, 1993), 58 FR 62173 (November 24, 1993) (SR-CBOE-93-52).

and hedged option position could not exceed three times the standard limit.⁶ Contemporaneous with the expansion of the equity hedge exemption, the standard position and exercise limits were also expanded, the most recent increase, in December 1998,⁷ increased the five-tier position and exercise limit structure to 13,500, 22,500, 31,500, 60,000 and 75,000 contracts.

The CBOE believes that since the inception of the equity hedge exemption in 1988, the types of hedge strategies employed have become more diversified. The Exchange has learned through its experience in administering and processing equity hedge exemption information that market participants no longer rely solely on a strict stock option hedge. While market participants continue to utilize traditional hedge strategies such as a covered call or reverse conversion strategy, listed option contracts are now utilized to hedge a wider spectrum of securities. For example, firms that conduct an over-the-counter ("OTC") options business may use listed options to hedge proprietary positions established through the facilitation of customer OTC transactions. These market participants maintain that hedging with a listed option provides a more realistic hedge because the listed option is a mirror image of the OTC option. They also believe that, in some instances, hedging with listed options can be more economical than hedging with common stock.

To accommodate more fully the hedging needs of investors, the Exchange is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity option position. Accordingly, the CBOE proposes to amend Interpretation .04 of Exchange Rule 4.11 to expand the definition of a "qualified" hedged position. Listed below are the proposed qualified hedge strategies and their accompanying examples.

(i) Positions hedged or covered with the underlying security or securities readily convertible into stock (long call/short stock or short call/long stock or long put/long stock or short put/short stock). This hedge strategy is currently exempt pursuant to the equity hedge exemption provision contained in Exchange Rule 4.11; contracts are covered on a one-for-one basis.

For example, account ABC is short 5,000 GE Apr 35 calls and long 500,000 shares of GE common stock. Account ABC is also short 1,000 GE April 40 calls but has no corresponding stock hedge. The account is exempt on 5,000 contracts hedged with stock and the short 1,000 GE April 40 call position is not considered hedged and thus applied to the applicable position limit.

(ii) Reverse Conversion (buy call/sell put (same expiration)/sell stock.⁸ For example, assume account ABC establishes the following position:

Long 25,000 GE April 35 calls
Short 25,000 GE April 35 puts
Short 2,500,000 shares of GE common stock

Under the proposed rule change, two options contracts (i.e., one long call and one short put) will be treated as one contract for hedging purposes. Each reverse conversion option position must be hedged with 100 shares of the underlying security to remain exempt. Account ABC increases its position by establishing a long call position of 5,000 April 40 contracts with no qualified hedge. Option contracts held by account ABC number 55,000 on the short call long put side of the market. The 50,000 contract reverse conversion position is a qualified hedge strategy and is thus exempt from the position and exercise limit. The remaining 5,000 contracts and any future position established by the account in which a non-qualified strategy is employed would be added to the account's existing 5,000 contract position and applied to the standard position limit.

(iii) Conversion (sell call/buy put (same expiration)/buy stock).⁹ The components and hedge treatment of the conversion strategy is the same as the reverse conversion except that the option component of the position is on the short side of the market (i.e., short call, long put) and is hedged with long stock.

(iv) Collar (call sell/buy, both out-of-the-money when established with the same expiration where the strike price of the short call exceeds the strike price of the long put/buy stock).¹⁰ A collar strategy provides downside protection by the use of put option contracts and finances the purchase of the puts through the sale of short call options

contracts. The goal of this strategy is to bracket the price of the underlying security at the time the position is established. For example, assume that the price of an underlying equity, XYZ, is \$53 and account ABC is long 5000 shares of XYZ at \$53. Account ABC sells 40 XYZ April 55 calls and purchases 50 XYZ April 50 puts. Under the collar exemption, one collar (i.e., one short call, and one long put) must be hedged with 100 shares of the underlying security to remain exempt. Additionally, both call and put components of the option strategy must be out-of-the-money at the time the position is established, both contracts must expire at the same time, and the strike price of the short call must exceed the strike price of the long position. One leg of the option position (i.e., short call or long put) can be an OTC contract guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

(iv) Box Spread (buy call, sell put at one strike price, sell call, buy put at another strike price). Assume that account maintaining the following position:

Long 5,000 April 35 calls
Short 5,000 April 40 calls
Long 5,000 April 40 puts
Short 5,000 April 35 puts.

This position is a qualified box spread and would be exempt from the position limit. Any future option positions established that do not meet the requirements of the qualified hedge strategies would be applied to the account's applicable position limit.

(vi) Listed vs. OTC Options Spreads (options are to generally be within the strike of each other and no more than one expiration month apart). Member firms that conduct an over-the-counter options business utilize the listed options marked to hedge their customer facilitated OTC transaction. It is the CBOE's understanding that some member firms participate in stock by-back programs whereby the firm purchases OTC put option contracts from the subject corporation, the corporation, in turn, will be assigned its short put position, thereby "buying back" its own stock.¹¹

To hedge this position, the firm will sell put option contracts in the listed market. For example, Firm ABC purchases 50,000 XYZ puts with a strike price of 63.34 expiring in 1/19/03 from XYZ Corporation. At the expiration of the OTC contract, the firm will sell to

⁶ Securities Exchange Act Release No. 36371 (October 13, 1995), 60 FR 54269 (October 20, 1995) (SR-CBOE-95-42).

⁷ Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (SR-CBOE-98-25).

⁸ For these strategies one of the option components can be an OTC option guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account. For purposes of this rule filing, an OTC option contract is defined as an option that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.

⁹ *Id.*

¹⁰ *Id.*

¹¹ The Commission notes that issuers would, of course, need to comply with all applicable provisions of the federal securities laws in "buying back" their own stock.

XYZ Corporation 5,000,000 shares of its common stock at a price of \$63.34. To hedge its position, the firm will sell put option contracts on the CBOE; often at a strike price close to the noted OTC contract with the same expiration date as the OTC contract. OTC contracts hedged on a one-for-one basis against listed option contracts would be exempt from the position limit. As the OTC position generally does not change, Exchange would require the exempt firm to forward to the Exchange, on the Monday following the monthly expiration, the status of its OTC position.

Within the list of proposed hedge strategies eligible for an equity hedge exemption, the Exchange proposes that the option component of a reversal, conversion, or collar position be treated as one contract rather than as two contracts. All three strategies serve to hedge a related stock portfolio. Because these strategies require the contemporaneous¹² purchase/sale of both a call and put component against the appropriate number of shares underlying the option (generally 100 shares), the Exchange believes that the position should be treated as one contract for hedging purposes.

Under the proposed rule change, the existing standard position and exercise limits will remain in place for unhedged equity option positions. Once an account nears or reaches the standard limit, positions identified as one or more of the proposed qualified hedge strategies will be exempted from limit calculations. The exemption will be automatic (*i.e.*, does not require pre-approval from the Exchange) to the extent that the member identifies that a pre-existing qualified hedge strategy is in place or is employed from the point that an account's position reaches the standard limit and provides the required supporting documentation to the Exchange.

The exemption will remain in effect to the extent that the exempted position remains intact and that the Exchange is provided with any required supporting documentation. Procedures to demonstrate that the option position remains qualified will be similar to those currently in place for equity hedge exemptions. Currently a qualified account must report hedge information each time the option position changes. Hedge information for member firm and customer accounts are reported to the Exchange electronically, via the Large Options Position Report. Market maker account information is also reported to

the Exchange electronically by the member's clearing firm. For those option positions that do not change, a filing is generally required on a weekly basis. Finally, the existing requirement imposed on member firms to report hedge information for proprietary and customer accounts that maintain an options position in excess of 10,000 contracts will remain in place.

The CBOE believes that, with the exception of covered stock positions, all of the proposed qualified strategies are market neutral.¹³ According to the CBOE, none of the proposed strategies lend themselves to market manipulation and should therefore be exempt from position limits. In addition, the Exchange believes that the current reporting requirements under Exchange Rule 4.13, and internal surveillance procedures for hedged positions, will enable it to closely monitor sizable option positions and corresponding hedges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁴ in general, and further the objectives of Section 6(b)(5),¹⁵ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

(ii) as to which CBOE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. The Commission is especially interested in receiving written data, views and arguments concerning the use of a listed option position hedged on a one-for-one basis with an OTC option position on the same underlying security. In particular, the Commission staff has concerns that such exemption would grant members the ability to sell OTC options and hedge such positions on the exchange with listed options on an unlimited basis. This potentially raises manipulation concerns. Therefore, the Commission staff specifically requests comment on this issue. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File Number SR-CBOE-00-12 and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-20764 Filed 8-16-01; 8:45 am]

BILLING CODE 8010-01-M

¹² The Exchange notes that contemporaneous means "at or about the same time."

¹³ According to the Exchange, where covered stock transactions are not market neutral (*i.e.*, long stock/short call; short stock/short put), the market exposure on such activity resides with the stock position where no limit is imposed. The CBOE believes that, as the short option premium serves to mitigate the stock exposure, no limit should be imposed on this strategy.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44683; File No. SR-CBOE-2001-41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to the Display of Indicative Spread Prices

August 10, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on July 19, 2001, the Chicago Board Options Exchange, Inc. ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On July 20, 2001, the CBOE submitted Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, has been filed by the CBOE as a "non-controversial" rule change under Rule 19b-4(f)(6)⁴ under the Act. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to adopt a new interpretation to CBOE Rule 8.7. Below is the text of the proposed rule change. Proposed new language is *italicized*.

* * * * *

.10 Market-Makers may display indicative spread prices on the websites of member organizations through a system licensed from a third party, developed by the Exchange or otherwise. Such indicative prices shall not be regarded as firm quotes, and a Market-Maker shall not be obligated to execute at the indicative prices spread orders that are entered into the market.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE states that a spread order is an order to buy a stated number of option contracts and to sell a stated number of option contracts of the same class of options. The CBOE represents that there are various types of spread transactions. For example, a typical calendar spread order would be to buy ten March call options and to sell ten June call options of the same class. The CBOE states that spread transactions can be used by investors in a number of trading strategies.

The CBOE represents that market-makers at the Exchange are often willing to execute a spread transaction at a net price that is better than the aggregate price of executing each leg of the spread separately. However, the CBOE states that there is currently no systematic means by which market-makers can communicate their willingness to execute spread transactions at favorable prices to investors who might be interested in such spread transactions. By adopting the proposed Interpretation, the CBOE intends to encourage market-makers to post indicative prices for spreads on the websites of member organizations through a system licensed from a third party, developed by the Exchange or otherwise.

Initially, the CBOE represents that it intends to license the software for such a system (called the "iSpreads System") from a third party. The CBOE states that it may later develop its own proprietary software to operate such a system. The CBOE states that it will make this system available to all CBOE market-makers on its trading floor. CBOE members and member firms who wish to use the system from off the trading floor may do so by obtaining their own license from the third party. Use of this

system is not mandatory; a market-maker is not required to post indicative spread prices at all, and, if he chooses to do so, he is free to use some mechanism other than the system being made available by the Exchange.

The CBOE states that market-makers who choose to use the iSpreads System can post indicative spread prices for selected options classes on the websites of participating member organizations. Depending on how the member organization wishes to use the system, a customer either can search directly on the firm's publicly accessible website to find indicative prices for the particular spread in which he is interested, or he can contact his broker at the firm and ask the broker to conduct the search on an internal site accessible to the firm. Customer orders would be sent to the CBOE market for execution in accordance with current practices, by being phoned into a member firm's order desk or transmitted via an electronic order routing system. Once a spread order has been transmitted to the Exchange, it will be executed in accordance with the Exchange's current trading rules. No special allocation rules or priority rules are being created.

The CBOE states that the iSpreads System should provide significant benefits to customers. The CBOE represents that it will provide improved information about spread prices and help customers get their spread orders executed at a price that is better than executing each leg of the spread separately.

The proposed Interpretation also provides that the indicative spread prices shall not be regarded as firm quotes, and a market-maker shall not be obligated to execute at the indicative prices spread orders that are entered into the market. The Exchange believes that attempting to obligate a market-maker to execute a spread order at the posted indicative price would create a disincentive to his use of the system. The proposed Interpretation makes it clear to all market participants that the indicative spread prices are not firm quotes and may not be available when an order is sent to the Exchange for execution. A similar disclaimer will be posted on the websites of member firms displaying the indicative spread prices.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with Section 6 of the Act⁵ in general, and with Section 6(b)(5) of the Act⁶ specifically, because it is designated to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Nancy Nielsen, First Vice President & Deputy General Counsel, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated July 18, 2001 ("Amendment No. 1"). In Amendment No. 1, the CBOE corrected its original filing to include a request for the Commission to waive the five-business-day pre-filing requirement and the 30-day delay in the operative date of the proposed rule change under Rule 19b-4(f)(6) under the Act. See 17 CFR 240.19b-4(f)(6).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest. In particular, the CBOE states that the proposed Interpretation is intended to benefit customers by providing them with improved information about spread prices. The CBOE states that the proposed Interpretation is also intended to help customers get their spread orders executed at a better price than executing each leg of the spread order separately.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change, as amended, will impose a burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, the proposed rule change, as amended, has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6)⁸ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The CBOE seeks to have the proposed rule

change, as amended, become operative immediately.⁹

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change, as amended, operative as of July 19, 2001.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6) normally requires that a self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time. The CBOE seeks to have the five-business-day pre-filing requirement waived with respect to the proposed rule change, as amended.¹¹

The Commission has determined to waive the five-business-day pre-filing requirement.

At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be

available for inspection and copying at the principal office of the CBOE.

All submissions should refer to File No. SR-CBOE-2001-41 and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-20769 Filed 8-16-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44673; File No. SR-NYSE-2001-16]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. to Amend Rule 46

August 9, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 28, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On August 8, 2001, the Exchange submitted Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments of NYSE Rule 46 to create Executive Floor Official and Senior Floor Official positions. It also makes housekeeping changes to other rules and policies to enable Executive Floor Officials and Senior Floor Officials to perform Floor Governor functions.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, SEC, dated August 8, 2001 ("Amendment No. 1"). In Amendment No. 1, the Exchange corrected rule text for NYSE Rules 79A and 123A to reflect current rule text.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ See *supra* note 3.

¹⁰ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ See *supra* note 3.

¹² See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78(b)(3)(C).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose.

Floor Officials and Floor Governors have the authority to supervise and regulate activities, which arise with respect to trading on the Floor of the Exchange. Recently, a number of changes in the marketplace on the Floor have created a need for additional individuals to be able to perform the duties delegated to Floor Governors under Exchange rules. For example, the historical trend of consolidation of NYSE specialist units has continued with the acquisition of one or more units by other units, which has significantly reduced the number of specialist units. This has the effect of reducing the effectiveness of the ten specialist Floor Governors, since they may not make rulings involving their firm's specialty stocks. In addition, there has been an increase in trading volume, which has resulted in higher demand for the services of Floor Officials and Floor Governors who are responsible for overseeing unusual market situations on the trading Floor. Finally, an expansion of the trading Floor has contributed to spreading the coverage of Floor Officials and Floor Governors.

To address these problems, the Exchange proposes to amend NYSE Rule 46 (Floor Officials—Appointment) to create Executive Floor Official and Senior Floor Official positions to perform many of the functions performed by Floor Governors.⁴ Executive Floor Officials will be former Floor Governors and will be empowered to perform any duty, make any decision

or take any action assigned to or required of a Floor Governor. Floor Officials entering their fifth or sixth year of service as a Floor Official⁵ will be eligible for appointment as Senior Floor Officials. They will also be empowered with the authority of a Floor Governor.

In addition, rules and policies that use the term "Floor Governor" will be amended to also include, where appropriate, the term "Executive Floor Official" and "Senior Floor Official." These include NYSE Rules 37, 60, 79A, 86, 123A.30, 282, the Exchange's Allocation Policy and Procedures, and the Floor Conduct and Safety Guidelines.

The Exchange believes the proposed rule changes will permit the Exchange, through the addition of two new classes of Floor Officials with Floor Governor authority, to perform more effectively those duties prescribed in Exchange rules relating to supervision and regulation of Floor matters.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(1)⁶ of the Act because it will permit the Exchange, through its Floor Governors, Executive Floor Officials, and Senior Floor Officials to perform more effectively those duties prescribed in the rules relating to supervision and regulation of Floor matters.

B. Self-Regulatory Organizations' Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This Exchange has designated this proposed rule change as concerned solely with the administration of the Exchange and, as such, it may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.⁷ The Exchange's designation is

based on the fact that the rule change relates solely to the addition of two new classes of Floor Officials with Floor Governor authority, to perform more effectively those duties prescribed in Exchange Rules relating to supervision and regulation of Floor matters.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC, 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications, relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR-NYSE-2001-16 and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-20705 Filed 8-16-01; 8:45 am]

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⁴ Floor Governors are Floor Officials who are empowered to perform any duty, make any decision, or take any action assigned to, or required of, a Floor Director as are prescribed by the Rules of the Board of Directors, or as may be designated by the Board.

⁵ Floor Officials are appointed by the Board of Directors annually and typically serve six consecutive one-year terms.

⁶ 15 U.S.C. 78s(b)(1).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 200.30.3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44676; File No. SR-NYSE-2001-17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend the Exchange's Allocation Policy and Procedures

August 9, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 3, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposed to amend the Exchange's Allocation Policy and Procedures to allow a listing company to send a separate letter to the Allocation Committee indicating the role that one specialist unit has played in helping the company to reach its listing decision. The text of the proposed rule change is available at the Office of the Secretary, the NYSE and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The intent of the Exchange's Allocation Policy and Procedures ("Policy") is (1) to ensure that the

allocation process is based on fairness and consistency, and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by specialist units; (3) to provide the best possible match between a specialist unit and security; and (4) to contribute to the strength of the specialist system.

The Policy currently permits a listing company to send a letter to the Exchange's Allocation Committee indicating the general characteristics it believes would be appropriate as to the specialist unit ultimately selected to trade its stock. Such letter may not name any particular specialist unit, and the characteristics so indicated may not be so specific as to apply to a readily identifiable specialist unit. The listing company's letter is distributed with a memorandum prepared by the Exchange staff describing the listing company, underwriters, recent market activity, and other details soliciting specialist units to apply for the allocation of the listing company's stock.

In certain situations, specialist units have met with companies prior to the company making a listing decision and have played a significant role in a company's decision to list on the Exchange. The listing company may then have an expectation that a particular specialist unit should be included in the group of units to be interviewed by the listing company, but the Exchange does not require such a result under the current Policy. Under the Policy, the Allocation Committee cannot directly know from the listing company a specialist unit's role, if any, in its listing decision.

The Exchange believes it is appropriate to amend the Policy to allow the listing company to send a separate letter to the Allocation Committee indicating the role that one specific specialist unit has played in helping the listing company to reach its listing decision. This letter would be separate and distinct from the general characteristics letter that the company would send to the Allocation Committee, which is then distributed to all specialist units, as noted above.

The Allocation Committee would then assemble a pool of specialist units to meet with the listing company in accordance with the performance-based criteria of the Policy, and would include the specialist unit named in the separate letter in the pool, unless the unit is prohibited under the Policy from applying for allocation of a stock. The separate letter would not have any influence on a decision by other

specialist units to apply for allocation of the company's stock because these units would not know its existence. The listing company would then interview all units, and make the final decision as to its specialist unit.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,³ which provides that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change is consistent with these objectives because it will enable the Exchange to further enhance the process by which stocks are allocated to ensure fairness and equal opportunity in the process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78f(b)(5).

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-2001-17 and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-20768 Filed 8-16-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44689; File No. SR-OCC-2001-08]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by The Options Clearing Corporation Relating to the Price Used in Calculating Premium Marking

August 13, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 25, 2001, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been primarily prepared by OCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would set an option's marking price for purposes of calculating premium margin at the

arithmetic average of the best bid and best offer across all exchanges listing the option.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.²

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Background

In November 1999, OCC proposed to change how it determines an option's marking price for purposes of calculating premium margin.³ Specifically, OCC proposed to use the last sale price, adjusted to the bid/offer if the last sale is below/above the bid/offer. Although this rule change was recently approved, it has not been implemented.⁴ While this rule change was pending, the number of options listed on more than one exchange dramatically increase and caused OCC to calculate premium margin for an options series by using the highest asked price from the option exchange with the highest transaction volume in such series. At times, this has led to noticeable jumps in marking prices when a change in the volume-leading exchange occurred. As a result, OCC reassessed the proposed last sale methodology and concluded that it might also lead to inconsistent marking as the exchange with the highest volume in an option series may not be the one on which the last sale is made. Accordingly, after consulting with the Commission's staff, OCC has determined not to use the last sale price for marking options. Rather, OCC will use an alternative methodology that it believes will yield more consistent results.

² The Commission has modified the text of the summaries prepared by OCC.

³ File No. SR-OCC-99-14.

⁴ Securities Exchange Act Release Nos. 43023 (July 11, 2000), 65 FR 44088 (July 17, 2000) (notice of proposed rule change); 44183 (Apr. 16, 2001), 66 FR 20343 (Apr. 20, 2001) (order approving proposed rule change).

2. New Marking Methodology

To increase option pricing consistency and to improve the calculation of reasonable implied volatility curves, OCC proposes to use the arithmetic average of the best bid and the best offer across all exchanges on which the option trades as the marking price of each option series. OCC believes that this approach will improve the construction of implied volatility curves, especially for deep in-the-money and out-of-the-money options that often are quoted without a progressive variance in prices. OCC also believes that the proposed approach will reduce the likelihood of inconsistent price jumps, which are often caused by changes in the volume leading exchange. OCC understands that this proposed marking methodology is consistent with industry practices.

Specifically, OCC proposes to amend OCC Rules 601 and 602. First, OCC would nullify the recently approved changes made to Rules 601(b)(4)(A) and 602(b)(4)(A). This nullification would restore the cited rule provisions to what they were before the approval of SR-OCC-99-14. Thus, OCC will use the highest asked price for an option series from the exchange with the highest transaction volume in that series. Second, OCC would amend the cited rule provisions to reflect the new methodology for determining an option's marking price for purposes of calculating premium margin. OCC will begin using the new arithmetic average promptly when the programming changes are ready for installation. OCC will provide advance notice of implementation to the Commission and to its clearing members.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because the proposed rule change will foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect

¹ 17 CFR 200.30-3(a)(12).

² 15 U.S.C. 78s(b)(1).

to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F) ⁵ of the Act. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are in the custody or control of the clearing agency or for which it is responsible. The Commission finds that the proposed rule change is consistent with this obligation because it will facilitate a more consistent and predictable marking price methodology for the purposes of calculating premium margin as well as providing a more accurate assessment of risk. Specifically, the rule change should enable OCC to avoid the market risk associated with volatile jumps in marking prices when a change in the volume-leading exchange occurs. Moreover, the last sale methodology might lead to inconsistent marking as the exchange with the highest volume in an option series may not be the one on which the last sale is made. Thus, the rule change should reduce OCC's market risk and therefore should help it to safeguard securities and funds in its custody or control or for which it is responsible.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because such approval will allow OCC to immediately amend its rules so that the rules accurately reflect OCC's practice of setting options' marking prices for purposes of calculating premium margin and to implement its new method of setting options marking prices as soon as its systems are ready.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at OCC's principal office. All submissions should refer to File No. SR-OCC-2001-08 and be submitted by September 7, 2001.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2001-08) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-20770 Filed 8-16-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44680; File No. SR-PCX-00-45]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Expansion of Equity Hedge Exemptions From Position and Exercise Limits

August 10, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") ¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 11, 2000, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to expand its current equity hedge exemptions by eliminating position and exercise limits for certain designated hedge strategies. The current reporting procedures to identify and document hedged positions would remain in place. The text of the proposed rule change is set forth below. Proposed additions are *italicized* and proposed deletions are in brackets.

* * * * *

¶4769—Position Limits
Rule 6.8(a)—No change.
Commentary:

.01—.06—No change.

.07—Equity Hedge Exemption. *The following qualified hedging transactions and positions are exempt from the established position and exercise limits prescribed under Commentary .06 above.*

(a) *Where each option contract is "hedged" or "covered" by 100 shares of the underlying security or securities convertible into such underlying security, or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract: (i) long call and short stock; (ii) short call and long stock; (iii) long put and long stock; (iv) short put and short stock.*

(b) *A long call position accompanied by a short put position, where the long call expires with the short put, and the strike price of the long call and short put is equal, and where each long call and short put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock ("reverse conversion").*

(c) *A short call position accompanied by a long put position where the short call expires with the long put, and the strike price of the short call and long put is equal, and where each short call and long put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock ("conversion").*

(d) *A short call position accompanied by a long put position, where the short call expires with the long put, and the strike price of the short call equals or exceeds the long put, and where each short call and long put position is hedged with 100 shares of the underlying security (or other adjusted number of shares). Neither side of the short call/long put position can be in-the-money at the time the position is established ("collar").*

(e) *A long call position accompanied by a short put position with the same*

⁵ 15 U.S.C. 78q-1(b)(3)(F).

strike price and a short call position accompanied by a long put position with a different strike price ("box spread").

(f) A listed option position hedged on a one-for-one basis with an over-the-counter ("OTC") option position on the same underlying security. The strike price of the listed option position and corresponding OTC option position must be within one strike of each other and no more than one expiration month apart.

(g) For those strategies described under (b), (c) and (d) above, one component of the option strategy can be an OTC option contract guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

(h) An OTC option contract is defined as an option contract that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.

[The Exchange may exempt position and exercise limits for options on underlying stocks in the following positions where each option contract is "hedged" by 100 shares of the underlying stock or securities convertible into such stock or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract:

- (i) Long Stock and Short Call
- (ii) Long Stock and Long Put
- (iii) Short Stock and Long Call
- (iv) Short Stock and Short Put.

Position limits for any class of options on underlying stocks may not exceed three times the established position limits for such class. This restriction also applies to positions for which an exemption has been granted pursuant to Rule 6.8 commentaries .03 or .04.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to eliminate position and exercise limits for certain qualified hedged equity option positions by expanding the definition of a "qualified" hedged position. The PCX believes that the proposed rule change expands position and exercise limits to meet the hedging needs of investors for market neutral strategies. The PCX represents that the proposal is in large part adopted from a proposed rule change by the Chicago Board Options Exchange, Inc. ("CBOE").³ The following qualified hedge strategies are proposed to be exempt from the established position and exercise limits:

(i) Where each option contract is "hedged" or "covered" by 100 shares of the underlying security or securities convertible into the underlying security, or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract: (a) Long call and short stock; (b) short call and long stock; (c) long put and long stock; and (d) short put and short stock;

(ii) A long call position accompanied by a short put position, where the long call expires with the short put, and the strike price of the long call and short put is equal, and where each long call and short put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock ("reverse conversion");⁴

(iii) A short call position accompanied by a long put position where the short call expires with the long put, and the strike price of the short call and long put is equal, and where each short call and long put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock ("conversion");⁵

³ Securities Exchange Act Release No. 44681 (August 10, 2001) (File No. SR-CBOE-00-12). The CBOE's proposed qualified hedge strategies, which are identical to the PCX's proposal, contain examples of these strategies. See Amendment No. 1 to SR-CBOE-00-12. The PCX has represented that it agrees with those examples for its proposed qualified hedge strategies. Telephone conversation between Cindy Sink, Senior Attorney, Regulatory Policy, PCX, and Susie Cho, Special Counsel, Division of Market Regulation ("Division"), Commission, June 26, 2001.

⁴ For this strategy one of the option components can be an OTC option guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

⁵ *Id.*

(iv) A short call position accompanied by a long put position, where the short call expires with the long put, and the strike price of the short call equals or exceeds the long put, and where each short call and long put position is hedged with 100 shares of the underlying security (or other adjusted number of shares). Neither side of the short call/long put position can be in-the-money at the time the position is established ("collar");⁶

(v) A long call position accompanied by a short put position with the same strike price and a short call position accompanied by a long put position with a different strike price ("box spread"); and

(vi) A listed option position hedged on a one-for-one basis with an over-the-counter ("OTC") option position on the same underlying security. The strike price of the listed option position and corresponding OTC option position must be within one strike of each other and no more than one expiration month apart.

Within the list of proposed hedge strategies eligible for an equity hedge exemption, the Exchange proposes that the option component of a reversal, conversion, or collar position be treated as one contract rather than as two contracts. All three strategies serve to hedge a related stock portfolio. Because these strategies require the contemporaneous⁷ purchase/sale of both a call and put component against the appropriate number of shares underlying the option (generally 100 shares), the Exchange believes that the position should be treated as one contract for hedging purposes.

Under the proposed rule change, the existing standard position and exercise limits will remain in place for unhedged equity option positions. Once an account nears or reaches the standard limit, positions identified as one or more of the proposed qualified hedge strategies will be exempted from limit calculations. The exemption will be automatic (*i.e.*, does not require preapproval from the Exchange) to the extent that the member identifies that a pre-existing qualified hedge strategy is in place or is employed from the point that an account's position reaches the standard limit and provides the required supporting documentation to the Exchange.

The exemption will remain in effect to the extent that the exempted position remains intact and that the Exchange is provided with any required supporting documentation. Procedures to

⁶ *Id.*

⁷ At or about the same time.

demonstrate that the option position remains qualified will be similar to those currently in place for equity hedge exemptions. Currently a qualified account must report hedge information each time the option position changes. Hedge information for member firm and customer accounts are reported to the Exchange electronically, via the Large Options Position Report. Market maker account information is also reported to the Exchange electronically by the member's clearing firm. For those option positions that do not change, a filing is generally required on a weekly basis. Finally, the existing requirement imposed on member firms to report hedge information for proprietary and customer accounts that maintain an options position in excess of 10,000 contracts will remain in place.

The Exchange believes that all of the proposed qualified strategies are market neutral with the exemption of covered stock positions. According to the Exchange, we covered stock transactions (long stock/short call; short stock/short put) are not market neutral, the market exposure resides with the stock position where no limit is imposed. The Exchange believes that the short option premium mitigates the stock exposure and therefore no limit should be imposed on this strategy.

The Exchange believes that the proposed strategies do not lend themselves to market manipulation and should be exempt from position limits. The Exchange represents that the reporting requirements under PCX Rule 6.6 and internal surveillance procedures for hedged positions will enable the Exchange to closely monitor sizable option position and corresponding hedge.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5),⁹ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members's Participants, or Others

Written comments were not solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. The Commission is especially interested in receiving written, data, views and arguments concerning the use of a listed option position hedged on a one-for-one basis with an OTC option position on the same underlying security. In particular, the Commission staff has concerns that such exemption would grant members the ability to sell OTC options and hedge such positions on the exchange with listed options on an unlimited basis. This potentially raises manipulation concerns. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-00-45

and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-20765 Filed 8-16-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44672; File No. SR-Phlx-2001-67]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 by the Philadelphia Stock Exchange, Inc. Relating to Automatic Price Improvement for Equities Trading in Decimals

August 9, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 24, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On August 7, 2001, the Exchange amended the proposal.³ The Exchange filed another amendment on August 9, 2001.⁴ The Exchange filed this proposal under section 19(b)(3)(A) of the Act,⁵ and Rule 19b-(f)(6)⁶ thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See August 6, 2001 letter from Jurij Trypupenko, Esquire, Phlx to Alton S. Harvey, Division of Market Regulation ("Division"), Commission and attachments ("Amendment No. 1"). In Amendment No. 1, the Phlx clarified that the only proposed substantive change to the pilot program was to extend its operation through November 5, 2001. Amendment No. 1 also provided a clear explanation of proposed technical changes to rule language to conform the language to prior filings.

⁴ See August 8, 2001 letter from Jurij Trypupenko, Esquire, Phlx to Alton S. Harvey, Division, Commission ("Amendment No. 2"). In Amendment No. 2, the Phlx amended the proposed rule language to clarify that the pilot will operate through November 5, 2001.

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(6). The Phlx requested that the Commission waive the 5-day prefiling notice requirement, and the 30-day operative delay.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend through November 5, 2001 its Philadelphia Stock Exchange Automated Communication and Execution System ("PACE")⁷ price improvement pilot program ("pilot program"). The pilot program, which is found in Supplementary Material .07 to Phlx Rule 229, has an automated price improvement feature based on a percentage of the spread between the bid and the offer. The current pilot program, established in SR-Phlx-2001-12, has been in effect since January 29, 2001.⁸

The only substantive change the Phlx proposes at this time is to extend the pilot program through November 5, 2001.

The remaining changes proposed at this time are non-substantive formatting and language changes. These are cosmetic changes to ensure that the pilot program reflects amendments that were made in previous filings that were inadvertently overlooked. The underscored proposed language was added in SR-Phlx 00-54,⁹ but mistakenly did not appear in SR-Phlx-2001-12,¹⁰ and is therefore noted as additional language at this time. The bracketed language (except as noted below) was deleted by SR-Phlx-00-54, but mistakenly appeared in SR-Phlx-2001-12. It is now noted as deleted language to correct this mistake. The final bracketed phrase, which begins ".03 or greater," appeared in SR-Phlx-00-54. It was mistakenly included in SR-Phlx-2001-12, and is therefore noted now as deleted language.¹¹

The Exchange recognizes that all options currently trade in decimals, and is proposing the non-substantive language changes herein to conform the language of Phlx Rule 229 to prior filings. The following is the text of the

proposed rule change. Additions are in *italics*. Deletions are in brackets.

Rule 229. Philadelphia Stock Exchange Automated Communications and Execution System (PACE)

PACE provides a system for the automatic execution of orders on the Exchange equity floor under predetermined conditions. Orders accepted under the system may be executed on a fully automated or manual basis in accordance with the provisions of this Rule. Securities admitted to dealings on the equity floor are eligible for trading on the PACE System in which equity specialists and member organizations may choose to participate. The conditions under which orders will be accepted and executed are set forth below. When used in the Rule, PRL means a combined round-lot and odd-lot order, and PACE Quote means the best bid/ask quote among the American, Boston, Cincinnati, Chicago, New York, Pacific or Philadelphia Stock Exchange, or the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES") quote, as appropriate. The PACE rules, conditions and guidelines do not apply to orders not on the system, and existing rules governing orders not on the system are not affected hereby.

Supplementary Material:

General

* * * * *

.07

* * * * *

(c) Price Improvement for PACE Orders
(i) Automatic Price Improvement—Where the specialist voluntarily agrees to provide automatic price improvement to all customers and all eligible market orders in a security, automatically executable market and marketable limit orders in New York Stock Exchange and American Stock Exchange listed securities received through PACE for 599 shares or less shall be provided with automatic price improvement from the PACE Quote when received of $\frac{1}{16}$ (or $\frac{1}{64}$ in the case of Nasdaq-100 Index Tracking Stock) for equities trading in fractions or, either \$.01 or a percentage of the PACE Quote when the order is received for equities trading in decimals beginning at 9:30 A.M., except where:

(A) a buy order would be improved to a price less than the last sale or a sell order would be improved to a price higher than the last sale (except as provided in (E) below); or

(B) a buy order would be improved to the last sale price which is a downtick or a sell order would be improved to the last sale price which is an uptick (except as provided in (E) below). The PACE System will determine whether the last sale price is a downtick or an uptick. The PACE System does not recognize changes from the previous day's close. In these situations, the order is not eligible for automatic price improvement,

and is, instead, automatically executed at the PACE Quote.

A specialist may voluntarily agree to provide automatic price improvement to larger orders in a particular security to all customers under this provision.

A specialist may choose to provide automatic price improvement for equities trading in fractions where the PACE Quote is (I) $\frac{3}{16}$ or greater, (II) [or] $\frac{1}{8}$ or greater, or (III) solely with respect to Nasdaq-100 Index Tracking StockSM, $\frac{1}{16}$ or greater. [for equities trading in fractions:] For equities trading in decimals, a specialist may choose to provide automatic price improvement of (i) \$.01 where the PACE Quote is [.03 or greater or .05 or greater for equities trading in decimals] either \$.05 or greater, or \$.03 or greater, or (ii) where the PACE Quote is \$.02 or greater, a percentage of the PACE Quote when the order is received, up to 50%, rounded to the nearest penny, and at least \$.01, in a particular security to all customers.

* * * * *

.21 The automatic price improvement feature based on a percentage of the spread between the bid and offer in Supplementary Material .07(c)(i) will be in effect for a pilot period through November 5, 2001.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposes to extend, through November 5, 2001, the Phlx's pilot program that incorporates automatic price improvement for equities trading in decimals based on a percentage of the spread between the bid and offer.¹² In addition to extending the date of the pilot program, the proposed rule change

¹² See Securities Exchange Act Release No. 43901 (January 30, 2001), 66 FR 8988 (February 5, 2001) (SR-Phlx-2001-12) (implementation of pilot program).

⁷ PACE is the Exchange's automated order delivery, routing, execution and reporting system for equities.

⁸ See Securities Exchange Act Release No. 43901 (January 30, 2001), 66 FR 8988 (February 5, 2001).

⁹ See Securities Exchange Act Release No. 43717 (December 13, 2001) 65 FR 80976 (December 22, 2000) (SR-Phlx-00-54).

¹⁰ See footnote 7, *supra*.

¹¹ The Phlx intends to file a proposed rule change in the future to remove references to fractional pricing from this and other rules.

makes non-substantive cosmetic changes to correct the inaccuracies in the rule language inadvertently made in previous proposed rule changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act¹³ in general, and in particular, with section 6(b)(5),¹⁴ in that it promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitates transactions in securities, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest by widely extending automated price improvement to equities traded in decimals.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6) thereunder.¹⁶ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁷

The Exchange has requested that the Commission finds good cause to waive the pre-filing notice requirement, and to designate the proposal to be both effective and operative upon filing because such designation is consistent with the protection of investors and the public interest. Waiver of these requirements will allow the pilot program to continue uninterrupted through November 5, 2001. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.¹⁸

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the exchange. All submissions should refer to file number SR-Phlx-2001-67, and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

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have commenced on August 7, 2001, the date the Phlx filed Amendment No. 1.

¹⁸ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44687; File No. SR-Phlx-2001-58]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Establishing Obligations of AUTOM Order Entry Firms and Users and Prohibiting Entry of Multiple Orders Via AUTOM for the Account(s) of the Same Owner of Beneficial Interest for the Same Option Within 15 Seconds

August 13, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on June 8, 2001, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. On July 13, 2001, the Phlx submitted Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, has been filed by the Phlx as a "non-controversial" rule change under Rule 19b-4(f)(6)⁴ under the Act. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market ("AUTOM") and Automatic Execution System ("AUTO-X"),⁵ to define an

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Edith Hallahan, First Vice President & Deputy General Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated July 12, 2001 ("Amendment No. 1"). In Amendment No. 1, Phlx made a change to the proposed rule language. Specifically, Phlx removed the word "issue" from Phlx Rule 1080(c)(ii)(B)(3). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on July 13, 2001, the date the Phlx filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for

Continued

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ For purposes of calculating the abrogation date, the Commission considers the 60-day period to

“Order Entry Firm” as a member organization of the Exchange that is able to route orders to AUTOM and to define a “User” as any person or firm that obtains access to AUTO-X through an Order Entry Firm.

The proposed rule change, as amended, would also impose certain obligations on Order Entry Firms, specifically to: (1) Follow applicable Exchange rules and procedures; (2) provide written notice to all Users regarding the proper use of AUTO-X; and (3) prohibit Order Entry Firms from either entering or permitting the entry of multiple orders in call options and/or put options for the same option within any 15-second period for an account or accounts of the same beneficial owner.

Below is the text of the proposed rule change. Proposed new language is *italicized*.

* * * * *

Rule 1080. Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X)

(a)–(b) No change.

(c) AUTO-X—AUTO-X is a feature of AUTOM that automatically executes public customer market and marketable limit orders up to the number of contracts permitted by the Exchange for certain strike prices and expiration months in equity options and index options, unless the Options Committee determines otherwise. AUTO-X automatically executes eligible orders using the Exchange disseminated quotation and then automatically routes execution reports to the originating member organization.

AUTOM orders not eligible for AUTO-X are executed manually in accordance with Exchange rules. Manual execution may also occur when AUTO-X is not engaged. An order may also be executed partially by AUTO-X and partially manually.

The Options Committee may for any period restrict the use of AUTO-X on the Exchange in any option or series. Currently, orders up to 100 contracts, subject to the approval of the Options Committee, are eligible for AUTO-X.

The Options Committee may, in its discretion, increase the size of orders in one or more classes of multiply-traded equity options eligible for AUTO-X to the extent necessary to match the size of orders in the same options eligible for

entry into the automated execution system of any other options exchange, provided that the effectiveness of any such increase shall be conditioned upon its having been filed with the Securities and Exchange Commission pursuant to Section 19(b)(3)(A) of the Securities Act of 1934.

(i) No change.

(ii) *Order entry firms and Users*⁶

(A) *Definitions*

(1) *The term “Order Entry Firm” means a member organization of the Exchange that is able to route orders to AUTOM.*

(2) *The term “User” means any person or firm that obtains access to AUTO-X through an Order Entry Firm.*

(B) *Obligations of Order Entry Firms. Order Entry Firms shall:*

(1) *Comply with all applicable Exchange options trading rules and procedures;*

(2) *Provide written notice to all users regarding the proper use of AUTO-X; and*

(3) *Neither enter nor permit the entry of multiple orders in call options and/or put options in the same option within any 15-second period for an account or accounts of the same beneficial owner.*

* * * * *

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change, as amended, is to protect investors and other market participants from the potential negative consequences that might result from Order Entry Firms engaging in

prohibited conduct. A further purpose is to ensure that an Exchange member that provides access to AUTO-X to its customers would ultimately be responsible for the orders that are entered by its customers.

The proposed amendments to Rule 1080(c), codifying and defining the terms “User” and “Order Entry Firm” are intended to create definitions of AUTOM and AUTO-X participants and to help define and clarify the rights and obligations of AUTOM and AUTO-X participants currently, and in possible proposed Exchange rules and policies concerning such participants in the future. The instant proposed rule change applies these terms in proposed Rule 1080(c)(ii)(B), which sets forth obligations of Order entry firms.

Proposed Rule 1080(c)(ii)(B) would require Order Entry firms to comply with certain requirements. Specifically, the proposed rule would require Order Entry Firms to comply with all applicable Exchange options trading rules and procedures and to provide written notice to all Users regarding the proper use of AUTO-X. In addition, the proposed rule would prohibit Order Entry Firms from either entering or permitting the entry of multiple orders in call options and/or put options in the same option within any 15-second period for an account or accounts of the same beneficial owner.

The purpose of proposed Rule 1080(c)(ii)(B) is to make explicit the responsibilities and requirements of Order Entry Firms. In addition to the compliance and written notice provisions, proposed Rule 1080(c)(ii)(B)(3) would place a specific prohibition against Order Entry Firms entering or permitting the entry of orders in call options and/or put options in the same option within any 15-second period for an account or accounts of the same beneficial owner. The Exchange believes that the establishment of a prohibition on members and member organizations entering or permitting the entry of multiple orders from the account or accounts of the same beneficial owner within any 15-second period should add certainty and consistency to the enforcement of the Rule and should provide clarity as to what conduct violates the Rule.⁷

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent

AUTOM’s automatic execution feature, AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

⁶ This section has been renumbered from Rule 1080(c)(vi) to Rule 1080(c)(ii). Telephone conversation between Richard S. Rudolph, Counsel, Phlx, and Gordon Fuller, Counsel to the Assistant Director, Division, Commission, and Frank N. Genco, Attorney Advisor, Division, Commission, on June 22, 2001.

⁷ In this regard, the Commission notes that the Exchange may not take punitive action against the customer of a particular Order Entry Firm in the event that the Order Entry Firm violates Rule 1080(c)(ii)(B)(3).

with Section 6 of the Act⁸ in general, and with Section 6(b)(5) of the Act⁹ specifically, in that it is designed to perfect the mechanism of a free and open market and a national market system, protect investors and the public interest and promote just and equitable principles of trade by providing AUTOM Users and Order Entry Firms with specific requirements concerning AUTO-X and multiple orders for the account or accounts of the same beneficial owner, and by providing Users and Order Entry Firms with a specific description of conduct that violates the rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change, as amended, will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, the proposed rule change, as amended,¹⁰ has become effective pursuant to Section 19(b)(3)(A) of the

Act¹¹ and Rule 19b-4(f)(6)¹² thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx seeks to have the proposed rule change, as amended, become operative immediately in order to remain competitive with other exchanges with similar rules in effect.¹³

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change, as amended, operative as of July 13, 2001.¹⁴ The Commission notes that the proposed rule change, as amended, is identical in all material respects to the rule of another exchange that the Commission has already noticed for public comment and recently approved and the proposed rule change raises no new issues.¹⁵ At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁶

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than that may be withheld from the public in

accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx.

All submissions should refer to File No. SR-Phlx-2001-58 and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret McFarland,
Deputy Secretary.

[FR Doc. 01-20766 Filed 8-16-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44653; File No. SR-Phlx-2001-70]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Pilot Program for Exchange Rule 98, Emergency Committee Until November 30, 2001

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 27, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend the pilot program period for Rule 98, Emergency Committee until November

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy Sanow, Assistant Director, Division, Commission, dated May 30, 2001 ("Pre-Filing Notice"). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ See Pre-Filing Notice.

¹⁴ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁵ See, e.g., Securities Exchange Act Release No. 44104 (March 26, 2001), 66 FR 18127 (April 5, 2001) (order approving File No. SR-CBOE-00-47).

¹⁶ See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78b(3)(C).

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6). The Exchange filed the pre-filing notice required by Rule 19b-4(f)(6) by filing a written description of the proposed rule change and the text of the proposed rule change on July 20, 2001.

30, 2001. No changes to the existing rule language are being proposed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 23, 1999, the Commission approved amendments to Rule 98, Emergency Committee (the "Committee"), which updated the composition of the Committee to reflect the current governance structure of the Exchange, on a 120-day pilot basis.⁵ The pilot has been extended four times, most recently to July 31, 2001.⁶ The pilot program is being extended again to November 30, 2001 as the Exchange considers other changes to the composition of the Committee.

The Exchange originally proposed to amend Rule 98, Emergency Committee,

by updating the composition of the Committee to correspond with previous revisions to the Exchange's governance structure,⁷ and by deleting a provision authorizing the Committee to take action regarding CENTRAMART, an equity order reporting system which is no longer used on the Exchange Equity Floor.

The Committee was formed in 1989⁸ prior to the aforementioned changes to the Exchange's governance structure. The original proposed rule change, approved by the Commission, deleted the word "President" from the rule, as the Exchange no longer has a "President," and included the Exchange's On-Floor Vice Chairman⁹ as a member of the Committee.

Thus, Rule 98 specifies the composition of the Emergency Committee to include the following individuals: the Chairman of the Board of Governors; the On-Floor Vice Chairman of the Board of Governors; and the Chairmen of the Options Committee, the Floor Procedure Committee, and the Foreign Currency Options Committee.

Extension of the pilot program through November 30, 2001 permits the Committee to reflect the current governance structure of the Exchange and ensures that the Committee will be in place to take necessary and appropriate action to respond to extraordinary market conditions or other emergencies.¹⁰ The extension of the pilot program will also allow the Exchange the necessary time to propose changes to the Committee's structure to meet the Commission's concerns about whether the Committee ensures that all interests of the Exchange (e.g., On-Floor or Off-Floor) are adequately represented by the Committee.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6¹¹ of the Act in general, and

with Section 6(b)(5)¹² of the Act in specific, in that it is designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest, by updating the composition of the Emergency Committee to reflect the current governance structure of the Exchange, and by continuing to provide a regular procedure for the Exchange to take necessary and appropriate action to respond to extraordinary market conditions or other emergencies.¹³

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and Rule 19b-4(f)(6)¹⁵ thereunder because the proposed rule change does not (i) significantly affect the provision of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which the proposed rule change was filed, or such shorter time as the Commission may designate. At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission finds that it is appropriate to accelerate the effective date of the proposed rule change and to permit the proposed rule change to become immediately effective because the proposal simply extends a

⁵ Securities Exchange Act Release No. 42272 (December 23, 1999), 65 FR 153 (January 3, 2000) (SR-Phlx-99-42). In the approval order, the Commission requested that the Exchange examine the operation of the Committee to ensure that the Committee is not dominated by any one Exchange interest (e.g., On-Floor or Off-Floor interests). The Commission requested that the Exchange report back to the Commission on its views as to whether the Committee structure ensures that all Exchange interests are fairly represented by the Committee.

⁶ Securities Exchange Act Release No. 42898 (June 5, 2000), 65 FR 36879 (June 12, 2000) (SR-Phlx-00-41), extending the pilot program until August 21, 2000; Securities Exchange Act Release No. 43169 (August 17, 2000), 65 FR 51888 (August 25, 2000) (SR-Phlx-00-76), extending the pilot program until November 17, 2000. On July 14, 2000, the Exchange filed a proposed rule change to effect the amendments on a permanent basis. SR-Phlx-00-63 (filed July 14, 2000). In SR-Phlx-00-63 the Exchange also enclosed the Exchange's views as to whether the Committee structure ensures that all Exchange interests are fairly represented by the Committee. Because the Exchange is considering further changes to the Committee, SR-Phlx-00-63 was withdrawn on June 15, 2001. The pilot program was extended again until April 30, 2001. Securities Exchange Act Release No. 43614 (November 22, 2000), 65 FR 75332 (December 1, 2000) (SR-Phlx-00-101). Most recently, the pilot program was extended again until July 31, 2001. Securities Exchange Act Release No. 44245 (May 1, 2001), 66 FR 23961 (May 10, 2001) (SR-Phlx-2001-44).

⁷ See Securities Exchange Act Release No. 38960 (August 22, 1997), 62 FR 45904 (August 29, 1997) (SR-Phlx-97-31).

⁸ See Securities Exchange Act Release No. 26858 (May 22, 1989), 54 FR 23007 (May 30, 1989) (SR-Phlx-88-36).

⁹ See also Exchange By-Law, Article IV, Section 4-2.

¹⁰ Previously, the Exchange has described "extraordinary market or emergency conditions" as, among other things, a declaration of war, a presidential assassination, an electrical blackout, or events such as the 1987 market break or other highly volatile trading conditions and require intervention for the market's continued efficient operation. Letter dated March 15, 1989, from William W. Uchimoto, General Counsel, Exchange, to Sharon L. Itkin, Esquire, Commission, Division of Market Regulation.

¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(5).

¹³ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

previously approved pilot program until November 30, 2001. No changes to Rule 98 are being proposed at this time and the Commission has not received any comments on the pilot program. In addition, the Exchange appropriately filed a pre-filing notice as required by Rule 19b-4(f)(6).¹⁶

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the File No. SR-Phlx-2001-70 and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-20767 Filed 8-16-01; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Mercantile Capital Partners I, L.P. 05/75-0260

Notice is hereby given that Mercantile Capital Partners I, L.P. (Mercantile), 1372 Shermer Road, Northbrook, Illinois, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("Act") in connection with the financing of a small concern has sought an exemption under Section 312 of the Act and section 107.730 which constitutes Conflicts of Interest under 13 CFR 107.730(2000). Mercantile proposes to provide debt security financing to ITracs Corporation (ITracs), One IBM

Plaza, 330 N. Wabash, 40th Floor, Chicago, Illinois. The financing is contemplated for expansion.

The financing is brought under the purview of Sec 107.730(a)(1) of the regulations because Jackson National Life Insurance Company and Mercantile Equity Partners I, L.P. currently own greater than ten percent of ITracs and ITracs is considered an Associate of Mercantile as defined in Sec. 107.50 of the regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investments, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: August 13, 2001.

Harry Haskins,

Acting Associate Administrator for Investments.

[FR Doc. 01-20829 Filed 8-16-01; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

Office of the Secretary

[Delegation of Authority No. 246]

Delegation of Functions Under the Latin American Development Act of 1960 From the Secretary of State to the Administrator of the U.S. Agency for International Development

By virtue of the authority vested in me as Secretary of State, including the State Department Basic Authorities Act and the Presidential Delegation of Responsibilities Related to the Latin American Development Act of 1960 dated May 30, 2001, 66 FR 110, in which the President delegated the functions conferred upon him by the Latin American Development Act of 1960, 22 U.S.C. 1942 *et seq.*, I hereby delegate those functions to the Administrator of the U.S. Agency for International Development.

This delegation shall be published in the **Federal Register**.

Dated: July 15, 2001.

Colin L. Powell,

Secretary of State.

[FR Doc. 01-20799 Filed 8-16-01; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA-2001-9706]

Outdoor Advertising Control

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The Oregon Department of Transportation (ODOT) proposes to amend the Highway Beautification Federal/State Agreement dated August 26, 1974, between the United States of America represented by the Secretary of Transportation and the State of Oregon, in order to permit the use of tri-vision signs adjacent to routes controlled under Highway Beautification Act.

DATES: Comments must be received on or before September 17, 2001.

ADDRESSES: Mail or hand deliver comments for the docket number that appears in the heading of this documents to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001, or submit electronically at <http://dms.dot.gov/submit>. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgement page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: John Burney, Realty Specialist, Office of Real Estate Services, HEPR (202) 366-4842; or Mr. Robert Black, Office of Chief Counsel, HCC-31, (202) 366-1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DSM) at: <http://dms.dot.gov/submit>. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 200.30-3(a)(12).

Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may also reach the Office of the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's web page at: <http://www.access.gpo.gov/nara>.

Background

The Highway Beautification Act of 1965 (HBA), partially codified at 23 U.S.C. 131, requires States to provide effective control of outdoor advertising in areas adjacent to both the Interstate System and the Federal-aid primary system. States must provide effective control as a condition of receiving their full apportionment of Federal-aid highway funds. Outdoor advertising is permitted in zoned or unzoned commercial and industrial areas. In order to promote the reasonable, orderly and effective display of outdoor advertising, States entered into individual agreements with the Federal Government through the FHWA, which established size, spacing, and lighting criteria for signs in commercial and industrial areas consistent with customary use in each State.

Among other things, the agreement between Oregon and the FHWA was executed August 26, 1974.¹ The 1974 agreement states that, "No sign shall contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights or moves or has any animated or moving parts."

On July 28, 1999, the 70th Oregon Legislative Assembly passed Senate Bill 855, which made an exception in Oregon's outdoor advertising control law to allow tri-vision signs (1999 Or. Rev. Stat. Vol. 9, amending title 31, ORS, chap. 377). Tri-vision signs are composed of a series of three-sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process, capable of displaying a total of three separate and distinct messages, one message at a time. Prior to this change,

outdoor advertising signs subject to Oregon's law could not have moving parts. This change created an exception for the tri-vision sign.

In July 1996, the FHWA issued a policy memorandum² indicating that the FHWA will concur with a State that can reasonably interpret its State/Federal agreement to allow changeable message signs if such interpretation is consistent with State Law. The interpretation is limited to conforming signs. Applying updated technology to nonconforming signs would be considered a substantial change and inconsistent with 23 CFR 750.707(d)(5). Many States allow tri-vision signs. The frequency of message change and limitation in spacing for these signs is determined by each State.

The State of Oregon is seeking an amendment to its Federal/State Agreement to allow tri-vision signs as defined at 1999 ORS Chapter 377. The Oregon statute, defines a tri-vision sign as follows:

"Tri-Vision sign" means an outdoor advertising structure that contains display surfaces composed of a series of three-sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process, capable of displaying a total of three separate and distinct messages, one message at a time, provided the rotation from one message to another message is no more frequent than every eight seconds, and the actual rotation process is accomplished in four seconds or less. A Tri-Vision sign is, by Oregon statute, three signs and is required to have three outdoor advertising permits of equivalent type.

In April 1980, the FHWA adopted a procedure for States to follow in order to make changes in the Federal/State agreement. A State must first submit its proposed change, along with the reasons for the change and the effects of such change, to the FHWA Division Office. The division and headquarters offices review and comment on the proposal. If the concept is approved, the State must then hold public hearings on the proposed change to receive comments from the public. If the State then wishes to amend the agreement, it must submit to the FHWA the full justification for the change, the record of the hearings, and the assessment of the impact. These submissions will be published in the **Federal Register** for comments. Comments on the proposed amended agreement will then be evaluated by the FHWA. The FHWA then decides if the

agreement should be amended as proposed and publishes its decision in the **Federal Register**. An amended agreement will then be sent to the State for signature.

The Oregon Department of Transportation (ODOT) held a public hearing on November 8, 2000, regarding its proposal to amend the Federal/State agreement. The hearing remained open for written testimony through November 15, 2000. Fifteen comments were submitted.³ Fourteen of the submissions were in favor of the proposed amendment; one was opposed. Those in favor of the amendment were from Outdoor Advertisers of America, outdoor advertising companies, the Oregon State Senate, a private school, a non-profit sports authority, the Confederated Tribes of The Grand Ronde Community of Oregon, and The Boys and Girls Clubs of Portland Metropolitan Area. Opposition to the amendment was from the Oregon Roadside Council.

The Oregon DOT cites several points as justification for the proposed revision to the 1974 Federal/State Agreement. The Oregon statute was changed to allow tri-visions signs. Prior to that change, outdoor advertising signs subject to Oregon's law could not have moving parts. The law change made an exception for the tri-vision signs. The effects of the amendment are believed to be modest. In the October 31, 2000, Oregon DOT News Release, Jim Odom of ODOT's Outdoor Advertising Program is quoted as saying that, "Since the signs display three messages, the legislature determined that each sign will require three permits. In the mid-1970's, Oregon established a cap of approximately 1,700 permits that would allow billboards visible to State highways. Of the 1,700 permits, about 500 remain unused. Each of the tri-vision signs will take three of the remaining unused permits out of the inventory."⁴ Jim Oden, of the Oregon DOT, further states, "The effect of movement of the signs is at a frequency of eight seconds, with the transition time between messages at four seconds or less. It is believed this frequency minimizes distraction."

Additionally, Jim Oden, further states that, "Also, a tri-vision sign is by Oregon statute three signs. Therefore, such a sign is required to have three

¹ The agreement between the State of Oregon and the FHWA is available on-line through the Document Management System (DMS) at the following URL: <http://dms.dot.gov> under FHWA Docket No. FHWA-2001-9706.

² The 1996 FHWA policy memorandum is available on-line through the Document Management System (DMS) at the following URL: <http://dms.dot.gov> under the FHWA Docket No. FHWA-2001-9706.

³ The fifteen written submissions are available on line through the Document Management System (DMS) at <http://dms.dot.gov> under FHWA Docket No. FHWA-2001-9706.

⁴ the news release, "ODOT to hold public hearing on tri-vision signs," dated October 31, 2000, is available at the following URL: <http://www.odot.state.or.us/comm/news/2000103105.htm>.

outdoor advertising permits of equivalent type. This was specifically made part of Senate Bill 855, as a condition of allowing Tri-Vision signs in Oregon, and that being a stated term of the legislation, is also understood to be a condition of this amendment⁵.”

Many States now allow Tri-Vision signs and as Oregon now proposes. Therefore, this proposed change in Oregon will not have any precedential impact for other States.

The Proposed Change

The Federal/State Agreement “For Carrying Out the National Policy Relative to Control of Outdoor Advertising in Areas Adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System” (the Agreement) made and entered into on August 26, 1974, between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator and the State of Oregon now reads at Section III: State Control, Paragraph A, *Lighting* (1) as follows:

No sign shall contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights or moves or has any animated or moving parts; however, this paragraph does not apply to a traffic control sign or signs providing only public information such as time, date, temperature, weather or similar information.

The amended agreement would read as follows:

No sign shall contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights or moves or has any animated or moving parts; however, this paragraph does not apply to a traffic control sign or signs providing only public information such as time, date, temperature, weather or similar information and Tri-vision signs. Tri-vision signs, however, shall not contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights. The frequency of message change is determined by the State.

Section I. Definitions. A definition for Tri-vision signs would be included in this section as follows:

Tri-Vision sign—means an outdoor advertising structure that contains display surfaces composed of a series of three sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process, capable of displaying a total of three separate and distinct messages, or one message at a time.

Authority: 23 U.S.C. 131; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: August 13, 2001.

Vincent F. Schimmoller,

Deputy Executive Director.

[FR Doc. 01-20722 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD-2001-10394]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CHALLENGE BUSINESS 36.

SUMMARY: As authorized by Pub. L. 105-383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105-383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before September 17, 2001.

ADDRESSES: Comments should refer to docket number MARAD-2001-10394. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime

Administration, MAR-832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105-383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: CHALLENGE BUSINESS 36. Owner: Challenge Business, Ltd.

(2) Size, capacity and tonnage of vessel. According to the applicant: “The yacht is 53.9' long, has a breadth of 15.22' and a depth of 8.37'. Her current certificate shows that she has a gross tonnage of 41.8 and a net tonnage of 41.8”.

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: “The yacht will be used to generate interest in sailing boats of this type around the world in a race called the New World Challenge 2002. Ordinary people, from all walks of life, will become members of the crew on eight slightly larger boats that will sail from Southampton, United Kingdom, to New York, down the East Coasts of North and South America, around Cape Horn, and up the West coasts of South and North America to San Francisco. The interest, love and excitement of sailing such boats, in difficult conditions, over a period of approximately seven months, will be supported by a number of corporate sponsors who expect to benefit from the team building aspect of the race and the publicity that the race will generate.

To foster interest in the race among potential sponsors and supporters of the race, the yacht will be used as an information and training platform. The

⁵ See footnote 4.

owner intends to take members of the press, other media, potential and actual sponsors and supporters of the race, and their guests, on the boat to experience what it will be like to sail a boat of this type in this race. None of the press, media, and supporters will be asked to pay anything for sailing aboard this yacht. But, we have been advised that unless the boats sail "voyages to nowhere" (*i.e.* three miles from port and back again), that some of these activities would be violative of U.S. coastwise laws. For this reason we make this Application.

This yacht will be based in Boston and may be sailed to various places on the East Coast of the United States."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: May 1998. Place of construction: United Kingdom.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "This activity will have absolutely no impact on the operations of any commercial passenger operations. As stated, no income will be derived from the use of this yacht as an informational and sail training platform. This boat had been used in another, similar race promoted by Challenge Business. The yacht is very similar in size, design, sail area and handling characteristics to the eight boats that will be competing in the race. Thus, it is one of the most representative, "experienced", boats that could be used for the intended purpose. Further, this boat and the others employed in the Challenge Business race are very unique. This project brings together ordinary people, the corporate and non-profit communities, and fully involves them in sailing one-design-boats in a sailing experience that is not duplicated by anyone else in the world."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "Similarly, the proposed activity will have absolutely no impact on U.S. shipyards. This yacht is uniquely valuable in that it has been raced under similar conditions, in a similar race while manned by individuals who had little, if any, sailing experience, before sailing aboard such a yacht. This yacht most accurately represents the look, feel and impact that the eight yachts in the race will have on the sailors, media, press, sponsors and supporters. Given its historical connection to a similar race, no newly built U.S. yacht could perform the proposed activity. Further, we are not aware of any similar yacht currently under construction in the U.S."

Dated: August 13, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01-20737 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD-2001-10395]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SANDRA JEAN II.

SUMMARY: As authorized by Pub. L. 105-383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105-383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before September 17, 2001.

ADDRESSES: Comments should refer to docket number MARAD-20001-10395. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of

Transportation, Maritime Administration, MAR-832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105-383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: SANDRA JEAN II. Owner: Peter and Nancy Hardy.

(2) Size, capacity and tonnage of vessel. According to the applicant: "The vessel is 39 feet long, suitable for six passengers plus two crew. The vessel is 14 tons gross, 9.5 tons net, per the official Certificate of British Registry (Canada)."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "This vessel will be used for training and recreation, specifically: a. Navigation and maneuvering instruction/training; b. Nature and wildlife observation and research; c. 'Mothership' and shuttle for kayakers and campers."

"This operation will be in the Puget Sound region of Washington State, from Olympia, Washington to the Canadian border. Also in Southeast Alaska from the Canadian border to Skagway, Alaska."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1965. Place of construction: Sather Boat Works, New Westminster, British Columbia, Canada.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "This waiver will have little or no effect on other commercial

passenger vessel operators. There are few, if any, operators offering on the water navigation and maneuvering instruction. Similarly there are very few operators offering kayakers and hikers transportation for themselves and their equipment to isolated regions. A limited number of small boat operators (fewer than 12 passengers) offer nature experiences, but there are several large vessels offering this service (15 to 100+ passengers). The smaller boat will meet the needs of families and small groups seeking a more intimate experience."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "This waiver will have no impact on U.S. Shipyards."

Dated: August 13, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01-20736 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA-98-4034; Notice 16]

Pipeline Safety: Intent To Approve Project Modifications and Environmental Assessment of Modifications for the Natural Gas; Pipeline Company of America Pipeline Risk Management Demonstration Project

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice of intent to approve project modification and environmental assessment of modification.

SUMMARY: The Office of Pipeline Safety (OPS) is conducting a Risk Management Demonstration Program with pipeline operators to determine how risk management might be used to complement and improve the existing Federal pipeline safety regulatory process. In December, 1998, OPS approved Natural Gas Pipeline Company of America (NGPL) ¹ as a participant in the Pipeline Risk Management Demonstration Program. Since its demonstration project was approved, NGPL has identified five segments in its system where it

proposes to perform alternative risk control activities in lieu of compliance with the regulations addressing class location changes. This Notice announces OPS's intent to modify NGPL's Demonstration Project order to allow the proposed risk control alternatives (the "Alternatives"). This Notice also provides an environmental assessment of NGPL's Alternatives. Based on this environmental assessment, OPS has preliminarily concluded that this proposed project modification will not have significant environmental impacts.

This Notice explains OPS's rationale for approving NGPL's Alternatives. OPS seeks public comment on the proposed demonstration project modification so that it may consider and address these comments before modifying the order to approve the alternatives.

ADDRESSES: OPS requests that comments to this Notice or about this environmental assessment be submitted on or before September 17, 2001 so they can be considered before the modifications are approved. However, comments on this or any other demonstration project will be accepted in the Docket throughout the demonstration period. Written comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. Comments should identify the docket number RSPA-98-4034. Persons should submit the original comment document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room 401, 400 Seventh Street, SW., Washington, DC. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays. You may also submit comments to the docket electronically. To do so, log on to the DMS Web at <http://dms.dot.gov>. Click on Help & Information to obtain instructions for filing a document electronically.

FOR FURTHER INFORMATION CONTACT: Elizabeth Callsen, OPS, (202) 366-4572, regarding the subject matter of this Notice. Contact the Dockets Unit, (202) 366-5046, for docket material. Comments may also be reviewed online at the DOT Docket Management System website at <http://dms.dot.gov/>.

SUPPLEMENTARY INFORMATION

1. Background

In December, 1998, OPS approved NGPL as a participant in the Pipeline Risk Management Demonstration

Program ^{2, 3}. Since approval, as part of its development and application of risk management, NGPL has identified five pipeline segments in its system where it proposes to conduct risk control alternatives to the class location change requirements in 49 CFR § 192.611. These alternative activities have been designed to achieve superior safety and environmental protection along these five segments. This document summarizes OPS's review of these alternatives and evaluates the safety and environmental impacts of this proposed project modification.

2. OPS Evaluation of NGPL's Proposed Alternatives

A Project Review Team (PRT), consisting of representatives from OPS Headquarters, Central Region, and Southwestern Region; representatives of Illinois and Texas pipeline regulatory agencies; and risk management experts evaluated NGPL's proposed Alternatives. The PRT met with NGPL to discuss the current risk assessment and risk control processes NGPL uses, how these processes were used to identify and define the proposed regulatory alternatives, the analysis of the protection achieved by the proposed alternatives compared to the protection 49 CFR 192.611 provides, and proposed performance measures to ensure superior performance is being achieved. The evaluation also included an environmental assessment, which is described in Appendix A of this Notice.

The major review criterion for this evaluation was whether the risk control alternatives NGPL proposed can be expected to produce superior safety, environmental protection, and reliability of service compared to that achieved from compliance with 49 CFR 192.611.

Once OPS and NGPL consider comments received on this Notice, OPS intends to modify NGPL's risk management demonstration project order to allow the alternatives.

3. Statement of Project Goals

The NGPL System transports pressurized natural gas, which is lighter than air and flammable. If released as a result of a pipeline leak or rupture, natural gas can potentially ignite causing fires or explosions. Protection of

² Pipeline Safety: Intent to Approve and Environmental Assessment for the Natural Gas Pipeline Company of America Pipeline Risk Management Demonstration Program [63 *Federal Register* 46497, September 1, 1998].

³ Pipeline Safety: Natural Gas pipeline Company of America; Approved for Pipeline Risk Management Demonstration Program 964 *Federal Register* 1067, January 7, 1999].

¹ In 1998, NGPL was acquired by KN Energy, Inc. In October, 1999, KN Energy merged with Kinder Morgan, Inc. The merged company is named Kinder Morgan, Inc. (KMI). NGPL now operates its pipeline system as a subsidiary of KMI. The scope of the Risk Management Demonstration Project remains limited to the NGPL system.

the public and environment by the prevention of pipeline leaks and ruptures is the highest priority for OPS and NGPL. OPS and NGPL believe that by applying and refining NGPL's Risk Management Program, and by implementing the proposed Alternatives, the demonstration project will continue to provide superior protection.

4. Risk Control Alternative Locations

NGPL is focusing its proposed regulatory alternatives to control the increased risk from population increases along the pipeline (see Section 5) in one location in Illinois and four locations in Texas.

- One pipe segment (4912 feet) located on the Amarillo #3 line in Will County, Illinois, within Mileposts 978–979 (just upstream of Compressor Station 113).
- Two pipe segments (1177 feet and 1116 feet) located on the Gulf Coast #1 and #2 Lines in Liberty County Texas, within Mileposts 288–289 (between Compressor Stations 302 and 303).
- Two pipe segments (both 4.4 miles) located on the Louisiana #1 and #2 Lines in Liberty County, Texas, within Mileposts 23–28 (between Compressor Stations 302 and 343).

5. Description of Project Modification: Regulatory Alternatives Designed to Provide Superior Protection

NGPL has identified five short pipe segments where it believes alternatives to the regulations addressing population increase near a pipeline (49 CFR 192.611) would result in superior safety, environmental protection, and reliability (see Section 4).

5.1 Current Regulatory Requirements

This section describes the current regulatory requirements in 49 CFR 192.611 that govern actions taken when population density increases along the pipeline.

OPS categorizes all locations along a gas pipeline according to the population near the pipeline (see 49 CFR 192.5). Locations with the smallest population (10 or fewer buildings intended for human occupancy within an area that extends 220 yards on either side of the centerline of any continuous one mile length of pipeline) are designated as Class 1. As the population along the pipeline increases, the class location increases. For example, Class 2 locations have more than 10 but fewer than 46 buildings intended for human occupancy. Class 3 locations have 46 or more buildings intended for human occupancy, or are areas where the pipeline lies within 100 yards of either

a building or small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12 month period. Class 4 locations are any class location unit where buildings with four or more stories above ground are prevalent (e.g. large office buildings).

All of the NGPL class location change pipe segments identified in Section 4 are changing from Class 2 to Class 3.

Pipeline safety regulations impose more stringent design and operational requirements as the class location increases. When a pipe segment changes to a higher class (e.g., from class 2 to class 3), the operator must lower operating pressure to provide an additional margin of safety, unless a pressure test on the pipe has confirmed that a prescribed safety margin exists. If a previous pressure test has not confirmed the prescribed safety margin, then the operator must test the pipe to confirm the margin. In situations where it is not possible to confirm through testing, the operator must replace the pipe with new pipe that has the prescribed design factor, unless the operator wants to reduce operating pressure.

Because of the importance of providing reliable natural gas service to its customers, NGPL is not considering permanent operating pressure reduction as a realistic alternative since this would decrease the quantity of gas that the company could deliver. To comply with pipeline safety regulations, NGPL would have to replace pipe in these five segments. Replacing existing pipe with new pipe that has the prescribed design factor eliminates the possibility that defects from the original materials and construction, as well as corrosion that may have occurred since installation, will result in a failure.

5.2 NGPL's Risk Control Alternatives

For each class location change area described in Section 4, NGPL has performed risk analyses to understand and characterize the existing risks to the pipeline and defined specific alternatives to replacing pipe for controlling these risks. NGPL identified outside force damage and corrosion as the principal risks to the pipeline in the class location segments and the surrounding sections and defined the following risk control alternatives (also summarized in Table 1):

- Internally inspecting class location change segments using geometry and magnetic flux leakage in-line inspection tools. Gas pipeline safety regulations do

not currently require internal inspection. These tools will identify indications of wall loss (e.g. corrosion), as well as dents and gouges from initial construction damage or third party excavators working along the pipeline right-of-way. OPS reviews results of these internal inspections as they are completed.

- Internally inspecting an extended length of pipe bordering each class change segment to further extend the benefits of the better integrity analysis. NGPL has already internally inspected approximately 310 miles of pipe.

• Repairing indications of corrosion or existing construction and outside force damage identified by the internal inspection. NGPL is using conservative investigation and repair criteria in the class location change sites and in an additional length of pipe bordering those sites. The criteria call for investigation and repairs of small dents and anomalies that are well below the size at which a challenge to pipeline integrity might be expected.

- Performing close-interval surveys on the five class location segments and an extended length of pipe bordering each class location segment, as an added measure to detect possible pipeline corrosion. NGPL has surveyed approximately 257 miles of pipe.

• Pressure testing the five class location change segments, an extended length of pipe that encompasses each class location segment, and additional segments on the same pipelines. NGPL has pressure tested approximately 60 miles of pipe.

• Enhancing damage prevention activities in the class location change segments and an additional length of pipe bordering each class location segment. Damage caused by excavators near the pipeline represents one of the highest risks to the five class location change areas. This multi-faceted damage prevention program includes:

- Annual verification of one-call system database information to ensure accuracy of pipeline data;
- Increasing contact with local contractors that may be working near the pipeline to provide information on safe practices when planning and performing work near pipelines;
- Having more frequent face-to-face contact with landowners and residents near the pipeline to provide information on safe practices and prevent potential damage to the pipeline;
- Expanding distribution of information on pipeline awareness and potential hazards to nearby residents;
- Regularly verifying the depth of cover over the pipeline to protect it from the risk of excavation damage;

- Increasing the number of pipeline markers along the segment to alert potential excavators of the line's presence; and
- Increasing local patrolling frequency.
- Increasing contacts with local emergency planners and emergency responders to ensure preparation for

more effective and coordinated response to emergencies.

- Conducting public education on the subject of pipeline safety; part of this education program will be specifically developed for students in schools in the immediate vicinity of the Gulf Coast line class location segments.

- Continuing the NGPL current investigation, analysis, and mitigation

program for Stress Corrosion Cracking (SCC). This company program, initiated in response to recent experience on the NGPL system, involves integration of data regarding soil, coating, and pipe characteristics to identify areas of probable susceptibility to SCC. These areas are then investigated further to determine if SCC is present; any detected SCC is mitigated.

TABLE 1.—ALTERNATIVE ACTIVITIES

Project site	49 CFR 192.611 requirements	Alternative activities
Amarillo #3 Line (106 miles)		
1. Will County, IL, Class 2 to 3, 4912 feet, Milepost 978–979, Highest risk: 3rd party damage, corrosion.	Pipe replacement	Run both metal loss & geometry in-line inspection tools. Repair anomalies within 106 mile segment (at exemption site, use more stringent investigation and repair criteria than standard company practice). Close-Interval Survey 53 miles. Hydrostatic test 4912 feet. Enhanced damage prevention. Work w/local Emergency Mngmt. Depts.
Gulf Coast #1 Line (32 Miles)		
2. Liberty County, TX, Class 2 to 3, 1177 feet, Milepost 288–289, Highest risk: 3rd party damage, corrosion.	Pipe replacement	Run both metal loss & geometry in-line inspection tools. Repair anomalies within 32 mile segment (at exemption site, use more stringent investigation and repair criteria than standard industry practice). Close Interval Survey 32 miles. Hydrostatic test 15 miles. Enhanced damage prevention. Work w/local Emergency Mngmt. Depts. Public Education Program for Schools.
Gulf Coast #2 Line (82 miles)		
3. Liberty County, TX, Class 2 to 3; 1116 feet, Milepost 288–289; Highest risk: 3rd party damage, corrosion	Pipe replacement	Run both wall loss & geometry in-line inspection tools. Repair anomalies within 82 mile segment (at exemption site, use more stringent investigation and repair criteria than standard industry practice). Close Interval Survey 82 miles. Hydrostatic test 15 miles. Enhanced damage prevention. Work w/local Emergency Mngmt. Depts. Public Education Program for Schools.
Louisiana #1 Line (45 miles)		
4. Liberty County, TX, Class 2 to 3, 4.4 miles, Milepost 23–28, Highest risk: corrosion, 3rd party damage.	Pipe replacement	Run both wall loss & geometry in-line inspection tools. Repair anomalies within 45 mile segment (at exemption site, use more stringent investigation and repair criteria than standard company practice). Close Interval Survey 45 miles. Hydrostatic test 14.4 miles. Enhanced damage prevention. Work w/local Emergency Mngmt. Depts.

TABLE 1.—ALTERNATIVE ACTIVITIES—Continued

Project site	49 CFR 192.611 requirements	Alternative activities
Louisiana #2 Line (45 miles)		
6. Liberty County, TX, Class 2 to 3, 4.4 miles, Milepost 23–28, Highest risk: corrosion, 3rd party damage.	Pipe replacement	Run both wall loss & geometry in-line inspection tools. Repair anomalies within 45 mile segment (at exemption site, use more stringent investigation and repair criteria than standard company practice). Close Interval Survey 45 miles. Hydrostatic test 14.4 miles. Enhanced damage prevention. Work w/local Emergency Mngmt. Depts.

As part of the company's risk evaluation, NGPL has compared the risk reduction produced by these alternatives to that achieved by the current regulations. OPS has reviewed this evaluation in detail and concluded that the alternative risk control activities can be expected to reduce safety and environmental risk below that which would be achieved by compliance with 49 CFR 192.611. Furthermore, because of the resources saved by not having to replace pipe in these five locations, NGPL is able to conduct internal inspections and pressure tests on additional portions of its system.

Based on the PRT's evaluation of the these alternatives, OPS intends to exempt NGPL from the pressure confirmation requirements of 49 CFR 192.611. In lieu of compliance with this requirement, NGPL will implement the Alternatives and, along with OPS, monitor their effectiveness.

6. Regulatory Perspective

Why Is OPS Considering This Project Modification?

OPS believes that the proposed risk control alternatives will improve protection for the environment and the communities in the vicinity of NGPL's pipelines. OPS believes NGPL's risk-based justification of the alternatives to the class change regulations is technically sound. OPS also believes that this modification to the NGPL demonstration project will help OPS further the overall goals of the Risk Management Demonstration Program. In particular, as a result of this modification there will be an increased sharing of information between the company and government about potential pipeline risks and activities to address those risks, as OPS reviews the results of the inspection and testing activities that are part of the Alternatives. This sharing will increase OPS's knowledge and awareness about

potential pipeline threats, and thereby support a more effective regulatory role in improving safety and environmental protection.

How Will OPS Oversee the Alternatives?

After approving the proposed modifications, the PRT will monitor the implementation and results of the Alternatives, as part of its continued monitoring of the Demonstration Project. The PRT is a more comprehensive oversight process that draws maximum technical experience and perspective from all affected OPS regional and headquarters offices, and from any affected state agencies that would not normally provide oversight on interstate transmission projects.

OPS retains its authority to enforce NGPL's compliance with the pipeline safety regulations. OPS plans to exempt compliance from 49 CFR 192.611 at those five segments where NGPL has demonstrated that its proposed risk alternatives should provide superior protection. Should the demonstration project performance measures or other information subsequently indicate that superior protection has not been achieved or is unlikely to continue to be achieved, then OPS can require NGPL to again comply with 49 CFR 192.611.

Information Provided to the Public

(1) NGPL "Application and Work Plan for DOT-OPS Risk Management Demonstration Program", available in Docket No. RSPA-98-3893 at the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001, (202) 366-5046.

(2) Pipeline Safety: Intent to Approve and Environmental Assessment for the Natural Gas Pipeline Company of America Pipeline Risk Management Demonstration Project, [63 FR 46497, September 1, 1998].

(3) Pipeline Safety: Natural Gas Pipeline Company of America;

Approved for Pipeline Risk Management Demonstration Program (includes Finding of No Significant Impact) [64 FR 1067, January 7, 1999].

(4) "Risk Management Demonstration Project Order," Reference No. RMD 98-4, December 31, 1998.

(5) Pipeline Safety: Remaining Candidates for the Pipeline Risk Management Demonstration Program, [62 FR 53052, October 10, 1997].

This Notice is OPS's final request for public comment before OPS intends to approve the described modification of NGPL's Risk Management Demonstration Project.

Issued in Washington, DC, on August 10, 2001.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 01-20721 Filed 8-16-01; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34073]

Henry G. Hohorst, Bruce Hohorst, and Anthony M. Linn and The West Tennessee Railroad, LLC—Corporate Family Transaction Exemption

Henry G. Hohorst, Bruce Hohorst, and Anthony M. Linn, individuals (applicants), have filed a verified notice of exemption to continue in control of The West Tennessee Railroad, LLC (WTNN), a New Jersey limited liability company, upon its succeeding to the operating rights and responsibilities of West Tennessee Railroad Corp. (WTRC) and its leasing a line of railroad from Norfolk Southern Railway Company (NSR).

The transaction was scheduled to be consummated on or after August 1, 2001.

This transaction is related to STB Finance Docket No. 34039, *The West*

Tennessee Railroad, LLC—Lease and Operation Exemption—Norfolk Southern Railway Company, wherein WTNN seeks to lease and operate an approximately 140.1-mile line of railroad between Fulton, KY, and Corinth, MS, currently owned and operated by NSR.

Applicants own South Central Rail Group, Inc., which, in turn, owns WTRC¹ and a controlling interest in the Tennken Railroad Co. Applicants also own rail carriers SCTRR, LLC and IRW Railway, LLC.

This is a transaction within a corporate family that will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(3).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34073, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John F. McHugh, McHugh & Barnes, P.C., 20 Exchange Place, New York, NY 10005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: August 9, 2001.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 01-20513 Filed 8-16-01; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34039]

The West Tennessee Railroad, LLC— Lease and Operation Exemption— Norfolk Southern Railway Company

The West Tennessee Railroad, LLC (WTNN), a New Jersey limited liability company, has filed a verified notice of exemption under 49 CFR 1150.31 to lease and operate, pursuant to an agreement entered into with Norfolk Southern Railway Company (NSR), approximately 140.1 miles of rail line. The subject line runs from milepost IC-406.1 at Fulton, KY, to milepost IC-525.0, one mile north of Ruslor Junction (Corinth), MS. The transaction includes the Bemis to Poplar Corner, TN branch line from milepost GW-0.0 to GW-15.0, the Jackson, TN connection track from milepost GH-0.0 to GH-2.2, and the Lawrence and Carroll, TN branch line from milepost MM-388.5 to MM-394.5, as well as all associated tracks and spurs. WTNN will also acquire trackage rights between milepost IC-525.0 and NSR's connection with The Kansas City Southern Railway Company at milepost IC-526.0 in Corinth.¹

The transaction was scheduled to be consummated on or after August 1, 2001.

This transaction is related to STB Finance Docket No. 34073, *Henry G. Hohorst, Bruce Hohorst, and Anthony M. Linn—Continuance in Control Exemption—The West Tennessee Railroad, LLC*, wherein Henry G. Hohorst, Bruce Hohorst, and Anthony M. Linn have concurrently filed a notice of exemption to continue in control of WTNN upon its succeeding to the interests of a predecessor entity, West Tennessee Railroad Corp., and its leasing and operating the subject line.

If this notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance

Docket No. 34039, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John F. McHugh, McHugh & Barnes, P.C., 20 Exchange Place, New York, NY 10005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: August 9, 2001.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 01-20512 Filed 8-16-01; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

CUSTOMS SERVICE

[T.D. 01-56]

Customs Accreditation of Camin Cargo Incorporated as a Commercial Laboratory

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of accreditation of Camin Cargo, Inc. of Linden, New Jersey as a commercial laboratory.

SUMMARY: Camin Cargo, Inc. of Linden, New Jersey, has applied to U.S. Customs under § 151.12 of the Customs Regulations for an extension of accreditation as a commercial laboratory to analyze petroleum product under Chapter 27 and Chapter 29 of the Harmonized Tariff Schedule of the United States (HTSUS). Customs has determined that this company meets all of the requirements for accreditation as a commercial laboratory. Specifically, Camin Cargo, Inc. has been granted accreditation to perform the following tests methods at their Pasadena Texas site: (1) API Gravity by Hydrometer, ASTM D287; (2) API Gravity by Densitometer, ASTM D4052; (3) Water and Sediment in Crude Oils by Centrifuge, ASTM D4007; (4) Water and Sediment in Fuel Oils by Centrifuge, ASTM D1796; (5) Knock Characteristics of Motor Fuels by Research Method, ASTM D2699; (6) Knock Characteristics of Motor and Aviation Fuels by Motor Method, ASTM D2700; (7) Water in Petroleum Products and Bituminous Materials by Distillation, ASTM D95; (8) Water in Liquid Petroleum Products by Karl Fischer Reagent (Titration Method), ASTM D1744; (9) Vapor Pressure of Petroleum Products (Reid Method), ASTM D323; (10) Vapor Pressure of

¹ WTNN is a restructured WTRC, a Tennessee corporation. WTNN has the same owners, address, representatives, and officers as WTRC, STRC operates a line from Lawrence, TN, to Kenton, TN, under a lease-operating agreement.

¹ WTNN certifies that its projected annual revenues will not exceed those that would qualify it as a Class III carrier.

Petroleum Products (Mini Method), ASTM D5191; (11) Kinematic Viscosity, ASTM D445; (12) Sediment in Crude Oils and Fuel Oils by Extraction, ASTM D473; (13) Percent by Weight of Sulfur by Energy-Dispersive X-Ray Fluorescence, ASTM D4294. Therefore, in accordance with Part 151.12 of the Customs Regulations, Camin Cargo, Inc. is hereby accredited to analyze the products named above.

Location: Camin Cargo, Inc. accredited site is located at: 1800 Dabney Drive, Pasadena, Texas 77536.
Effective Date: August 13, 2001.

FOR FURTHER INFORMATION CONTACT: Michael Parker, National Quality Manager, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Suite 1500 North, Washington, D.C. 20229, (202) 927-1060.

Dated: August 13, 2001.

Ira S. Reese,

Acting Executive Director, Laboratories and Scientific Services.

[FR Doc. 01-20830 Filed 8-16-01; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS-4-89]

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, PS-4-89 (TD 8580), Disposition of an Interest in a Nuclear Power Plant (§ 1.468A-3).

DATES: Written comments should be received on or before October 16, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be

directed to Allan Hopkins, (202) 622-6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Disposition of an Interest in a Nuclear Power Plant.

OMB Number: 1545-1378.

Regulation Project Number: PS-4-89.

Abstract: This regulation relates to certain Federal income tax consequences of a disposition of an interest in a nuclear power plant by a taxpayer that has maintained a nuclear decommissioning fund with respect to that plant. The regulation affects taxpayers that transfer or acquire interests in nuclear power plants by providing guidance on the tax consequences of these transfers. In addition, the regulation extends the benefits of Internal Revenue Code section 468A to electing taxpayers with an interest in a nuclear power plant under the jurisdiction of the Rural Electrification Administration.

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: 70.

Estimated Time Per Respondent: 8 hrs., 13 mins.

Estimated Total Annual Burden Hours: 575 hours.

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 14, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01-20838 Filed 8-16-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the New York Metro Citizen Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the New York Metro Citizen Advocacy Panel will be held in Uniondale, New York.

DATES: The meeting will be held Friday, September 14, 2001.

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 14, 2001, 6 p.m. to 9:20 p.m. at the Marriott Hotel located at 101 James Doolittle Blvd., Uniondale, 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 9 p.m. to 9:20 p.m. on Friday, September 14, 2001.

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.

August 10, 2001.

Cynthia Vanderpool,

Director, CAP, Communications and Liaison.

[FR Doc. 01-20839 Filed 8-16-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Florida Citizen Advocacy Panel

ACTION: Notice.

SUMMARY: An open meeting of the Florida Citizen Advocacy Panel will be held in Sunrise CAP Office, Florida.

DATES: The meeting will be held Friday, September 14, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Ferree at 1-888-912-1227, or 954-423-7973.

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 open meeting of the Citizen Advocacy Panel will be held Friday, September 14, 2001 from 9 a.m. to 12 p.m. and from 1 p.m. to 4 p.m., at The Sunrise Hilton, 3003 N. University Drive, Sunrise, FL 33322. The public is invited to make oral comments. Individual comments will be limited to 10 minutes. If you would like to have the CAP consider a written statement, please call 1-888-912-1227 or 954-423-7973, or write Nancy Ferree, CAP Office, 7771 W. Oakland Park Blvd. Rm. 225, Sunrise, FL 33351, or e-mail firstcapsfl@mindspring.com. Due to limited conference space, notification of intent to attend the meeting must be made with Nancy Ferree. Ms. Ferree can be reached at 1-888-912-1227 or 954-423-7973, or e-mail firstcapsfl@mindspring.com.

The agenda will include the following: various IRS issue updates and reports by the CAP sub-groups.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

August 10, 2001.

Cindy Vanderpool,

Director, CAP, Communications and Liaison.

[FR Doc. 01-20840 Filed 8-16-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Midwest District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: A meeting of the Midwest Citizen Advocacy Panel will be held in Milwaukee, Wisconsin.

DATES: The meeting will be held Thursday, August 23, 2001, and Friday, August 24, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra McQuin at 1-888-912-1227 (in Wisconsin, Iowa, Nebraska and Illinois), or 414-297-1604.

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 open meeting of the Citizen Advocacy Panel (CAP) will be held Thursday, August 23, 2001, from 9 a.m. to 4 p.m. and Friday, August 24, 2001, from 8 a.m. to Noon at the University of Wisconsin, Milwaukee Center for Continuing Education, 161 West Wisconsin Avenue, Milwaukee, WI. The Citizen Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service. Public comments will be welcome during the meeting, or you can submit written comments to the panel by faxing to (414) 297-1623, or by mail to Citizen Advocacy Panel, Mail Stop 1006 MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203-2221.

The Agenda will include the following: Reports by the CAP sub-groups, presentation of taxpayer issues by individual members, discussion of issues, and an update on recruitment for new panel members.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

August 9, 2001.

Cynthia Vanderpool,

Acting CAP, Communication and Liaison.

[FR Doc. 01-20841 Filed 8-16-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

United States Mint

Privacy Act of 1974; System of Records

AGENCY: United States Mint, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the U.S. Mint, Treasury, is publishing its Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB), Circular No. A-130, the U.S. Mint has completed a review of its Privacy Act systems of records notices to identify changes that will more accurately describe these records.

Changes to the "Categories of records" described under U.S. Mint .003—Employee and Former Employee Travel & Training Accounting Information System, have been made to update form titles and numbers.

The title of U.S. Mint .008 has been changed from Criminal Investigations Files' to "Employee Background Investigations Files."

Other changes throughout the notices are editorial in nature and consist principally of changes to the "System Locations" and/or "System Manager(s) Address."

One system of records, Mint .002—Current Employee Security Identification Record was deleted December 14, 2000, as published at 65 FR 78261.

Systems Covered by This Notice

This notice covers all systems of records adopted by the U.S. Mint up to June 1, 2001. The systems notices are reprinted in their entirety following the Table of Contents.

Dated: August 7, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Table of Contents

United States Mint

- Mint .001—Cash Receivable Accounting Information System
- Mint .003—Employee and Former Employee Travel & Training Accounting Information System
- Mint .004—Occupational Safety and Health, Accident and Injury Records, and Claims for Injuries or Damage Compensation Records
- Mint .005—Employee-Supervisor Performance Evaluation, Counseling, and Time and Attendance Records
- Mint .007—General Correspondence
- Mint .008—Employee Background Investigations Files (Formerly: Criminal Investigations Files)
- Mint .009—Mail Order and Catalogue Sales System (MACS), Customer Mailing List, Order Processing Record for Coin Sets, Medals And Numismatic Items, and Records of Undelivered Orders, Product Descriptions, Availability And Inventory
- Mint .012—Grievances. Union/Agency

Negotiated Grievances; Adverse Performance Based Personnel Actions; Discrimination Complaints; Third Party Actions

**United States Mint
Treasury/U.S. Mint .001**

SYSTEM NAME:

Cash Receivable Accounting Information System—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 801 9th Street, NW, Washington, DC 20220; United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Mint, 155 Hermann Street, San Francisco, CA 94102; United States Mint, West Point, NY 10996; United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the United States Mint and the general public who have: (a) Served on jury duty when employed by the United States Mint; (b) paid for lost Government property belonging to the Mint; (c) purchased numismatic items from Mint sales outlets; and (d) have obtained travel advances.

Categories of records in the system:

(1) Receivables due from Mint employees, former employees and general public for lost Government property, salary overpayments, and cash sales of over-the-counter numismatic items; and (2) Receivables due from Mint employees and former employees who have outstanding travel advances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5537 and 31 U.S.C. 5111 (a)(3).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to disclose information to: (1) Accounting offices, managers, supervisors and government officials pertaining to cash receivables and debts owed the Government; (2) appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (3) a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or

necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings; (5) foreign governments in accordance with formal or informal international agreements; (6) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (9) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

Name or number substitute.

SAFEGUARDS:

Storage in filing cabinets with access by authorized accounting personnel.

RETENTION AND DISPOSAL:

General records control schedule, GAO rules and regulations, United States Mint Records Control Schedule. Records are destroyed in accordance with National Archives and Records Administration regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer, United States Mint, 801 9th Street, NW, Washington, DC 20220; Financial Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106; Financial Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Financial Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102; Chief, Accounting Division, United States Mint, West Point, NY 10996; Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Refer to System manager(s) and address. An employee or former employee is required to show an identification such as: (a) Employee identification; (b) Driver's license; (c) Other means of identification, including social security number and date of birth.

RECORD ACCESS PROCEDURE:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Disclosure Officer, United States Mint, Office of Management Services, 801 9th Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

Refer to "Record access procedures."

RECORD SOURCE CATEGORIES:

U.S. Mint employees and appropriate agency officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/U.S. Mint .003

SYSTEM NAME:

Employee and Former Employee Travel and Training Accounting Information System—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 801 9th Street, NW, Washington, DC 20220; United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Mint, 155 Hermann Street, San Francisco, CA 94102; United States Mint, West Point, NY 10996; United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the United States Mint who have engaged in travel and training.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Schedule of Payments generated from the Electronic Certification System (ECS) with supporting documents such as: (a) SF 1012 Travel Voucher; (b) SF 1038 Application and Account for Advance of Funds; (2) Travel Authorities; (3) SF-182, Request, Authorization, Agreement and Certification of Training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 41 and 57.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to disclose information to: (1) Accounting offices, managers, supervisors and government officials pertaining to cash receivables and debts owed the Government; (2) appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (3) a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings; (5) foreign governments in accordance with formal or informal international agreements; (6) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (9) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper documents.

RETRIEVABILITY:

Name or number substitute (social security number, authority number).

SAFEGUARDS:

Stored in filing cabinets with access by authorized accounting personnel.

RETENTION AND DISPOSAL:

General Records Control Schedule, GAO rules and regulations, United States Mint Records Control Schedule

are destroyed in accordance with National Archives and Records Administration regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer, United States Mint, 801 9th Street, NW, Washington, DC 20220; Financial Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106; Financial Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Financial Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102; Chief, Accounting Division, United States Mint, West Point, NY 10996; Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Refer to System manager(s) and address. An employee or former employee is required to show an identification such as: (a) Employee identification; (b) Driver's license; and (c) Other means of identification including social security number and date of birth.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Disclosure Officer, United States Mint, Office of Management Services, 801 9th Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

Refer to "Record access procedures."

RECORD SOURCE CATEGORIES:

United States Mint employees and appropriate agency officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/U.S. Mint .004**SYSTEM NAME:**

Occupational Safety and Health, Accident and Injury Records, and Claims for Injuries or Damage Compensation Records—Treasury/United States Mint.

SYSTEM LOCATION:

Location and Category of Records Maintained: United States Mint, 801 9th Street, NW, Washington, DC 20220—Accident/Injury/Illness Records, Vehicle Accident, and Claims against the Government; United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106—Accident/Injury/Illness Records, Motor Vehicle Accident Data, Claims against the Government, Safety Equipment Logs, and Operators Training/Licensing;

United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Accident/Injury/Illness Records, Motor Vehicle Accident Data, Claims against the Government, Safety Equipment Logs, and Operators Licensing; United States Mint, 155 Hermann Street, San Francisco, CA 94102; Accident/Injury/Illness Records, Motor Vehicle Accident Data, Claims against the Government, Safety Equipment Logs, and Operators Training/ Licensing; United States Mint, West Point, NY 10996; Accident/Injury/Illness Records, Motor Vehicle Accident Data, Claims against the Government, and Safety Equipment Logs; United States Bullion Depository, Fort Knox, KY 40121; Accident/Injury/Illness Records, Motor Vehicle Accident Data, and Claims against the Government.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Mint employees, former employees and members of the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Refer to "System location."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Ch. 81; 29 U.S.C. 668; 29 CFR 1910; E.O. 12196, 28 U.S.C. 2680 et seq; 31 U.S.C. 3701 and 3721; and 31 CFR Parts 3 and 4.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to disclose information to: (1) Appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (2) a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (3) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings; (4) foreign governments in accordance with formal or informal international agreements; (5) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) the news media in

accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (7) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (8) physicians providing medical services or advice to Mint management and/or employees, or to private physicians of Mint employees, for the purpose of assisting in making medical diagnoses or treatment.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Locked file cabinets available to authorized personnel only.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Control Schedules; DOL, OSHA; EPA; and United States Mint Records Control Schedules; are destroyed in accordance with National Archives and Records Administration rules and regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Human Resources, Associate Director for Protection, Safety Officer, Treasury Department, United States Mint, 801 9th Street, NW, Washington, DC 20220; Personnel Officer and Safety Officer, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106; Personnel Officer, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Personnel Officer and Safety Officer, United States Mint, 155 Hermann Street, San Francisco, CA 94102; Administrative Officer, United States Mint, West Point, NY 10996; Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Refer to System manager(s) and address. An employee or former employee is required to show an identification such as: (a) Employee identification; (b) Driver's license; and (c) Other means of identification, including social security number and date of birth.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following

official: Disclosure Officer, United States Mint, Office of Management Services, 801 9th Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

Refer to "Record access procedures."

RECORD SOURCE CATEGORIES:

Employees, supervisors, medical staff, general public, and visitors to the facilities of the United States Mint.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/U.S. Mint .005

SYSTEM NAME:

Employee—Supervisor Performance Evaluation, Counseling and Time and Attendance Records—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 155 Hermann Street, San Francisco, CA 94102; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Mint, 801 9th Street, NW., Washington, DC 20220; United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106; United States Mint, West Point, NY; United States Bullion Depository, Fort Knox, KY 40121; and United States Mint, Customer Care Center, 10003 Derekwood Lane, Lanham, MD 20706.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Mint employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information necessary for managers and supervisors to effectively carry out supervisory responsibilities. Included are such records as: copies of personnel actions, performance appraisal including production and control, disciplinary actions, overtime reports, tardiness reports, work assignments, training reports, applications for employment, home addresses, leave reports, employee awards. (Supervisors maintain varying combinations of the above records. Some supervisors may maintain all or none of the above records depending upon the nature and size of the operation or organization and the number of individuals supervised.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and FPM Supplement 990—1, Section 3.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to disclose

information to: (1) Appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (2) a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (3) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings; (4) foreign governments in accordance with formal or informal international agreements; (5) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (7) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents maintained in folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Stored in file cabinets and desks of supervisors.

RETENTION AND DISPOSAL:

Retained as long as employee is under their supervision.

SYSTEM MANAGER(S) AND ADDRESS:

Associate and Assistant Directors and Director's Staff, United States Mint, 801 9th Street, NW., Washington, DC 20220, and Customer Care Center, 10003 Derekwood Lane, Lanham, MD 20706; Superintendent, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106; Superintendent, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Superintendent, United States Mint, 155 Hermann Street, San Francisco, CA

94102; Superintendent, United States Mint, West Point, NY 10996; Officer-in-Charge, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Refer to System manager(s) and address. Employee or former employee is required to show identification such as: identification card, driver's license.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Disclosure Officer, United States Mint, Office of Management Services, 801 9th Street, NW., Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

Refer to "Record access procedures."

RECORD SOURCE CATEGORIES:

Employees, previous employers, and appropriate agency officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/U.S. Mint .007

SYSTEM NAME:

General Correspondence—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 801 9th Street, NW, Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public, Members of Congress, Mint officials and officials from other Federal agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming correspondence and replies pertaining to the mission, function and operation of the United States Mint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 5131 and 5132.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to disclose information to: (1) Appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (2) a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an

employee, or issuance of a security clearance, license, contract, grant, or other benefit; (3) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings; (4) foreign governments in accordance with formal or informal international agreements; (5) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (7) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and electronic files.

RETRIEVABILITY:

By name (limited retrievability by subject and/or control number).

SAFEGUARDS:

Maintained in limited access area available only to appropriate agency officials.

RETENTION AND DISPOSAL:

In accordance with the National Archives and Records Administration's General Records Control Schedule and the United States Mint Records Control Schedule. Destroyed in accordance with National Archives and Records Administration regulation.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Executive Secretariat, United States Mint, 801 9th Street, NW, Washington, DC 20220.

NOTIFICATION PROCEDURE:

Refer to System Manager for addresses to which inquiries may be addressed and addresses at which the individual may present a request as to whether a system contains records pertaining to himself/herself. The individual must supply his/her name.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Disclosure Officer, United States Mint, Office of Management Services, 801 9th Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

Refer to "Record access procedures."

RECORD SOURCE CATEGORIES:

The general public, Members of Congress and Federal officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/U.S. Mint .008

SYSTEM NAME:

Employee Background Investigations Files—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 801 9th Street, NW, Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mint employees and members of the public suspected of criminal misconduct against the United States Mint.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, location of Mint facility, and reports by security personnel of the U.S. Mint Police.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 18 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in the records may be used to disclose information to: (1) Appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (2) a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (3) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings; (4) foreign governments in accordance with formal or informal international agreements; (5) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) the news media in accordance with guidelines contained in

28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (7) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are kept in a combination locked file cabinet in an area accessible to authorized agency officials.

RETENTION AND DISPOSAL:

Retained in accordance with United States Mint Records Control Schedule; are destroyed in accordance with National Archives and Records Administration rules and regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Protection, United States Mint, 801 9th Street, NW, Washington, DC 20220.

NOTIFICATION PROCEDURES:

Refer to System manager(s) and address.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Disclosure Officer, United States Mint, Office of Management Services, 801 9th Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

Refer to "Record access procedures."

RECORD SOURCE CATEGORIES:

United States Mint and other law enforcement officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

As authorized by 5 U.S.C. 552a(k)(2); this system is exempt from the following provisions, subsections (c)(3), (d), (e)(1); (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a.

Treasury/U.S. Mint .009

SYSTEM NAME:

Mail-order and Catalogue Sales System (MACS), Customer Mailing List, Order Processing Record for Coin Sets, Medals and Numismatic Items, and records of undelivered orders, product descriptions, availability and inventory-Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 801 9th Street, NW, Washington, DC 20220 and Customer Care Center, 10003 Derekwood Lane, Lanham, MD 20706.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, order history of customers purchasing numismatic items and of individuals who wish to receive notification of numismatic offerings by the Mint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 5111, 5112, 5132 and 31 CFR Part 92.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to disclose information to: (1) Accounting offices, managers, supervisors and government officials pertaining to cash receivables and debts owed the Government; (2) appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (3) a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings; (5) foreign governments in accordance with formal or informal international agreements; (6) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (8) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape, discs, paper and cards:

RETRIEVABILITY:

Name, customer number or order number.

SAFEGUARDS:

CRT, password protection; only designated persons may request computer generated reports. Access to any information pertaining to any individual is limited to only those individuals requiring the information to accommodate handling of transactions with the customers. Separation of functions; source documents maintained in one division and programming systems in another.

RETENTION AND DISPOSAL:

In accordance with the National Archives and Records Administration General Records Control Schedule and the United States Mint Records Control Schedule; are destroyed in accordance with National Archives and Records Administration regulations. Customer names and addresses are maintained as long as they are active.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Customer Care, Customer Care Center, 10003 Derekwood Lane, Lanham, MD 20706.

NOTIFICATION PROCEDURE:

Refer to System manager(s) and address. Individuals should supply order number as provided on order card or copy of both sides of canceled check; customer number which appears on pre-printed order cards or on face of check.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Disclosure Officer, United States Mint, Office of Management Services, 801 9th Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

Refer to "Record access procedures."

RECORD SOURCE CATEGORIES:

Members of the public and appropriate government officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/U.S. Mint .012

SYSTEM NAME:

Grievances. Union/Agency Negotiated Grievances; Adverse Performance Based

Personnel Actions; Discrimination Complaints; Third Party Actions—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, 801 9th Street, NW, Washington, DC 20220; United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Mint, 155 Hermann Street, San Francisco, CA 94102; United States Mint, West Point, NY 10996; United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the United States Mint.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to employee grievances filed under provisions of negotiated grievance procedures, administrative grievance procedures, adverse action procedures, performance based action procedures, and discrimination complaint procedures, including decision of appropriate third parties where applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7701 and 7702; 5 U.S.C. Ch. 75; and 5 U.S.C. Ch. 71. Executive Orders 11491, 11616, 11636, 11838, 11901, 12027, 12107; 29 CFR 1613; negotiated agreements between the United States Mint and exclusively recognized labor unions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to disclose information to: (1) Appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (2) a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or

the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (3) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings; (4) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (7) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders or binders.

RETRIEVABILITY:

These records are filed by the names of the individuals on whom they are maintained or by the subject of the action.

SAFEGUARDS:

Access to and use of these records are limited to those agency officials whose official duties require such access.

RETENTION AND DISPOSAL:

Retained in accordance with the United States Mint Records Control Schedules; are destroyed in accordance with National Archives and Records Administration rules and regulations.

SYSTEM MANAGER(S) AND ADDRESS:

For current and former employees: Assistant Director for Human Resources, United States Mint, Department of the Treasury, 801 9th Street, NW, Washington, DC 20220. Personnel Officer, United States Mint, 151 North Independence Mall East, Philadelphia,

PA 19106. Personnel Officer, United States Mint, 320 West Colfax Avenue, Denver, CO 80204. Personnel Officer, United States Mint, 155 Hermann Street, San Francisco, CA 94102. Personnel Officer, United States Mint, West Point, NY 10996. Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Individuals who have filed an action are provided a copy of the record. They may, however, contact the System Manager indicated above regarding the existence of such records pertaining to them. It is necessary to furnish information sufficient to verify the identity of the requester such as full name, date of birth, a brief description of the grievance and the approximate date of submission.

RECORD ACCESS PROCEDURES:

Individuals who have filed a grievance, appeal, or complaint about a decision or determination made by an agency or about conditions existing in an agency already have been provided a copy of the record. The contest, amendment, or correction of a record is permitted during the prosecution of the action to whom the record pertains. However, after a case has been closed, an individual may gain access to, or contest the official copy of the grievance record by writing the appropriate System Manager indicated above. Individuals should provide name, date of birth, a brief description of the action and the approximate date of submission.

CONTESTING RECORD PROCEDURES:

Refer to "Record access procedures."

RECORD SOURCE CATEGORIES:

The sources of these records are as follows: (a) Individual to whom the record pertains; (b) Agency officials; (c) Affidavits or statements from employee(s); (d) Testimonies of witnesses; (e) Official documents and correspondence relating to the grievance.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01-20702 Filed 8-16-01; 8:45 am]

BILLING CODE 4810-37-P

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF JUSTICE

[AAG/A Order No. 239–2001]

Privacy Act of 1974; System of Records

Correction

In notice document 01–18792 beginning on page 39199 in the issue of Friday, July 27, 2001, make the following correction:

On page 39200, in the second column, in paragraph “H.”, in the first line, “of” should read “or”.

[FR Doc. C1–18792 Filed 8–16–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

28 CFR PART 16

[AAG/A Order No. 241–2001]

Privacy Act of 1974; Implementation

Correction

In rule document 01–19895 appearing on page 41445 in the issue of Wednesday, August 8, 2001, make the following corrections:

§16.130 [Corrected]

1. On page 41445, in §16.130, in the the second column, in paragraph (1) Subsection (c)(3), in the ninth line, “of” should read “or”.

2. On the same page, in the same section, in the third column, in paragraph (6) Subsection (e)(1), in the fourth line, insert a “,” after the word “relevant”.

[FR Doc. C1–19895 Filed 8–16–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 242–2001]

Privacy Act of 1974; Implementation

Correction

In rule document 01–19896 beginning on page 41445 in the issue of Wednesday, August 8, 2001, make the following corrections:

1. On page 41446, in the first column, in the fourth line, insert “is” after the word “and”.

2. On the same page, in the same column, in the sixth line, “DOG–005”, should read “DOJ–005”.

§16.131 [Corrected]

3. On the same page, in the second column, in §16.131, in paragraph “(3)”, in the 12th line, remove the word “and”.

4. On the same page, in the same column, in the same section, in paragraph “(4)”, in the fourth line, insert “is” after the word “as”.

5. On the same page, in the same column, in the same section, in the same paragraph, in the second line from the bottom, “given” should read “give”.

[FR Doc. C1–19896 Filed 8–16–01; 8:45 am]

BILLING CODE 1505–01–D



Federal Register

Friday

August 17, 2001

Part II

Department of Agriculture

Rural Utilities Service

7 CFR Part 1755

**Telecommunications System Construction
Contract and Specifications; RUS
Standards for Service Installations at
Customer Access Locations; Final Rules**

DEPARTMENT OF AGRICULTURE**Rural Utilities Service****7 CFR Part 1755**

RIN 0572-AB41

Telecommunications System Construction Contract and Specifications**AGENCY:** Rural Utilities Service, USDA.**ACTION:** Final rule.

SUMMARY: The Rural Utilities Service (RUS) amends its regulations on Telecommunications Standards and Specifications for Materials, Equipment and Construction, by revising RUS Contract Form 515, Telephone System Construction Contract, and revising and renumbering RUS Bulletin 345-150, Specifications and Drawings for Construction of Direct Buried Plant (Form 515a); RUS Bulletin 345-151, Specifications and Drawings for Conduit and Manhole Construction (Form 515c); RUS Bulletin 345-152, Specifications and Drawings for Underground Cable Installation (Form 515d); RUS Bulletin 345-153, Specifications and Drawings for Construction of Pole Lines, Aerial Cables and Wires (Form 515f); and RUS Bulletin 345-154, Specifications and Drawings for Service Entrance and Station Protector Installation (Form 515g). The revised contract and specifications will incorporate the latest technology, remove redundant or outdated requirements, and simplify the specification format.

DATES: *Effective Date:* September 17, 2001.

Incorporation by Reference: The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Charlie I. Harper, Jr., Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1598, Washington, DC 20250-1598, telephone (202) 720-0667.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil

Justice Reform. RUS has determined that this final rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted, no retroactive effort will be given to this rule, and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeal procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

RUS has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS telecommunications program provides loans to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS borrowers, as result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements. Small entities are not subject to any requirements which are not applied equally to large entities.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule are pending approval by the Office of Management and Budget (OMB) under OMB control number 0572-0059, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW, Stop 1522, Washington, DC 20250-1522.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance program under No. 10.851, Rural Telephone Loans and Loan Guarantees, and No. 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the U.S. Government Printing Office, Washington, DC 20402-9325. Telephone (202) 512-1800.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034) exempts RUS and RTB loans and loan guarantees, and RTB bank loans, from coverage under this Order.

Unfunded Mandates

This final rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

Background

RUS issues contracts, standards and specifications for construction of telecommunications facilities financed with RUS loan funds. RUS is revising the RUS Contract Form 515, Telephone System Construction Contract, and revising and renumbering the associated supplemental specifications from RUS Bulletin 345-150 (RUS Form 515a) to RUS Bulletin 1753F-150 (RUS Form 515a), Specifications and Drawings for Construction of Direct Buried Plant; RUS Bulletins 345-151 (RUS Form 515c) and 345-152 (RUS Form 515d) combined into RUS Bulletin 1753F-151 (RUS Form 515b), Specifications and Drawings for Construction of Underground Plant; RUS Bulletin 345-153 (RUS Form 515f) to RUS Bulletin 1753F-152 (RUS Form 515c), Specifications and Drawings for Construction of Aerial Plant; and, RUS Bulletin 345-154 (RUS Form 515g) to RUS Bulletin 1753F-153 (RUS Form 515d), Specifications and Drawings for Service Installations at Customer Access Locations. The renumbering effort is to conform to the existing numbering system maintained by the agency.

The current RUS Contract Form 515, Telephone System Construction

Contract and the associated supplemental specifications are used by borrowers to secure the services of a contractor for the construction of telecommunications facilities. Because of advancements made in construction installation methods and materials, the present form of the contract and the associated specifications have become outdated. To allow borrowers and contractors to take advantage of these improved construction installation methods and materials, the current contract form and associated specifications have been revised.

Comments

On August 25, 2000, RUS published a proposed rule (65 FR 51773) to revise RUS Contract Form 515, Telephone System Construction Contract, and to revise and to renumber RUS Bulletin 345-150, Specifications and Drawings for Construction of Direct Buried Plant (Form 515a); RUS Bulletin 345-151, Specifications and Drawings for Conduit and Manhole Construction (Form 515c); RUS Bulletin 345-152, Specifications and Drawings for Underground Cable Installation (Form 515d); RUS Bulletin 345-153, Specifications and Drawings for Construction of Pole Lines, Aerial Cables and Wires (Form 515f); and RUS Bulletin 345-154, Specifications and Drawings for Service Entrance and Station Protector Installation (form 515g). Comments on this proposed rule were due December 26, 2000. Comments and recommendations were received from several interested parties by this due date. The comments, recommendations, and responses are summarized as follows:

Comment: One respondent commented that the proposed BM2A assembly unit in the proposed RUS Form 515a revision was not in compliance with the National Electrical Code® (NEC®).

Response: RUS concurs with the respondent's comment and has made appropriate corrections to the unit description and its associated drawing as follows:

a. Modify the BM2A assembly unit description to read as follows:
"BM2A *Housing Auxiliary Ground Assembly Unit*: Consists of the necessary labor and material for the installation of a ground rod clamp (if required) and the required length of a bare #6 AWG copper ground wire connected to a pole ground wire using a ground wire connector (see unit drawing BM2A)".

b. Modify the BM2A assembly unit drawing to show the proper placement of the connection according to the unit description. Additionally, add "Note 4"

to the drawing to read as follows:
"Clamp shall be accepted by Listing Agency (UL, etc.) for two conductors, otherwise two clamps shall be used."

Comment: One respondent commented that the BM80, 81, and 82 assembly unit drawing in the May 1989 issue of the RUS Form 515a indicates a 1-foot distance for placement of brackets from the top and bottom of the guard where the proposed BM80, 81, and 82 assembly unit drawing in the proposed RUS Form 515a revision shows a 1-inch distance. The respondent recommended that the proposed BM80, 81, and 82 assembly unit drawing be changed to indicate the 1-foot distance for placement of brackets from the top and bottom of the guard.

Response: RUS concurs with the recommendation and will modify the dimensions on the final BM80, 81, and 82 assembly unit drawing to indicate a 12-inch distance for placement of the brackets from the top and bottom of the guard instead of the 1-inch distance.

Comment: One commenter questioned the placement of the electric system ground connection at the house as shown in the proposed NID2 and NID3 assembly unit drawings in the proposed RUS Form 515d revision. The commenter recommended that the proposed NID2 and NID3 assembly unit drawings be changed to indicate the electric system ground connection be made from the power company's meter box instead of from the neutral power wire.

Response: RUS agrees with the commenter's recommendation and will modify the proposed NID2 and NID3 assembly unit drawings to show the electric system ground connection originating at the electric meter box.

Comment: One commenter recommended that a document titled "Consent of Surety Company to Final Payment" be included in the proposed RUS Form 515 contract revision.

Response: After much consideration, RUS has concluded that the inclusion of this document into the proposed RUS Form 515 contract revision would result in more burdensome bonding requirements than the United States Department of Agriculture's (USDA) standard bonding requirements. This additional requirement would also increase the paperwork burden and does not accomplish any added protection under the contract. Therefore, RUS will not modify the existing language of the proposed RUS Form 515 contract to require inclusion of this document into the contract.

Comment: One respondent recommended that the completion time in "days" in the "Notice to Bidders" of

the proposed RUS Form 515 contract revision be changed to read "calendar days (excluding Saturdays, Sundays, and legal holidays)" in order to be consistent with the language elsewhere in the proposed contract revision.

Response: RUS agrees with the recommendation and will change the existing language in the "Notice to Bidders" to the language recommended by the commenter.

Comment: The same respondent recommended that the maximum 3-inch bore diameter specified in the proposed BM61 assembly unit of the proposed RUS Forms 515a and 515d revisions be eliminated and that a suffix be utilized to indicate the size of the bore diameter.

Response: RUS agrees with the recommendation and will modify the proposed BM61 assembly unit to include the size of the bore diameter in inches specified in parentheses. The final BM61 assembly unit will now read as follows: "BM61() *Underground Non-Pipe Crossing Assembly Unit*—Consists of the labor in providing a hole in soil one (1) foot (0.305 m) in length and of a diameter in inches (meters) specified in parentheses. The depth of the hole below the surface of the ground shall be specified by the Engineer. This unit includes any excavation, backfilling and tamping necessary for the installation. This unit may be used where the permanent installation of a steel or plastic pipe under the BM60 unit is not required. The contractor will be compensated for labor and material for the buried cable or wire under separate units. Where directional boring is required, the unit will be suffixed by the letter "D".

Comment: The third comment from the same respondent concerned clarifying the manner in which the proposed BM71 assembly unit listed in the proposed RUS Forms 515a and 515d revisions is determined in construction. In particular, the capabilities of the equipment and number of passes with that equipment were pointed out as significant components of determination of when to decide to commence the rock unit.

Response: In review of revisions to the construction contract, RUS considered that there continues to be a need for local discretionary actions in the determination of several units. In case of the proposed BM71 assembly unit, there have been only minor changes in the description of the unit. Specific application of the proposed BM71 assembly unit in the field remains a determination by the engineer, as conditions vary in actual construction circumstances. Therefore, the existing language of the proposed BM71

assembly unit will not be modified as recommended by the commenter.

Comment: Comment four from the same respondent recommended that the proposed HBFO assembly unit description listed in the proposed RUS Form 515a revision be changed to a description similar to the proposed HBF assembly unit also listed in the proposed RUS Form 515a revision.

Response: RUS considers that there are advantages to several ways to describe the proposed HBFO unit. However, it is necessary in some circumstances to specify beyond the basic unit description. In practice, the situation is generally resolved by the engineering and design of the system at the specification stage. Respecting that there are advantages to other methods, there is not an overwhelming reason to modify the unit description. Therefore, RUS will not modify the proposed HBFO assembly unit description as recommended by the respondent.

Comment: The fifth comment from the same commenter questioned the reason for having a proposed BM22 assembly unit and a proposed PM22 assembly unit, both with similar uses. The proposed BM22 assembly unit is listed in the proposed RUS Form 515a revision and the proposed PM22 assembly unit is listed in the proposed RUS Form 515c revision.

Response: The proposed PM22 assembly unit is a carry-over from earlier construction practices and would be used in the case of all aerial construction, avoiding having a buried unit. RUS finds a possible application for the PM22 assembly unit that would avoid unnecessary duplication of the buried specification. There are also other assembly units that remain in similar circumstances (PM21 and BM21; UH and BH). Therefore, RUS will not eliminate the proposed PM22 assembly unit listed in the proposed RUS Form 515c revision.

Comment: Comment number six from the same commenter concerned removal of specifications and drawings for poured-in-place manholes from the proposed RUS Form 515b revision.

Response: The January 1990 issue of the RUS Form 515 contract specified poured-in-place manholes, with precast manholes as an option. The proposed RUS Form 515 contract revision indicates that precast manholes are the default with poured-in-place manholes as the option. It is RUS's intention to develop guidelines for poured-in-place manholes as a separate publication. RUS also recognizes that precast manhole products are made to certain industry standards and RUS chooses not to duplicate those efforts. Therefore, RUS

will not include the specifications and drawings for poured-in-place manholes in the RUS Form 515b revision as requested by the commenter.

Comment: The seventh comment from the same commenter recommended that an assembly unit for placing innerducts (sub-ducting) in larger conduits be added to the proposed RUS Form 515b revision.

Response: RUS agrees with the commenter that changes in technology have added to the scope of work that takes place where it would be advantageous to allow for such sub-ducting. Therefore, an additional description for innerduct in conduit (sub-ducting) will be added as a suffix to the UD assembly unit in the RUS Form 515b. In addition, an example of the new unit description will also be added to the UD assembly unit. The new suffix will be the letter "V" and its description and example will read and appear as follows:

"V—One or more vacant innerduct to be placed in a conduit. The parentheses for the UD unit shall indicate the number of innerducts followed by the inside diameter of the innerduct to be placed in new or existing conduit, including rodding and cleaning of the conduit if necessary".

"Example: UD(3–1.25)V—Indicates 3 innerducts of 1.25 inch inner diameter to be placed in new or existing conduit".

Comment: The last comment from the same respondent recommended that check off boxes for measuring fiber optic splice loss at 1310 and 1550 nanometers be added to the Table identified as Schedule of Acceptance Tests listed in the proposed RUS Form 515 contract revision.

Response: RUS agrees that all standard acceptance tests should be included in the table and will modify the table to include check off boxes for measuring fiber optic splice loss at 1310 and 1550 nanometers in the RUS Form 515 contract revision.

Comment: One respondent recommended that "ripping" be removed from the proposed BFC and BFO assembly units listed in the proposed RUS Form 515a revision. The respondent also recommended that "ripping" be included in the proposed RUS Form 515a revision as a separate assembly unit designated BM76. The reason for commenters' recommendations are due to several arguments, including options to control the number of ripping passes and the occasion when ripping will be used.

Response: Extensive discussions were conducted during the revision process and these discussions included many of

comments cited by the respondent. By including "ripping" in the proposed BFC and BFO cable placement assembly units, a cost impact is not anticipated. While there are merits to not changing the units, RUS views the change as a way to bid projects on an equitable basis. Therefore, RUS will not modify the proposed RUS Form 515a revision to include a separate assembly unit for "ripping".

Comment: The second comment from the same respondent concerned the definition of "cable placement operations" in the proposed RUS Form 515 contract revision, specifically whether an inspector is necessary during cable blowing operations.

Response: The reason that the "cable placement operation" definition in the proposed RUS Form 515 contract was initially changed was to better match the construction activities to the quantity of inspectors that were present on the project. This is the basis for the comment, for which additional definition would serve no purpose. Therefore, RUS will not modify the existing definition for "cable placement operations" in the RUS Form 515 contract revision.

Comment: The third comment from the same commenter questioned why shield to ground testing listed in the "Schedule of Acceptance Tests" table in the proposed RUS Form 515 contract revision should be performed on cable placed in plowcon.

Response: The purpose of shield to ground testing is to ensure that the contractor did not damage the cable in the placement operation. The point is valid, although the use of the specific application is not common enough for specific reference in the contract, although the owner could choose to relieve the contractor from this testing on a case-by-case basis.

Comment: Comment number four from the same commenter concerned the co-insurance option for liability insurance in the proposed RUS Form 515 contract revision, indicating that the telecommunications company and engineer could still be named in litigation.

Response: RUS agrees with the commenter that we can never avoid the possibility of litigation. At the request of borrowers, contractors, and engineers, the option to provide for added insurance was included in the proposed RUS Form 515 contract revision. By including this option, the borrower may select co-insurance as an added protection. Therefore, RUS will not remove the co-insurance liability option from the 515 contract revision.

Comment: Comment number five from the same respondent concerned the proposed BH assembly unit description listed in the proposed RUS Form 515a revision. The respondent recommended that the wording “to be used only in areas of pedestrian traffic” be removed from the assembly unit description because handholes are often placed in areas where the only pedestrian traffic is a coyote chasing a prairie dog.

Response: RUS agrees with the commenter’s recommendation. Therefore, RUS will change the wording “should be used only for areas of pedestrian traffic” in the BH assembly unit description of the proposed RUS Form 515a revision to “shall be used only in areas of non-vehicular traffic”. This will protect coyotes and prairie dogs.

Because the UH assembly unit description listed in the proposed RUS Form 515b revision is similar to the proposed BH assembly unit, the proposed UH assembly unit description listed in the RUS Form 515b revision will also be changed to indicate that these handholes should be used only in areas of non-vehicular traffic to make both assembly unit descriptions consistent.

Comment: The last comment from the same commenter concerned the minimum depth of a buried service wire in rock. The commenter pointed out that the “Table of Depths” specified in paragraph 3.2 of the proposed RUS Form 515d revision did not apply when the minimum depth in rock is 3 inches.

Response: RUS agrees with the commenter and will remove the “Table of Depths” specified in paragraph 3.2 from the proposed RUS Form 515d revision.

No other comments were received. RUS’ review of the proposed Form 515 contract, Form 515a, Form 515b, Form 515c, and Form 515d revisions revealed that these revisions needed additional clarification and consistency between existing RUS published contracts and between the individual proposed documents. Therefore to provide the needed clarification and to make individual documents consistent, RUS has made the following changes to the proposed document:

a. To insure that contractors and borrowers are using the latest issue of RUS forms related to the contract, a parenthetical statement indicating that the current issue of related RUS forms is to be utilized has been added to page i, Roman numeral III of the final RUS Form 515 contract.

b. To make the proposed RUS 515 contract’s approval period consistent

with other RUS published contract forms, the “60-day period” was changed to the “90-day period” in the “Instructions to Bidders, paragraph 10” and “Article VII, section 8” of the final RUS Form 515 contract.

c. To emphasize that the liquidated damage amount is an owner’s decision, the “Liquidated Damage Amount” along with page number references has been added to the index as the first item under the “Owner—Prior to Release for Bids Completes” heading of the final RUS Form 515 contract.

d. Editorial changes were made to the “Notice to Bidders” and “Instruction to Bidders” sections of final RUS Form 515 Contract by adding the “(s)” or “(ies)” to the words “state,” “county,” and “exchange” to indicated that the construction project could be performed in more than one location.

e. Changed the language “shown on the maps and construction sheets” in paragraph 18(d), “Instruction to Bidders”, to “shown on the construction sheets” of the final RUS Form 515 contract. The reason for the change in language is because the definition of “construction sheets” on page 97 of the final RUS Form 515 contract includes “maps”.

f. Removed the parenthetical statement indicating the type of pole preservatives allowed in “Section A—POLE UNITS” and “Section BA—BURIED PLANT HOUSING STUB POLE UNITS” listed in the final RUS Form 515 contract. The reason for removal is that the consulting engineer specifies the type of pole preservative to be used on poles and stub poles.

g. Moved the language “Rural Utilities Service (hereinafter called the “Administrator”))” from paragraph 3 to paragraph 2 of the “Contractor’s Proposal” in the final RUS Form 515 contract to place the reference in the appropriate paragraph.

h. Placed a parenthetical statement referencing the “RUS Form 168b or 168c” in paragraph 13 of the “Contractor’s Proposal” in the proposed RUS Form 515 contract to delineate the appropriate form to be used in the contractor’s proposal.

i. Changed the “BD12R” example shown in the proposed BD assembly unit of the proposed RUS Form 515a to a “BD14R” example. The reason for the change is because a BD12 size buried plant housing does not exist in the proposed assembly unit.

j. Changed the language “ripping (where necessary)” to “ripping (where necessary as determined by the Engineer)” in the proposed BFC and BFO assembly units in the final RUS

Form 515a to clarify the ripping application.

k. Changed the language “vacant tubes” to “vacant ducts” in the proposed “V()” suffix under the BFC and BFO assembly units in the final RUS Form 515a for consistency.

l. Added the suffix “T” to the BH assembly unit listed in the final RUS Form 515a to indicate that these type handholes can be used in areas of vehicular traffic if rated for such usage. The reason for the change is to make the BH assembly unit consistent with the UH assembly unit listed in the final RUS Form 515b.

m. Changed the language “suffixed by ‘E()’, where the required depth shall be shown inside the parentheses” to “suffixed by ‘E()’, where the required depth in rock shall be shown inside the parentheses” in the BM71 assembly unit listed in the final RUS Forms 515a and 515d. The reason for the change is to clarify that “E()” suffix associated with the proposed BM71 assembly unit specifically refers to the depth in rock rather than from the surface of the earth.

n. All assembly unit and construction guide drawings were reviewed for editorial content. The review resulted in RUS revising the drawings for editorial content to ensure consistent formatting, text font, leader dimensions, etc. This resulted in changing the issue date from “August 1999” to “March 2001” for all assembly unit and construction guide drawings listed in RUS Forms 515a, 515b, 515c, and 515d.

List of Subjects in 7 CFR Part 1755

Incorporation by reference, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For reasons set out in the preamble, RUS amends chapter XVII of title 7 of the Code of Federal Regulations as follows:

PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT AND CONSTRUCTION

1. The authority citation for part 1755 continues to read as follow:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

2. Section 1755.30(c)(34) is revised to read as follows:

§ 1755.30 List of telecommunications standard contract forms.

* * * * *

(c) List of telecommunications standard contract forms.

* * * * *

(34) RUS Form 515, issued September 17, 2001, Telecommunications Systems Construction Contract (Labor and Materials).

* * * * *

3. Section 1755.97 is amended by revising the section heading and the introductory text, removing the entries RUS Bulletins 345-150, 345-151, 345-152, 345-153, and 345-154 from the table and adding in numerical order new entries 1753F-150, 1753F-151, 1753F-152, and 1753F-153 to read as follows:

§1755.97 Incorporation by reference of telecommunications standards and specifications.
The following telecommunications bulletins have been approved for incorporation by reference by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These bulletins contain construction standards and specifications for materials and equipment and may be obtained from the Rural Utilities Service, Program Development and Regulatory Analysis, 1400 Independence Ave., SW, Stop 1522, Room 4028 South Building, Washington, DC 20250-1522. The

bulletins are available for inspection at RUS, at the address above, and the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. These materials are incorporated as they exist on the date of the approval and notice of any change in these materials will be published in the **Federal Register**. The terms "RUS form", "RUS standard form", "RUS specification", and "RUS bulletin" have the same meaning as the terms "REA form", "REA standards form", "REA specification", and "REA bulletin", respectively, unless otherwise indicated. The table of bulletins follows:

RUS Bulletin No.	Specification No.	Date last issued	Title of standard or specification
* * * * *	* * * * *	* * * * *	* * * * *
1753F-150	Form 515a	9/17/01	Specifications and Drawings for Construction of Direct Buried Plant.
1753F-151	Form 515b	9/12/01	Specifications and Drawings for Construction of Underground Plant.
1753F-152	Form 515c	9/17/01	Specifications and Drawings for Construction of Aerial Plant.
1753F-153	Form 515d	9/17/01	Specifications and Drawings for Service Installation at Customer Access Locations.
* * * * *	* * * * *	* * * * *	* * * * *

Dated: August 1, 2001.
Blaine D. Stockton,
Acting Administrator, Rural Utilities Service.
[FR Doc. 01-20120 Filed 8-16-01; 8:45 am]
BILLING CODE 3410-15-P

DEPARTMENT OF AGRICULTURE
Rural Utilities Service
7 CFR Part 1755
RUS Standard for Service Installations at Customer Access Locations
AGENCY: Rural Utilities Service, USDA.
ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) amends its regulations on Telecommunications Standards and Specifications for Materials, Equipment and Construction, by rescinding RUS Bulletin 345-52, RUS Standard for Service Entrance and Station Protector Installations, PC-5A, and codifying the revised standard in the Code of Federal Regulations (CFR) as the RUS Standard for Service Installations at Customer Access Locations. The revised standard updates the installation methods used for installing aerial and buried service drops, network interface devices, fused primary station protectors, and protected building entrance terminals at customer access locations as a result of technological advancements made in

installation practices and materials over the past 17 years.
DATES: *Effective Date:* September 17, 2001.
Incorporation by Reference: Incorporation by reference of certain publications listed in this final rule is approved by the Director of the Federal Register as of September 17, 2001.
FOR FURTHER INFORMATION CONTACT: Charlie I. Harper, Jr., Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250-1598, telephone (202) 720-0667.
SUPPLEMENTARY INFORMATION:
Executive Order 12866

This final rule is exempt from the Office of Management and Budget (OMB) review for purposes of Executive Order 12866 and, therefore has not been reviewed by OMB.
Executive Order 12988
This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this final rule meets the applicable standards provided in section 3 of that Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted, no retroactive effect will be given to this rule, and, in accordance

with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeal procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.
Regulatory Flexibility Act Certification
RUS has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS telecommunications program provides loans to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS borrowers, as result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements
This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).
National Environmental Policy Act Certification
The Administrator of RUS has determined that this final rule will not significantly affect the quality of the

human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.851, Rural Telephone Loans and Loan Guarantees, and No. 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402-9325. Telephone (202) 512-1800.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A final rule related notice titled, "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034) exempts RUS and RTB loans and loan guarantees, and RTB bank loans, from coverage under this Order.

Unfunded Mandates

This final rule contains no Federal Mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

Background

RUS issues publications titled "Bulletin" which serve to guide borrowers regarding already codified policy, procedures, and requirements needed to manage loans, loan guarantee programs, and the security instruments which provide for and secure RUS financing. RUS issues standards and specifications for the construction of telecommunications facilities financed with RUS loan funds. RUS is rescinding Bulletin 345-52, RUS Standard for Service Entrance and Station Protector Installations, PC-5A, and codifying the revised standard at 7 CFR 1755.500 through 1755.510, RUS Standard for Service Installations at Customer Access Locations.

RUS Bulletin 345-52 is used by borrowers and contractors as an outside plant construction standard for the installation of aerial and buried service drops and primary station protectors at customer residences. Because of

technological advancements and national code changes made in customer drop and protector installation methods and materials over the past 17 years, the installation methods and materials specified in the current standard have become outdated. To allow borrowers and contractors to observe current codes and take advantage of these improved installation methods and materials which will reduce installation costs, the current standard has been revised to update the customer access location installation methods and materials to reflect these improved methods and materials.

This action will allow borrowers and contractors an economical and efficient means of reducing their construction costs through the use of improved customer access location installation methods and materials.

Comments

On December 21, 1998, RUS published a proposed rule (63 FR 70456) to rescind Bulletin 345-52, RUS Standard for Service Entrance and Station Protector Installations, PC-5A, and to codify the revised standard at 7 CFR 1755.500 through 1755.510, RUS Standard for Service Installations at Customer Access Locations. Comments on this proposed rule were due February 19, 1999. Comments and recommendations were received from several companies by this due date. The comments, recommendations, and responses are summarized as follows:

One respondent commented that the 1996 issue of the *National Electrical Code*® (*NEC*®) referenced throughout 7 CFR 1755.500 through 1755.510 be changed to the 1999 issue of the *National Electrical Code*® because the 1999 issue of the *NEC*® replaced the 1996 issue of the *NEC*®.

Response: Since 7 CFR 1755.500 through 1755.510 require that RUS service installations at customer access locations coordinate with the provision of the latest issue of the *NEC*®, RUS will change the 1996 issue of the *NEC*® referenced throughout 7 CFR 1755.500 through 1755.510 to the 1999 issue of the *NEC*®.

The same respondent commented that the definition for "Manufactured Home" in § 1755.501 be redefined in accordance with the definition stated in the 1999 issue of the *NEC*®.

Response: A review of the definition for "Manufactured Home" in § 1755.501 indicates that RUS copied the definition directly from the 1996 issue of the *NEC*® with written permission (letter dated August 12, 1997) from the National Fire Protection Association (NFPA). Since RUS will be referencing

the 1999 issue of the *NEC*® throughout 7 CFR 1755.500 through 1755.510, RUS will change the definition for "Manufactured Home" in § 1755.501 to the definition stated in the 1999 issue of the *NEC*®. In addition all other definitions in § 1755.501, which were copied directly from the 1996 issue of the *NEC*®, will be changed to reflect the definitions stated in the 1999 issue of the *NEC*®. Again RUS has obtained written permission (letter dated February 17, 1999) from NFPA to copy those definitions directly into the RUS standard.

The third comment from the same respondent indicated that the language in § 1755.507(c)(7) should be changed to clarify the use of "substantial backing material" in the service cable attachment device installation procedure.

Response: A review of § 1755.507(c)(7) indicates that the present language does not clearly define the service cable attachment device installation procedure intended with respect to sheet surface backing materials. Therefore, RUS is changing the language in § 1755.507(c)(7) to the following: "Cable attachment devices shall be located on solid masonry or on studs of wood frame buildings. Cable attachment devices may be installed on sheet surface materials only when such materials are reinforced with backing material which allows penetration and firm holding of the attachment devices through the backing material."

The last comment from the same respondent recommended that the term "Manufactured Home" be included in § 1755.509(a) because the definition of a "Mobile Home" in § 1755.501 indicates that a "Manufactured Home" is also considered to be a "Mobile Home."

Response: RUS agrees with the respondent's recommendation and is changing the proposed language in § 1755.509(a) to indicate that a "Manufactured Home" is also considered to be a "Mobile Home."

One respondent recommended that the burial depth in soil of buried service wire or cable specified in § 1755.505(e)(3) be raised to a depth of less than the recommended minimum of 24 inches (in.) [610 millimeters (mm)].

Response: After much discussion and consideration and a review of national codes covering buried subscriber service installations, RUS has determined that the burial depth in soil of buried service wire or cable at customer access locations can be raised to a depth of less than the recommended minimum of 24 in. (610 mm). Therefore, RUS is changing the burial depth in soil of buried service wire or cable from a

minimum of 24 in. (610 mm) specified in § 1755.505(e)(3) to a minimum of 12 in. (305 mm). The language in § 1755.505(e)(3) will now read as follows: "Buried service wire or cable shall be placed to a depth of 12 in. (305 mm) or greater where practicable in soil, 36 in. (914 mm) in ditches, or 3 in. (76 mm) in rock. Depths shall be measured from the top of the wire or cable to the surface of the ground or rock." In addition, the BM83 Assembly Unit and 962 Construction Drawings in 7 CFR § 1755.510 is being revised to indicate that the minimum burial depth of buried service wire or cable at customer access locations will now be 12 in. (305 mm) in soil instead of 24 in. (610 mm). As result of RUS's change in the depth of buried service wire or cable in soil, the depth of the buried service guard in soil is being changed from 12 in. (305 mm) to 6 in. (152 mm) in the BM83 Assembly Unit Drawing.

The same respondent recommended that Note 2 of the BM83 Assembly Unit Drawing in § 1755.510 be modified to allow the optional installation of a flexible service guard when an obstruction of greater than 2 in. (51 mm) is encountered instead of requiring two service guards.

Response: After much discussion and consideration, RUS agrees with the comment and is modifying Note 2 of the BM83 Assembly Unit Drawing in § 1755.510 to allow the optional installation of a flexible conduit when obstructions of greater than 2 in. (51 mm) are encountered. The revised Note 2 of the BM83 Assembly Unit Drawing will read as follows: "Where an obstruction of greater than 2 in. is encountered, the buried service guard (item am) shall be divided as shown (from the NID, BET, or fused protector to the obstruction, and from 3 in. below the obstruction to 6 in. below the ground). In lieu of divided service guards (item am), a continuous flexible conduit may be used from the NID, BET, or fused protector to 6 in. below the ground."

One respondent recommended that the existing language of § 1755.508(aa) be modified to include a reference to the "Cadweld" bonding process.

Response: Since the "Cadweld" bonding process is a RUS accepted "pipe type grounding clamp," as indicated on Page 7.4.1 (item "aj"), of RUS Informational Publication (IP) 344-2, "List of Materials Acceptable for Use on Telecommunications Systems of RUS Borrowers," RUS believes the existing language of § 1755.508(aa) satisfies the intent of the respondent.

The second comment from the same respondent indicated that the 1999 issue

of the *NEC*® does not consider the RUS recommended minimum distance of 6 ft (2 m) between separate ground rods installed at customer access locations as specified in § 1755.508(dd)(2) to be a special case.

Response: RUS's intent of § 1755.508(dd)(2) was to point out to RUS borrowers that this requirement was to be considered a "special installation case" when it was not possible for RUS borrowers to observe the RUS preferred grounding installation method. It was not RUS's intent to indicate that the requirement was considered to be a "special case" of the 1999 issue of the *NEC*®. In fact the 1999 issue of the *NEC*® requires that the minimum distance between multiple ground rods be not less than 6 ft (2 m). Since the phrase "special case" has caused confusion over its intent, RUS is modifying it by eliminating the word "special" from the proposed language.

The same respondent recommended that the existing language of § 1755.508(dd)(3) be modified to include a reference indicating that when both a telecommunications ground rod and an electric system ground rod are present at the customer's access location, the separate ground rods be bonded together using a #6 AWG bonding conductor.

Response: Since the existing language of § 1755.508(n) addresses the respondent's concern and requires the bonding of separate ground rods using a #6 AWG bonding conductor at customer access locations, RUS believes that it is not necessary to modify the existing language of § 1755.508(dd)(3) as requested by the respondent.

The fourth comment from the same respondent questioned why RUS in § 1755.509(c) requires the Network Interface Device (NID) at mobile homes to be installed in accordance with requirements specified in either §§ 1755.509(c)(1) or (c)(2) instead of the methods allowed under the 1999 issue of the *NEC*® for mobile homes.

Response: RUS visited and surveyed a number of mobile home parks to evaluate mobile home NID installation methods specified in the *NEC*®. RUS determined after these field surveys that in many cases installers could not ensure that mobile home power service installations were in or would remain in compliance with the 1999 issue of the *NEC*® because of buried, unseen, power circuit components and other unforeseen circumstances not under the control of the installer. To eliminate these unforeseen circumstances, RUS specified that mobile home service installations be in accordance with either § 1755.509(c)(1) or (c)(2) which

includes measures which are under the installer's control and for which *NEC*® compliance is readily evident.

The final comment from the same respondent questioned the editorial and technical correctness of Construction Drawings 312-1, 501-1, 501-2, 702, 958, and 962 in § 1755.510.

Response: Based on the respondent's comments, RUS decided to review all the figures and construction drawings in §§ 1755.500 through 1755.510 for editorial and technical correctness. As a result of RUS's review the following actions concerning the figures and construction drawings were taken:

1. All figures and construction drawings have been revised for editorial content to ensure consistent formatting, text font, leader dimensions, etc. This resulted in changing the issue date from "August 1997" to "March 2001" for all assembly unit and construction drawings listed in § 1755.510.

2. Figures 3 and 8 have been revised to reference the 1999 issue of the *NEC*® instead of the 1996 issue of the *NEC*®, which is no longer in effect.

3. Figures 9, 17, and 18 have been revised to indicate generic telecommunications service wire installations at customer access locations instead of specific telecommunications service wire installations at customer access locations because it is impossible for RUS to predict the number of telecommunications service circuits requested by customers. This was accomplished by replacing the references to the "#12 AWG copper insulated ground wires" which specify only two pair telecommunications services with generic references to "copper insulated ground wires" and "associated notes" indicating that § 1755.508(v), Table 5, should be used to determine the correct ground wire conductor size suitable for the installations based on the number of telecommunications circuits installed at customer access locations.

4. Construction Drawing 312-1 in § 1755.510 is being changed by adding the respondent's recommended language of "only if plant is not dedicated" to the proposed language concerning one of the methods of terminating the lead-out wires of terminal blocks to distribution cable conductors. This new language will read as follows: "Make connection without cutting circuit conductor only if plant is not dedicated."

5. Construction Drawings 501-1 and 501-2 in § 1755.510 require the use of "tape" as a component in the installation methods illustrated in these construction drawings. The commenter

questioned the reason for the "tape" component in each of the construction drawings. The "tape" component detailed in Construction Drawings 501-1 and 501-2 is required for housekeeping purposes to keep the service wire trained neatly along the distribution cable. Therefore, RUS will not modify Construction Drawings 501-1 and 501-2.

6. Construction Drawing 702 in § 1755.510 is being eliminated from the section because RUS agrees with the respondent's comment that the appropriate climbing space is not depicted in the guide drawing. In addition, the proposed language in § 1755.506(h) is being changed to indicate that horizontal and vertical climbing spaces on poles used jointly with power circuits shall be in accordance with the requirements specified in Rule 236 of the National Electrical Safety Code because RUS again agrees with the respondent's recommendation.

7. The "BM50 Assembly Unit Drawing" is being inserted to replace Construction Drawing 912 in § 1755.510. The reason for this change is attributed to current installation practices. Aerial service wires (from buried cables) are installed in accordance with information provided in the BM50 Assembly Unit Drawing

not the 912 Construction Drawing. The major difference between the BM50 Assembly Unit Drawing and the 912 Construction Drawing is that the BM50 drawing eliminates the aerial service installation information from the drawing and indicates that the buried plant housing is paid under the buried plant housing assembly unit (BD).

8. Note #4 of Construction Drawing 958 was modified to allow the use of alternative marking materials as requested by the respondent.

9. The respondent questioned the wisdom of placing the ground wire and service wire under the same attachment device when parallel runs are encountered as indicated in Note #2 of Construction Drawing 962 in § 1755.510. After much discussion and consideration concerning this procedure, RUS is not modifying the proposed Note #2 language of Construction Drawing 962 in § 1755.510 because the allowance of this installation procedure over the past 15 years has not resulted in any service problems at customer access locations.

List of Subjects in 7 CFR Part 1755

Incorporation by reference, Loan programs-communications, Rural areas, Telephone.

For reasons set out in the preamble, RUS amends chapter XVII of title 7 of

the Code of Federal Regulations as follows:

PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT AND CONSTRUCTION.

1. The authority citation for part 1755 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

§ 1755.97 [Amended]

2. Section 1755.97 is amended by removing the entry "RUS Bulletin No. 345-52" from the table.

3. Section 1755.98 is revised to read as follows:

§ 1755.98 List of telecommunications specifications included in other 7 CFR parts.

The following specifications are included throughout 7 CFR chapter XVII. These specifications are not incorporated by reference elsewhere in the chapter. The terms "RUS form," "RUS standard form," "RUS specification," and "RUS bulletin" have the same meaning as the terms "REA form," "REA standard form," "REA specification," and "REA bulletin," respectively, unless otherwise indicated. The list of specifications follows:

Section	Issue date	Title
1728.202	09-02-93	RUS Specification for Quality Control and Inspection of Timber Products.

4. Sections 1755.500 through 1755.510 are added to read as follows:

§ 1755.500 RUS standard for service installations at customers access locations.

(a) Sections 1755.501 through 1755.510 cover service installations at permanent or mobile home customer access locations. Sections 1755.501 through 1755.510 do not cover service installations at customer access locations associated with boat yards or marinas.

(b) Service installations for customer access locations in boat yards or marinas shall be performed in accordance with Article 800, Communications Circuits, of the American National Standards Institute/National Fire Protection Association (ANSI/NFPA) 70-1999, *National Electrical Code*® (*NEC*®). The *National Electrical Code*® and *NEC*® are registered trademarks of the National Fire Protection Association, Inc., Quincy, MA 02269. The ANSI/NFPA 70-1999, *NEC*® is incorporated by

reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1 (800) 344-3555. Copies of ANSI/NFPA 70-1999, *NEC*®, are available for inspection during normal business hours at Rural Utilities Service (RUS), room 2905, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250-1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

§ 1755.501 Definitions applicable to §§ 1755.501 through 1755.510.

For the purpose of this section and §§ 1755.502 through 1755.510, the following terms are defined as follows:

American National Standards Institute (ANSI). A private sector standards coordinating body which serves as the United States source and information center for all American National Standards.

Ampacity. As defined in the ANSI/NFPA 70-1999, *NEC*®: The current, in amperes, that a conductor can carry continuously under the conditions of use without exceeding its temperature rating. (Reprinted with permission from NFPA 70-1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.) The *National Electrical Code*® and *NEC*® are registered trademarks of the National Fire Protection Association, Inc., Quincy, MA 02269. The ANSI/NFPA 70-1999, *NEC*®, is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1 (800) 344-3555. Copies of ANSI/NFPA 70-1999, *NEC*®, are available for inspection during

normal business hours at RUS, room 2905, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250–1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

AWG. American Wire Gauge.

BET. Building entrance terminal.

Bonding (Bonded). As defined in the ANSI/NFPA 70–1999, *NEC*®: The permanent joining of metallic parts to form an electrically conductive path that will ensure electrical continuity and the capacity to conduct safely any current likely to be imposed. (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

Bonding harness wire. A reliable electrical conductor purposefully connected between metal parts which are required to be electrically connected (bonded) to one another to ensure the metal parts are at similar electrical potential.

Building entrance terminal (BET). A BET is comprised of a housing suitable for indoor and outdoor installation which contains quick-connect or binding post terminals for terminating both telecommunications service cable conductors and inside wiring cable conductors. The BET also includes primary station protectors and a means of terminating the metallic shields of service entrance cables.

Demarcation point (DP). As defined in the Federal Communications Commission (FCC) rules in 47 CFR part 68: The point of demarcation or interconnection between telecommunications company communications facilities and terminal equipment, protective apparatus, or wiring at a subscriber's premises. Carrier-installed facilities at, or constituting, the demarcation point shall consist of wire or a jack conforming to subpart F of 47 CFR part 68. "Premises" as used herein generally means a dwelling unit, other building or a legal unit of real property such as a lot on which a dwelling unit is located, as determined by the telecommunications company's reasonable and nondiscriminatory standard operating practices. The "minimum point of entry" as used herein shall be either the closest practicable point to where the wiring crosses a property line or the closest practicable point to where the

wiring enters a multiunit building or buildings. The telecommunications company's reasonable and nondiscriminatory standard operating practices shall determine which shall apply. The telecommunications company is not precluded from establishing reasonable clarifications of multiunit premises for determining which shall apply. Multiunit premises include, but are not limited to, residential, commercial, shopping center, and campus situations.

(1) *Single unit installations.* For single unit installations existing as of August 13, 1990, and installations installed after that date, the demarcation point shall be a point within 12 inches (in.) (305 millimeters (mm)) of the primary protector, where there is no protector, within 12 in. (305 mm) of where the telecommunications wire enters the customer's premises.

(2) *Multiunit installations.* (i) In multiunit premises existing as of August 13, 1990, the demarcation point shall be determined in accordance with the local carrier's reasonable and nondiscriminatory standard operating practices. Provided, however, that where there are multiple demarcation points within the multiunit premises, a demarcation point for a customer shall not be further inside the customer's premises than a point 12 in. (305 mm) from where the wiring enters the customer's premises.

(ii) In multiunit premises in which wiring is installed after August 13, 1990, including additions, modifications, and rearrangements of wiring existing prior to that date, the telecommunications company may establish a reasonable and nondiscriminatory practice of placing the demarcation point at the minimum point of entry. If the telecommunications company does not elect to establish a practice of placing the demarcation point at the minimum point of entry, the multiunit premises owner shall determine the location of the demarcation point or points. The multiunit premises owner shall determine whether there shall be a single demarcation point for all customers or separate such locations for each customer. Provided, however, that where there are multiple demarcation points within the multiunit premises, a demarcation point for a customer shall not be further inside the customer's premises than a point 12 in. (305 mm) from where the wiring enters the customer's premises.

DP. Demarcation point.

Eligible country. Any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services

and United States suppliers to the markets of that country, as determined by the United States Trade Representative.

FCC. Federal Communications Commission.

Fuse link. As defined in the ANSI/NFPA 70–1999, *NEC*®: A fine gauge section of wire or cable that serves as a fuse (that is, open-circuits to interrupt the current should it become excessive) that coordinates with the telecommunications cable and wire plant, and protective devices. (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

Grounding conductor. As defined in the ANSI/NFPA 70–1999, *NEC*®: A conductor used to connect equipment or the grounded circuit of a wiring system to a grounding electrode or electrodes. (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

Listed. As defined in the ANSI/NFPA 70–1999, *NEC*®: Equipment, materials, or services included in a list published by an organization that is acceptable to the authority having jurisdiction and concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or services meets identified standards or has been tested and found suitable for a specified purpose. (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

Manufactured home. As defined in the ANSI/NFPA 70–1999, *NEC*®: A factory-assembled structure or structures that bears a label identifying it as a manufactured home that is transportable in one or more sections,

that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation where connected to the required utilities, and includes the plumbing, heating, air conditioning, and electric systems contained therein. Unless otherwise indicated, the term "mobile home" includes manufactured homes. Fine Print Note (FPN) No. 1: See the applicable building code for definition of the term permanent foundation. FPN No. 2: See 24 CFR part 3280, Manufactured Home Construction and Safety Standards, of the Federal Department of Housing and Urban Development for additional information on the definition. (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

Mobile home. As defined in the ANSI/NFPA 70–1999, *NEC*®: A factory-assembled structure or structures transportable in one or more sections that is built on a permanent chassis and designed to be used as a dwelling without a permanent foundation where connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electric systems contained therein. Unless otherwise indicated, the term "mobile home" includes manufactured homes. (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

Motor home. As defined in the ANSI/NFPA 70–1999, *NEC*®: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle. (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

Network interface device (NID). A NID is comprised of a housing suitable for outdoor installation which contains a compartment accessible by only telecommunications employees which includes a primary station protector and the means for terminating telecommunications service wire conductors and metallic shields, and a compartment accessible by customers which includes an RJ–11 plug and jack of the type specified in the FCC rules in 47 CFR part 68.

NID. Network interface device.

Primary station protector. An assembly which complies with RUS Bulletin 345–39, RUS Specification for Telephone Station Protectors. Copies of RUS Bulletin 345–39 are available upon request from RUS, U.S. Department of Agriculture (USDA), 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250–1522, FAX (202) 720–4120.

Qualified Installer. A person who has extensive installation experience, complete knowledge and understanding of RUS Bulletin 1751F–805, Electrical Protection At Customer Locations; RUS Bulletin 1753F–153 (RUS Form 515d), Specifications and Drawings for Service Installations at Customer Access Locations, and applicable portions of the ANSI/NFPA 70–1999, *NEC*®, and ANSI/IEEE C2–1997, NESC. Copies of RUS Bulletins 1751F–805 and 1753F–153 are available upon request from RUS/USDA, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250–1522, FAX (202) 720–4120.

Recreational vehicle. As defined in the ANSI/NFPA 70–1999, *NEC*®: A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home. (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

RUS. Rural Utilities Service.

RUS accepted (material and equipment). Equipment which RUS has reviewed and determined that:

- (1) Final assembly or manufacture of the equipment is completed in the United States, its territories and possessions, or in an eligible country;
- (2) The cost of components within the material or equipment manufactured in the United States, its territories and

possessions, or in an eligible country is more than 50 percent of the total cost of all components used in the material or equipment; and

(3) The material or equipment is suitable for use on systems of RUS telecommunications borrowers.

RUS technically accepted (material and equipment). Equipment which RUS has reviewed and determined that the material or equipment is suitable for use on systems of RUS telecommunications borrowers but the material or equipment does not satisfy both paragraphs (1) and (2) of this definition:

(1) Final assembly or manufacture of the equipment is not completed in the United States, its territories and possessions, or in an eligible country; and

(2) The cost of components within the material or equipment manufactured in the United States, its territories and possessions, or in an eligible country is 50 percent or less than the total cost of all components used in the material or equipment.

SEA. Service entrance aerial.

SEB. Service entrance buried.

Travel trailer. As defined in the ANSI/NFPA 70–1999, *NEC*®: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size and weight as not to require special highway movement permits when towed by a motorized vehicle, and of gross trailer area less than 320 square feet (29.7 square meters). (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

Truck camper. As defined in the ANSI/NFPA 70–1999, *NEC*®: A portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck. (Reprinted with permission from NFPA 70–1999, the *National Electrical Code*®, Copyright© 1998, National Fire Protection Association, Quincy, MA 02269. This reprinted material is not the complete and official position of the National Fire Protection Association, on the referenced subject which is represented only by the standard in its entirety.)

§ 1755.502 Scope.

(a) Sections 1755.503 through 1755.510 cover approved methods of making service installations at customer access locations in telecommunications systems of RUS borrowers.

(b) Requirements in §§ 1755.503 through 1755.510 cover facilities of the type described in the FCC rules in 47 CFR part 68 for one and multi-party customer owned premises wiring.

§ 1755.503 General.

(a) For the purposes of this section and §§ 1755.504 through 1755.510, a NID shall be as defined in § 1755.501 and shall contain both a fuseless primary station protector and a modular plug and jack for each conductor pair, up to a maximum of 11 pairs, and shall be provided by the telecommunications company and used by customers.

(b) For the purposes of this section and §§ 1755.504 through 1755.510, BET shall be as defined in § 1755.501 and shall contain both primary station protectors and connector terminals for each conductor pair, of 12 or more pairs, and shall be provided by the telecommunications company and used by customers. The primary station protectors may be either fuseless or fused.

(c) The requirements provided in this section and §§ 1755.504 through 1755.510 have been designed to coordinate with the provisions of the ANSI/NFPA 70–1999, *NEC*®, and the American National Standards Institute/Institute of Electrical and Electronics Engineers, Inc. (ANSI/IEEE) C2–1997, National Electrical Safety Code (NESC). The *National Electrical Code*® and *NEC*® are registered trademarks of the National Fire Protection Association, Inc., Quincy, MA 02269. The ANSI/NFPA 70–1999, *NEC*®, and the ANSI/IEEE C2–1997, NESC, are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ANSI/NFPA 70–1999, *NEC*®, are available from NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101, telephone number 1 (800) 344–3555. Copies of ANSI/IEEE C2–1997, NESC, are available from IEEE Service Center, 455 Hoes Lane, Piscataway, New Jersey 08854, telephone number 1 (800) 678–4333. Copies of the ANSI/NFPA 70–1999, *NEC*®, and the ANSI/IEEE C2–1997, NESC, are available for inspection during normal business hours at RUS, room 2905, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250–1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Most state and local authorities require that utility construction comply with either the ANSI/NFPA 70–1999, *NEC*®, and ANSI/IEEE C2–1997, NESC, or some earlier editions of the ANSI/NFPA 70, *NEC*®, and ANSI/IEEE C2, NESC. Some authorities have their own more stringent codes which may or may not be embellishments of the ANSI/NFPA 70, *NEC*®, and ANSI/IEEE C2, NESC.

(d) RUS borrowers shall make certain that all construction financed with RUS loan funds comply with:

(1) The provisions of this section and §§ 1755.504 through 1755.510 and the ANSI/NFPA 70–1999, *NEC*®, and ANSI/IEEE C2–1997, NESC codes, or any more stringent local codes; or

(2) The provisions of this section and §§ 1755.504 through 1755.510 with borrower added adjustments to bring construction into compliance with any more stringent local codes.

(e) This section and §§ 1755.504 through 1755.510 are intended primarily for the installer who will perform the work. It assumes that decisions regarding the selection of grounding electrodes, locations, and types of equipment have been made by the RUS borrower or the engineer delegated by the RUS borrower.

(f) Only a *qualified installer* as defined in § 1755.501 shall be assigned to make installations without advance planning and without direct supervision.

(g) This section and §§ 1755.504 through 1755.509 contain information which is normally not provided on the construction drawings which are included in § 1755.510.

(h) All work shall be conducted in a careful and professional manner. Service wire and cable shall not be trampled on, run over by vehicles, pulled over or around abrasive objects or otherwise subjected to abuse.

(i) When situations not covered by this section and §§ 1755.504 through 1755.510 arise, the RUS borrower or the engineer delegated by the borrower, shall specify the installation procedure to be used. The requirements of paragraph (j) of this section shall be complied with in every installation.

(j) NIDs, BETs, and fused primary station protectors shall be installed and grounded to meet the requirements of the ANSI/NFPA 70–1999, *NEC*®, or local laws or ordinances, whichever are more stringent.

(k) Battery polarity and conductor identification shall be maintained throughout the system as indicated on construction drawings 815 and 815–1 contained in § 1755.510. Color codes and other means of conductor identification of buried and aerial

service wires shall conform to the requirements of this section and §§ 1755.504 through 1755.510.

(l) All materials for which RUS makes acceptance determinations, such as service wires and cables, ground rods, ground rod clamps, etc., used in service entrance installations shall be RUS accepted or RUS technically accepted. Borrowers shall require contractors to obtain the borrower's approval before RUS technically accepted materials are to be used in service entrance installations. Borrower's shall also ensure that the cost of the RUS technically accepted materials are at least 6 percent less than the cost of equivalent RUS accepted materials, as specified in "Buy American" Requirement of the Rural Electrification Act of 1938, as amended (7 U.S.C. 903 note). Materials used in service entrance installations which are of the type which RUS does not make acceptance determinations shall be of a suitable quality for their intended application as determined by the RUS borrower or the engineer delegated by the RUS borrower.

(m) On completion of an installation, borrowers shall require the installer to make all applicable tests required by §§ 1755.400 through 1755.407, RUS standard for acceptance tests and measurements of telecommunications plant.

§ 1755.504 Demarcation point.

(a) The demarcation point (DP) provides the physical and electrical interface between the telecommunications company's facilities and the customer's premises wiring.

(b) The Federal Communications Commission (FCC) rules in 47 CFR part 68 require telecommunications providers to establish a "DP" which marks a separation of the provider's facilities from the customer's (owned) premises wiring and equipment.

(c) RUS borrowers shall observe the FCC DP requirement by installing NIDs, BETs, or fused primary station protectors when required by section 800–30(a)(2) of ANSI/NFPA 70–1999, *NEC*®, at all new or significantly modified customer access locations which are financed with RUS loan funds. The *National Electrical Code*® and *NEC*® are registered trademarks of the National Fire Protection Association, Inc., Quincy, MA 02269. The ANSI/NFPA 70–1999, *NEC*®, is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269–9101,

telephone number 1 (800) 344-3555. Copies of ANSI/NFPA 70-1999, *NEC*®, are available for inspection during normal business hours at RUS, room 2905, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250-1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(d) For all customer access locations of less than 12 pairs, RUS borrowers shall establish DPs by using either NIDs or fused primary station protectors when required by section 800-30(a)(2) of ANSI/NFPA 70-1999, *NEC*®. For customer access locations of 12 pairs or greater, RUS borrowers shall establish DPs using either NIDs, BETs, or fused primary station protectors when required by section 800-30(a)(2) of ANSI/NFPA 70-1999, *NEC*®.

§ 1755.505 Buried services.

(a) Buried services of two or three pairs shall consist of Service Entrance Buried (SEB) assembly units, in accordance with RUS Bulletin 1753F-153 (RUS Form 515d), Specifications and Drawings for Service Installations at Customer Access Locations. The wire used for buried services shall conform to the requirements of § 1755.860, RUS specification for filled buried wires, and shall be RUS accepted or RUS technically accepted. The conductor size for two and three pair buried service wires shall be 22 American Wire Gauge (AWG). Copies of RUS Bulletin 1753F-153 are available upon request from RUS/USDA, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522, FAX (202) 690-2268.

(b) Buried services of six or more pairs shall be RUS accepted or RUS technically accepted 22 AWG filled buried cable conforming to the requirements of § 1755.390, RUS specification for filled telephone cables.

(c) Buried service wire or cable shall be terminated in buried plant housings using either splicing connectors or filled terminal blocks in accordance with the applicable paragraphs of § 1755.200, RUS standard for splicing copper and fiber optic cables.

(d) Buried service wire or cable shall be identified at buried plant housings in accordance with construction drawing 958 contained in § 1755.510.

(e) Buried service wire or cable shall be installed up to the building in the same general manner as buried exchange cable but in addition must meet the following requirements:

(1) Light weight lawn plows or trenchers shall be used;

(2) The shortest feasible route commensurate with the requirements of § 1755.508(i), (j), and (k), and paragraph (f)(1) of this section shall be followed;

(3) Buried service wire or cable shall be plowed or trenched to a depth of 12 in. (305 mm) or greater where practicable in soil, 36 in. (914 mm) in ditches, or 3 in. (76 mm) in rock. Depths shall be measured from the top of the wire or cable to the surface of the ground or rock;

(4) In the case of a layer of soil over rock either the minimum depth in rock measured to the surface of the rock, or the minimum depth in soil measured to the surface of the soil may be used; and

(5) Where adequate advance planning has been done, burial of telecommunications services jointly with electric power services may be feasible. If a decision has been reached by management to provide joint occupancy services, the services may be installed using the recommendations in RUS Bulletin 1751F-640, "Design of Buried Plant—Physical Considerations." Copies of RUS Bulletin 1751F-640 are available upon request from RUS/USDA, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522, FAX (202) 720-4120.

(f) Buried service wire or cable shall be installed on or in buildings as follows:

(1) Each buried service wire or cable shall contact the building as close to the NID, BET, or fused primary station protector as practicable. Service wire or cable runs on buildings shall normally consist of a single vertical run held to the minimum practical length. Horizontal and diagonal runs shall not be permitted.

(2) Buried service wire or cable shall be located so as to avoid damage from

lawn mowers, animals, gardening operations, etc.

(3) Buried service wire or cable shall be installed against a foundation wall or pillar to provide adequate support and mechanical protection.

(4) Where it is likely that the service wire or cable shall be subjected to mechanical damage, the wire or cable shall be enclosed in a guard in accordance with assembly unit drawing BM83 contained in § 1755.510.

(5) The first above-ground attachment for a buried service wire or cable, unless it is enclosed in a guard, shall not be more than 4 in. (100 mm) above final grade.

(6) Uninsulated attachment devices may be used to attach buried service wire and cable to masonry and other types of noncombustible buildings and on any type of building if fuseless primary station protectors incorporated in NIDs or BETs are used and installations fully comply with section 800-30(a)(1) of ANSI/NFPA 70-1999, *NEC*®. The *National Electrical Code*® and *NEC*® are registered trademarks of the National Fire Protection Association, Inc., Quincy, MA 02269. The ANSI/NFPA 70-1999, *NEC*®, is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1(800)344-3555. Copies of ANSI/NFPA 70-1999, *NEC*®, are available for inspection during normal business hours at RUS, room 2905, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250-1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(7) Insulated attachments shall be used to separate service wires or cables from woodwork where section 800-30(a)(2) of ANSI/NFPA 70-1999, *NEC*® requiring the use of fused primary station protectors must be observed.

(8) Minimum separation between buried service wire or cable and other facilities shall be as listed in Table 1, as follows:

TABLE 1.—MINIMUM SEPARATION FOR TELECOMMUNICATIONS WIRES AND CABLES ON OR IN BUILDINGS

Foreign facility or obstruction	Minimum clearance in. [mm] ^{1,2} telecommunications company's wires or cables
Electric supply wire including neutral and grounding conductors:	
Open	4 [102]
In conduit	2 [50.8]
Radio and television antennas, Lead-in and grounding conductors	4 [102]
Lightning rods and lightning conductors	³ 72 [1830]

TABLE 1.—MINIMUM SEPARATION FOR TELECOMMUNICATIONS WIRES AND CABLES ON OR IN BUILDINGS—Continued	
Foreign facility or obstruction	Minimum clearance in. [mm] ^{1 2} telecommuni- cations company's wires or cables
All foreign grounding conductors except lightning rod ground conductors	2 [50.8]
Neon signs and associated wiring	6 [150]
Metallic objects—pipes (gas, cold water, oil, sewer) and structures	⁴ 2 [50.8]
Wires or cables of another communications system	2 [50.8]

¹ If minimum separation cannot be obtained, nonshielded wire and cable facilities shall be protected with either porcelain tubes or flexible tubing as modified by Notes (3) and (4) of this table.

² Separation applies to crossings and parallel runs.

³ If this separation cannot be obtained, bond the telecommunications grounding conductors or grounding electrode to the lightning rod grounding conductor or grounding electrode with at least a Number (No.) 6 AWG copper, insulated, ground wire. With this provision a minimum separation of 4 in. (100 mm) is acceptable but this provision must not be utilized if the separation cited in this table can be maintained.

⁴ Increase to a minimum of 3 in. (75 mm) separation from steam or hot water pipes, heating ducts, and other heat sources.

(9) Wire and cable attachments to buildings for outside mounted NIDS, BETs, or fused primary station protectors shall be in accordance with construction drawing 962 contained in § 1755.510.

(10) Appropriate devices for attaching service wire or cable on or in buildings vary with the type of building construction and the wire or cable size. Figures 1 and 2 illustrate various types of anchoring devices and their applications. The size and type of fastening device for the wire or cable size and type of surface shall be in accordance with the manufacturer's recommendation; Figures 1 and 2 are as follows:

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FIGURE 1 ANCHORING DEVICES

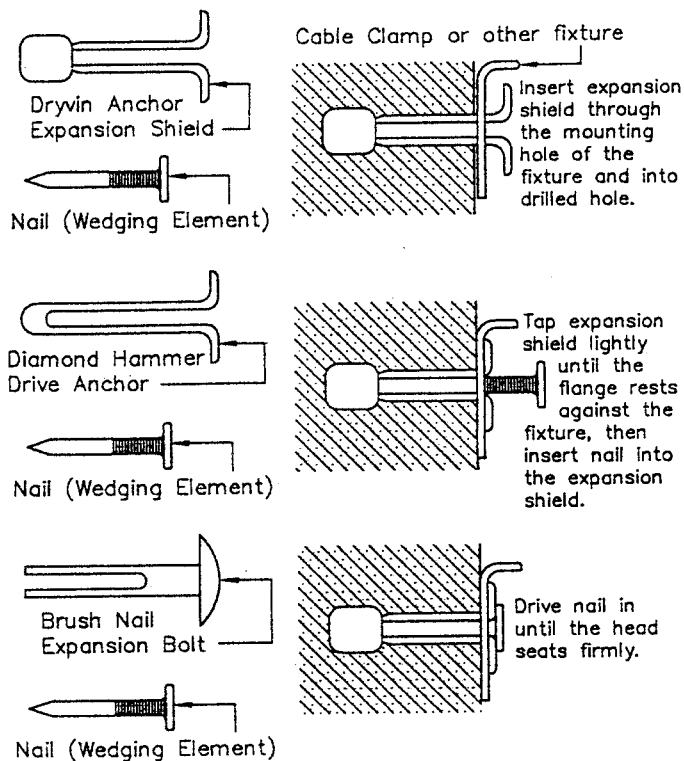
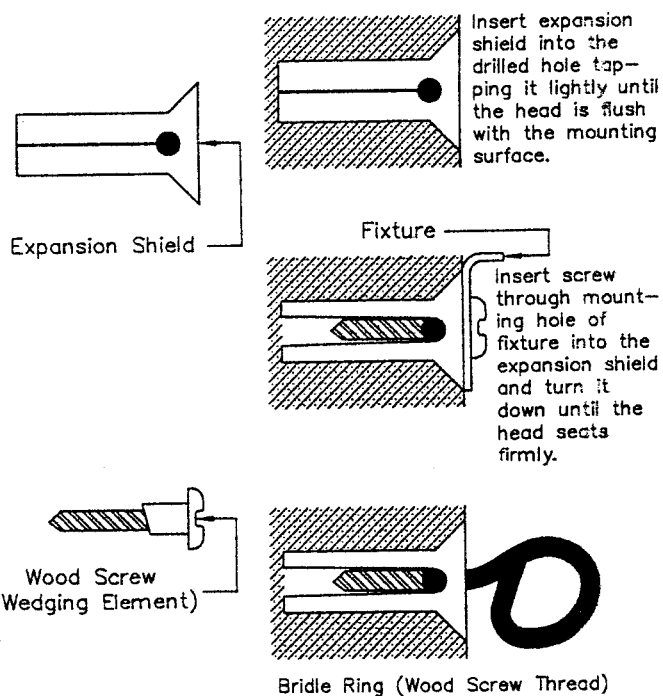
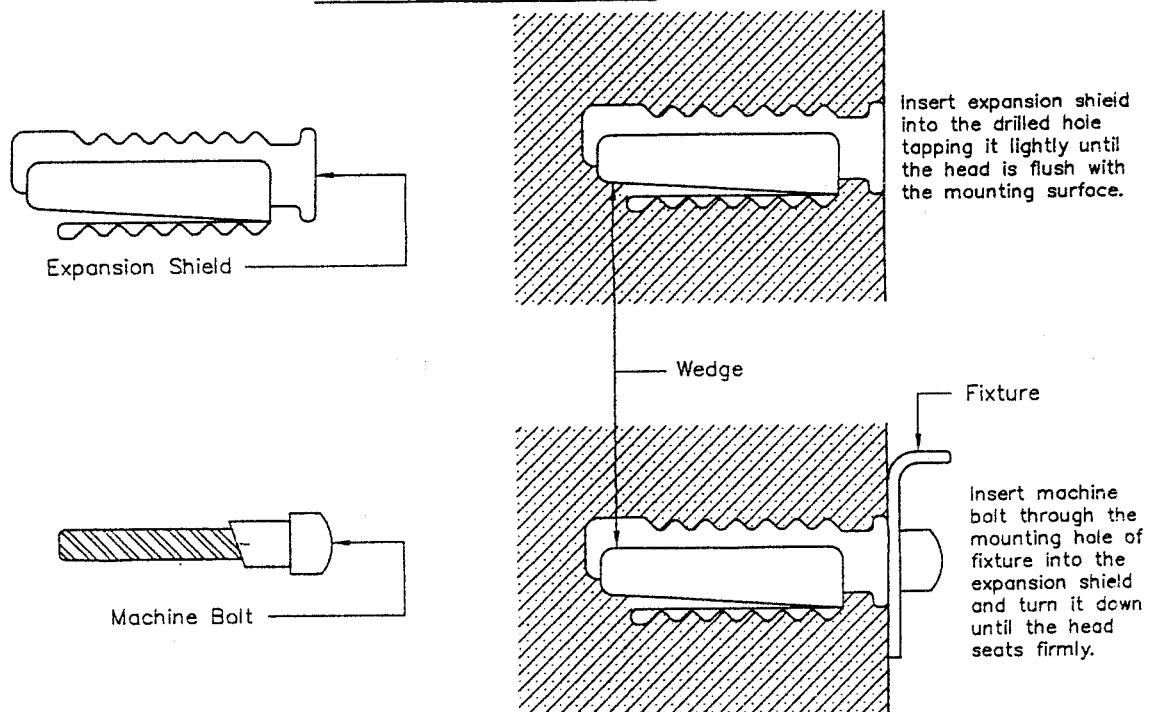
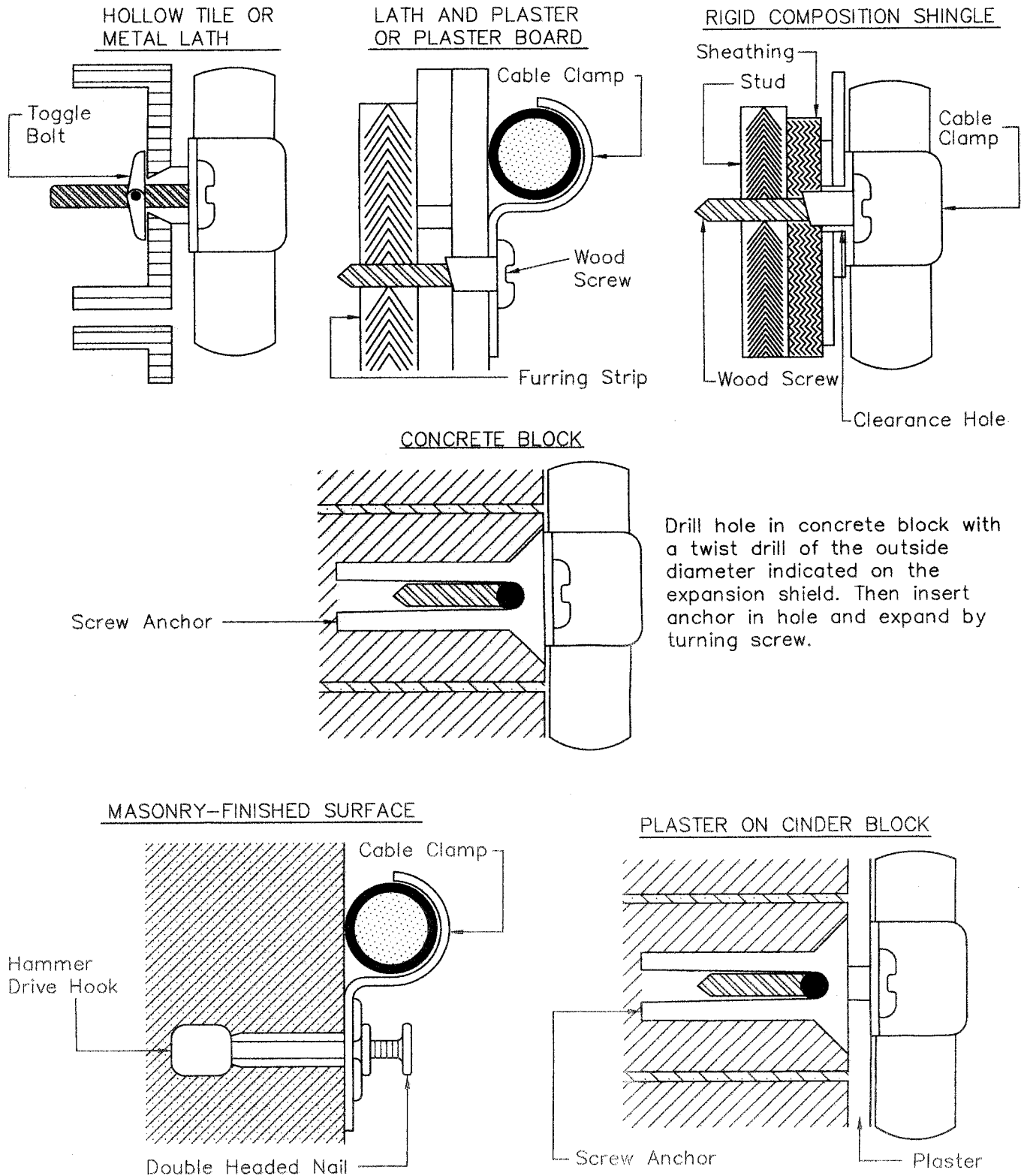
HAMMER DRIVE ANCHORSSCREW ANCHORMACHINE BOLT ANCHOR

FIGURE 2 CABLE ATTACHMENT DEVICES



(11) Experience indicates that there are objections from many owners of buildings covered with aluminum or vinyl siding to the drilling of holes in the siding for the attachment of wires or cables, and NIDs, BETs, or fused primary station protectors. It is, therefore, important to obtain permission from the owner before drilling holes in such siding.

(12) If the NID, BET, or fused primary station protector must be mounted inside (not recommended by RUS), the service entrance into the building shall be installed in accordance with section 800–12(c) of ANSI/NFPA 70–1999, *NEC*®. After pulling-in the wire or cable, the free space around the cable or wire shall be carefully sealed both outside and inside with a duct sealer that has RUS acceptance or RUS technical acceptance.

(13) If the customer requests an all buried installation for an alarm system or objects to above-ground facilities because of appearance and one-party service is involved, the entrance hole shall be made below grade as shown in sketch C of construction drawing 510–2 contained in § 1755.510. Care shall be exercised to prevent damage to the building foundation. The hole shall be sealed as specified in paragraph (f)(12) of this section. The installation shall comply with all the requirements of section 800–12(c) of ANSI/NFPA 70–1999, *NEC*®.

(g) When the NID, BET, or fused primary station protector is to be installed inside the building, the installation shall comply with section 800–12(c) of ANSI/NFPA 70–1999, *NEC*®, and the outside plant wire or cable shall preferably be installed in a rigid metal or intermediate metal conduit that is grounded to an electrode in accordance with section 800–40(b) of ANSI/NFPA 70–1999, *NEC*®, as shown in sketch A of Figure 3 in paragraph (h)(2) of this section. The shield of the outside plant wire or cable shall be

bonded to the grounding terminal of the NID, BET, or fused primary station protector which in turn shall be connected to the closest, existing, and accessible grounding electrode, of the electrodes cited in section 800–40(b) of ANSI/NFPA 70–1999, *NEC*®.

(h) An inside NID, BET, or fused primary station protector installation may also be made without use of a rigid metal or intermediate metal conduit provided that the ingress of the outside plant wire or cable complies with section 800–12(c) of ANSI/NFPA 70–1999, *NEC*®, and provided either of the following are observed:

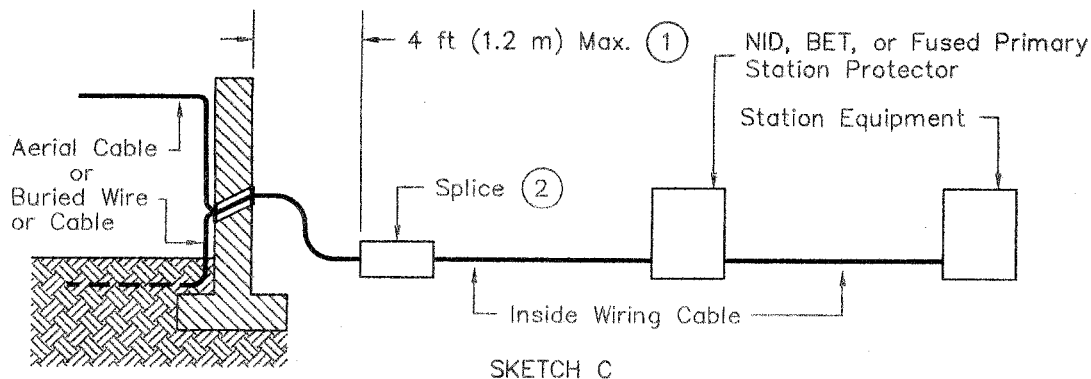
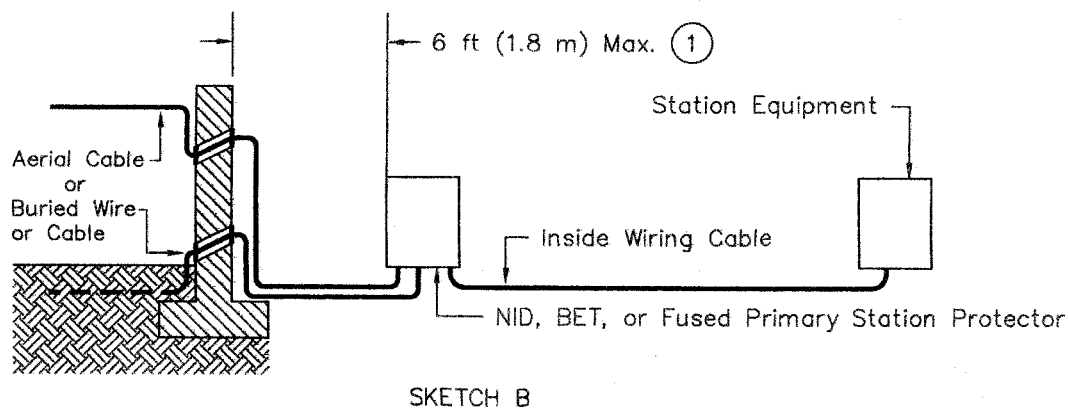
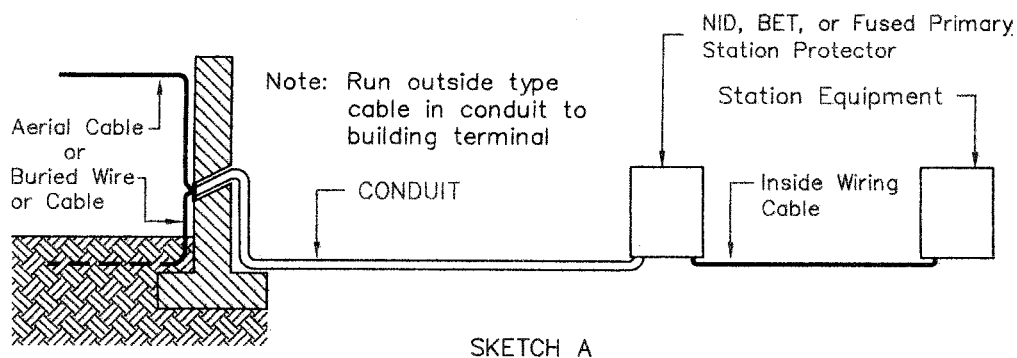
(1) The NID, BET, or fused primary station protector is located as close as practicable to the point where the outside plant wire or cable emerges through an exterior wall. The length of outside plant wire or cable exposed within the building shall be as short as practicable but in no case shall it be longer than 50 feet (ft) (15.2 meters (m)) in accordance with the allowable exception No. 3 of section 800–50 of ANSI/NFPA 70–1999, *NEC*®. See sketch B of Figure 3 in paragraph (h)(2) of this section. The shield of the outside plant wire or cable shall be bonded to the grounding terminal of the NID, BET, or fused primary station protector which in turn shall be connected to the closest, existing and accessible grounding electrode, of the electrodes cited in section 800–40(b) of ANSI/NFPA 70–1999, *NEC*® (Fine print Note No. 2 of ANSI/NFPA 70–1999, *NEC*®, section 800–50, warns that the full 50 ft (15.2 m) may not be authorized for outside unlisted cable (not in a metal or intermediate metal conduit) within a building if it is practicable to place the NID, BET, or fused primary station protector closer than 50 ft (15.2 m) to the cable entrance point, e.g., if there is an acceptable and accessible grounding electrode of the type cited in section 800–40(b) of ANSI/NFPA 70–1999, *NEC*®, anywhere along the proposed

routing of the outside cable within the building); or

(2) Where the NID, BET, or fused primary station protector must be located within the building remote from the entrance point and the entrance point of the outside plant wire or cable cannot be designed to be closer to the NID, BET, or fused primary station protector location, the outside plant wire or cable shall be spliced, as close as practicable to the point where the outside plant wire or cable emerges through an outside wall, to an inside wiring cable that is “Listed” as being suitable for the purpose in accordance with part E of article 800 of ANSI/NFPA 70–1999, *NEC*®. The length of outside plant wire or cable exposed within the building shall be as short as practicable but in no case shall it be longer than 50 ft (15.2 m) in accordance with the allowable exception No. 3 of section 800–50 of ANSI/NFPA 70–1999, *NEC*®. See sketch C of Figure 3. The shield of the outside plant wire or cable shall be bonded to the grounding terminal of the NID, BET, or fused primary station protector which in turn shall be connected to the closest, existing, and accessible grounding electrode, of the electrodes cited in section 800–40(b) of ANSI/NFPA 70–1999, *NEC*® (Fine print Note No. 2 of the ANSI/NFPA 70–1999, *NEC*®, section 800–50, warns that the full 50 ft (15.2 m) may not be authorized for outside unlisted cable (not in a metal or intermediate metal conduit) if it is practicable to place the NID, BET, or fused primary station protector closer than 50 ft (15.2 m) to the cable entrance point, e.g., if there is an acceptable and accessible grounding electrode of the type cited in section 800–40(b) of ANSI/NFPA 70–1999, *NEC*®, anywhere along the proposed routing of the outside cable within the building). Figure 3 is as follows:

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FIGURE 3
CABLE ENTRANCES AND RUNS IN BUILDINGS



Notes:

- ①. Recommended maximum is shown; length cannot exceed the ANSI/NFPA 70-1999, NEC[®] allowable length of 50 ft (15.2 m). (See Fine Print Note No. 2 of Section 800-50 of ANSI/NFPA 70-1999, NEC[®].)
- ②. Outside plant cable shield shall be connected to an acceptable grounding electrode. If splice case is metallic, the splice case shall also be connected to the same acceptable grounding electrode.

(i) The polarity of buried wire or cable maintained by making the connections
 “tip” and “ring” conductors shall be in accordance with Table 2, as follows:

TABLE 2.—COLOR CODES FOR TIP AND RING CONNECTIONS OF INSIDE WIRING CABLE

Pair	Tip		Ring	
	Color of insulation	Color of marking	Color of insulation	Color of marking
1	White	Blue	Blue	White
2	White	Orange	Orange	White
3	White	Green	Green	White
4	White	Brown	Brown	White
5	White	Slate	Slate	White
6	Red	Blue	Blue	Red
7	Red	Orange	Orange	Red
8	Red	Green	Green	Red
9	Red	Brown	Brown	Red
10	Red	Slate	Slate	Red
11	Black	Blue	Blue	Black
12	Black	Orange	Orange	Black
13	Black	Green	Green	Black
14	Black	Brown	Brown	Black
15	Black	Slate	Slate	Black
16	Yellow	Blue	Blue	Yellow
17	Yellow	Orange	Orange	Yellow
18	Yellow	Green	Green	Yellow
19	Yellow	Brown	Brown	Yellow
20	Yellow	Slate	Slate	Yellow
21	Violet	Blue	Blue	Violet
22	Violet	Orange	Orange	Violet
23	Violet	Green	Green	Violet
24	Violet	Brown	Brown	Violet
25	Violet	Slate	Slate	Violet

§ 1755.506 Aerial wire services

(a) Aerial services of one through six pairs shall consist of Service Entrance Aerial (SEA) assembly units, in accordance with RUS Bulletin 1753F–153 (RUS Form 515d), Specifications and Drawings for Service Installations at Customer Access Locations. The wire used for aerial services shall conform to the requirements of §§ 1755.700 through 1755.704, RUS specification for aerial service wires, and shall be RUS accepted or RUS technically accepted. Copies of RUS Bulletin 1753F–153 are available upon request from RUS/USDA, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250–1522, FAX (202) 720–4120.

(b) If aerial wire services are to be connected to aerial cable pairs, the NIDs or fused primary station protectors and grounds shall be installed and connected before the aerial service wires are attached to the customer's structure.

(c) Kinks or splices shall not be permitted in aerial service wire spans.

(d) Aerial service wires shall be run in accordance with the construction drawings contained in § 1755.510 and shall conform to all clearance requirements of the ANSI/NFPA 70–1999, *NEC*®, and ANSI/IEEE C2–1997, NESC, or local laws or ordinances, whichever are the most stringent. The *National Electrical Code*® and *NEC*® are

registered trademarks of the National Fire Protection Association, Inc., Quincy, MA 02269. The ANSI/NFPA 70–1999, *NEC*®, and ANSI/IEEE C2–1997, NESC, are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ANSI/NFPA 70–1999, *NEC*®, are available from NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101, telephone number 1 (800) 344–3555. Copies of ANSI/IEEE C2–1997, NESC, are available from IEEE Service Center, 455 Hoes Lane, Piscataway, New Jersey 08854, telephone number 1 (800) 678–4333. Copies of ANSI/NFPA 70–1999, *NEC*®, and ANSI/IEEE C2–1997, NESC, are available for inspection during normal business hours at RUS, room 2905, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250–1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(e) Aerial service wire shall be installed using the maximum practicable sag consistent with the required ground clearance and good construction practices. In no event shall the minimum sags be less than the values shown on construction drawing 505 contained in § 1755.510 for various

span lengths and loading areas provided. Span lengths shall not exceed 250 ft (76 m).

(f) To reduce vibration and galloping, aerial service wire shall be twisted one complete turn for each 10 ft (3 m) of span length at the time of installation.

(g) The methods of attaching aerial service wires at poles shall be as illustrated in construction drawings 503–2 and 504 contained in § 1755.510.

(h) Horizontal and vertical climbing spaces on poles used jointly with power circuits shall be provided in conformance with the requirements of Rule 236 of ANSI/IEEE C2–1997, NESC.

(i) Not more than four aerial service wires shall be distributed from any one 7/16 in. (10 mm) drive hook, or more than two aerial service wires from any one 5/16 in. (8 mm) drive hook. Aerial service wires and drive hooks shall be arranged so that the load does not pull the drive hook out of the pole. When more than one drive hook is required, the drive hooks shall be staggered with a minimum separation of 1 in. (25.4 mm) horizontally on centers and 1.5 in. (40 mm) vertically on centers. If drive hooks are placed within 3 in. (76 mm) of the top of the pole and on the opposite side of the pole's circumference, a vertical separation of at least 3 in. (76 mm) shall be provided. A

drive hook shall not be placed on the top of a pole or stub pole.

(j) When connecting aerial service wires to cable pairs at terminals, sufficient slack shall be provided so that each aerial service wire shall reach any binding post position as shown on construction drawing 312-1 contained in § 1755.510.

(k) Aerial service wire attachments on utility poles and the manner of placing bridle rings and entering cable terminals shall be as shown on construction drawing 503-2 contained in § 1755.510.

(l) Not more than two conductors shall be connected to any terminal

binding post. Where it is necessary to bridge more than two aerial service wires at the same closure, the aerial service wires shall be terminated in aerial service wire terminals connected in parallel with a No. 20 AWG bridle wire which shall be terminated on the binding posts of the filled terminal block.

(m) Where aerial service wire is attached to aerial plastic cable, it shall be brought directly into a ready-access closure and shall be terminated on the binding posts of the filled terminal block as shown on construction drawing 503-2 contained in § 1755.510.

(n) The conductor of copper coated steel reinforced aerial service wires identified by tracer ridges shall be used as the ring (negative battery) conductor of the pair, and shall normally be connected to the right or lower binding post of a pair on filled terminal blocks and NIDs or fused primary station protectors.

(o) *Nonmetallic reinforced aerial service wire pair identification.* (1) The tip and ring conductors of nonmetallic reinforced aerial service wires shall be identified in accordance with Table 3, as follows:

TABLE 3.—NONMETALLIC REINFORCED AERIAL SERVICE WIRE COLOR CODE

Pair number	Conductor color	
	Tip	Ring
1	White/Blue or White	Blue
2	White/Orange or White	Orange
3	White/Green or White	Green
4	White/Brown or White	Brown
5	White/Slate or White	Slate
6	Red/Blue or Red	Blue

(2) The ring (negative battery) conductor of the pair shall normally be connected to the right or lower binding post of a pair on filled terminal blocks and NIDs or fused primary station protectors.

(p) When it is necessary to avoid intervening obstacles between a pole and a building, span clamp attachments shall be used to support the aerial service wires at points between the poles that are supporting the cable on the suspension strand as indicated by construction drawings 501-1 and 501-2 contained in § 1755.510.

(q) Aerial service wire strung from pole to pole shall be placed entirely below or entirely above any existing wire or cable. When adequate ground clearance can be obtained, preference shall be given to placing aerial service wire below wire and cable.

(r) When more than one aerial service wire is installed from pole to pole, the first aerial service wire shall be sagged in accordance with construction drawing 505 contained in § 1755.510. Succeeding aerial service wires shall be sagged with 2 in. (50.8 mm) more sag for each aerial service wire.

(s) Aerial service wire spans from pole lines to buildings shall follow the shortest feasible route commensurate with the requirements of paragraph (t) of this section and shall be sagged in accordance with construction drawing 505 contained in § 1755.510. The route shall avoid trees and other obstructions to the extent practicable. Where trees

cannot be avoided, tree trimming permission shall be obtained from the owner or the owner's representative, and all limbs and foliage within 2 ft (600 mm) of the finally sagged wire shall be removed. If tree trimming permission cannot be obtained, the matter shall be referred to the borrower for resolution before proceeding with the installation.

(t) Aerial service wires shall contact buildings as closely as practicable at a point directly above the NID, or fused primary station protector. Generally, horizontal drop wire runs on buildings shall not exceed 20 ft (6 m). The warning given in § 1755.505(f)(11) regarding drilling holes in aluminum and vinyl siding applies also to attaching aerial service wires.

(u) The point of the first building attachment shall be located so that the aerial service wire will be clear of roof drainage points.

(v) Where practicable, aerial service wires shall pass under electrical guys, power distribution secondaries and services, tree limbs, etc.

(w) Aerial service wire shall not pass in front of windows or immediately above doors.

(x) Aerial service wires shall be routed so as to have a minimum clearance of 2 ft (600 mm) from any part of a short wave, ham radio, etc. antenna mast and a television antenna mast in its normal vertical position and of the possible region through which it sweeps

when being lowered to a horizontal position.

(y) Aerial service wires shall be installed such that all clearances and separations comply with either section 237 of ANSI/IEEE C2-1997, NESC, or ANSI/NFPA 70-1999, *NEC*®, or local laws or ordinances, whichever is the most stringent.

(z) Aerial service wire attachments to buildings shall be as follows:

(1) First attachments on buildings shall be made in accordance with construction drawings 506, 507, or 508-1 contained in § 1755.510, as applicable;

(2) Intermediate attachments on buildings shall be made in accordance with construction drawings 510 or 510-1 contained in § 1755.510; and

(3) Uninsulated attachments shall be permitted to be used as follows:

(i) Wherever NIDS are used as permitted by section 800-30(a)(1) of the ANSI/NFPA 70-1999, *NEC*®; and

(ii) On masonry and other types of nonflammable buildings.

(aa) Insulated attachments shall be used on wooden frame, metallic siding and other types of combustible buildings where fused primary station protectors are used, as required by section 800-30(a)(2) of ANSI/NFPA 70-1999, *NEC*®.

(bb) Aerial service wire runs on buildings shall be attached vertically and horizontally in a neat and most inconspicuous possible manner. See construction drawing 513 contained in § 1755.510. Horizontal runs on

buildings are undesirable and shall be kept to a minimum. Diagonal runs shall not be made.

(cc) Aerial service wire runs on buildings shall be located so as not to be subjected to damage from passing vehicles, pedestrians, or livestock.

(dd) Minimum separation between aerial service wires and other facilities on or in buildings shall be in

accordance with § 1755.505(f)(8), Table 1.

(ee) Appropriate devices for attaching aerial service wires to buildings vary with the type of building construction and with the type of customer access location equipment. Table 4 lists various types of attachments and their application with respect to construction,

customer access location equipment, and proper mounting devices.

Construction drawings 506 through 513 contained in § 1755.510 illustrate requirements with respect to various angles of service wire contacts and uses of various attachments. Table 4 is as follows:

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Table 4
DEVICES FOR ATTACHING AERIAL SERVICE WIRES TO BUILDINGS (1), (2), (8)

TYPE OF ATTACHMENT		TYPES OF FASTENING DEVICES											
		FRAME BUILDINGS (3)								FIRE RESISTANT BUILDINGS (4)			
		FUSED STATION PROTECTOR				NID				(NID OR FUSED STATION PROTECTOR)			
		Wood Shingle—Composition (5)	Plywood—Plastic—Board Paneling	Thin Brick—Stucco—Plaster	Metal Sheath	Wood Shingle—Composition (5)	Plywood—Plastic—Board Paneling	Thin Brick—Stucco—Plaster	Metal Sheath	Concrete Block	Tile	Brick Stone Concrete	Steel
Knob, S	Under 30° Angle	2-1/2" x #18 FH Screw	3" x #18 FH Screw	3" x #18 FH Screw	2-1/2" x #18 FH Screw	2-1/2" x #18 FH Screw	3" x #18 FH Screw	3" x #18 FH Screw	2-1/2" x #18 FH Screw				
	Over 30° Angle	5/16" Angle Screw	5/16" Angle Screw	3/8" Angle Screw	5/16" Angle Screw	5/16" Angle Screw	5/16" Angle Screw	3/8" Angle Screw	5/16" Angle Screw				
Knob, C		2-1/2" x #10 RH Screw	3" x #10 RH Screw	3-1/2" x #10 RH Screw	2-1/2" x #10 RH Screw	Note 6	Note 6	Note 6	Note 6				
Bracket, House		2" x #14 RH Screw	2" x #14 RH Screw	2-1/2" x #14 RH Screw	2" x #14 RH Screw	Note 6	Note 6	Note 6	Note 6				
Bracket, Corner		2" x #14 RH Screw	2" x #14 RH Screw	2-1/2" x #14 RH Screw	2" x #14 RH Screw	2" x #14 RH Screw	2" x #14 RH Screw	2-1/2" x #14 RH Screw	2" x #14 RH Screw	3/16" x 4" Toggle	3/16" x 4" Toggle	2" x #14 RH Screw	3/16" x 4" Toggle
Screweye, Insulated		1" Shank	1" Shank	2" Shank	1" Shank	Note 6	Note 6	Note 6	Note 6				
Ring, Bridle, Drive		Note 6	Note 6	Note 6	Note 6	Note 7	Note 7	Note 6	Note 7	Drive Anchor	Note 6	Drive Anchor	Note 6
Ring, Bridle, Screw		Note 6	Note 6	Note 6	Note 6	Note 7	Note 7	Note 6	Note 7	Expansion Anchor	Note 6	Expansion Anchor	Note 6
Hook, Drop Wire		Note 6	Note 6	Note 6	Note 6	2" x #14 RH Screw	2" x #14 RH Screw	2" x #14 RH Screw	2" x #14 RH Screw	1/4" x 4" Toggle	1/4" x 4" Toggle	2" x #18 RH Screw	1/4" x 3" Toggle
Hook, House		Note 6	Note 6	Note 6	Note 6	2" x #14 RH Screw	2" x #14 RH Screw	2" x #14 RH Screw	2" x #14 RH Screw	Expansion Anchor	Note 6	Expansion Anchor	Note 6
Ring, Bridle, Toggle										3/16" x 4" Toggle	3/16" x 4" Toggle	Note 6	3/16" x 4" Toggle
Clamp, One Hole, Offset or closed "U" Cable Strap		Note 6	Note 6	Note 6	Note 6	3/4" x #6 RH Screw	3/4" x #6 RH Screw	3/4" x #6 RH Screw	3/4" x #6 RH Screw	1" x #6 RH Screw	1/8" x 4" Toggle	1" x #6 RH Screw	1/2" x #6 SM Screw

Notes: 1. Screw dimensions are minimum. Where appropriate, either or both dimensions shall be increased. All wood screws for exterior use shall be stainless steel. All other exterior metal devices shall be stainless steel, zinc coated steel, silicon bronze, or corrosion resistant aluminum alloy.

2. Toggle bolt dimensions are minimum. Where appropriate, either or both dimensions shall be increased.

3. All devices should be attached to studding.

4. Screw-type devices shall be secured by means of expansion-type anchors. Equivalent manual or machine-driven devices may be used. Where toggle bolts are specified equivalent devices may be used.

5. Pilot holes shall be provided for screws and bridle rings in shingles and dropsiding.

6. Attachment device not applicable.

7. Attachment device applicable but no separate fastening device required.

8. To convert English units to Metric units use 1 in. = 25.4 mm.

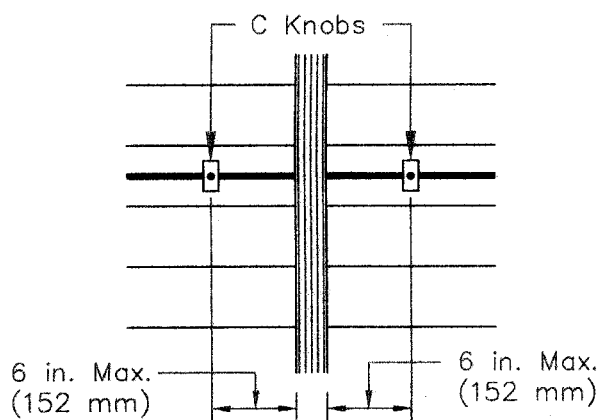
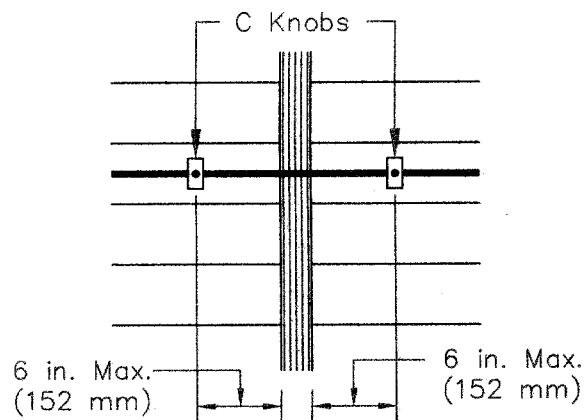
(ff) Fastener spacings for vertical and horizontal runs on frame or masonry buildings shall not be more than 6 ft (2 m) apart. Fasteners should be spaced close enough to prevent the aerial service wire from "slapping" against the building during windy conditions.

(gg) When it is necessary to pass behind or around obstructions such as downspouts and vertical conduits, the aerial service wire shall be supported firmly with attachment devices placed

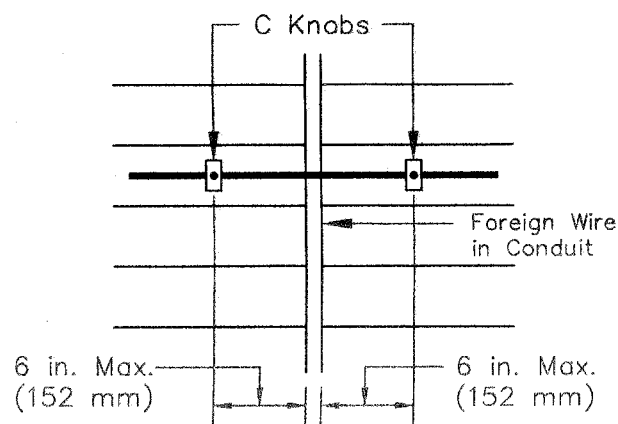
not more than 6 in. (152 mm) from the obstruction as illustrated in Figures 4 and 5 of paragraph (hh) of this section. Preferably, the aerial service wire should be routed behind obstructions to minimize the possibility of mechanical damage to the aerial service wire in the event repair work to the obstruction is required.

(hh) When passing around building projections of masonry or wood or around corners, aerial service wires shall be installed as illustrated in Figures 5 and 6. Figures 4, 5, and 6 are as follows:

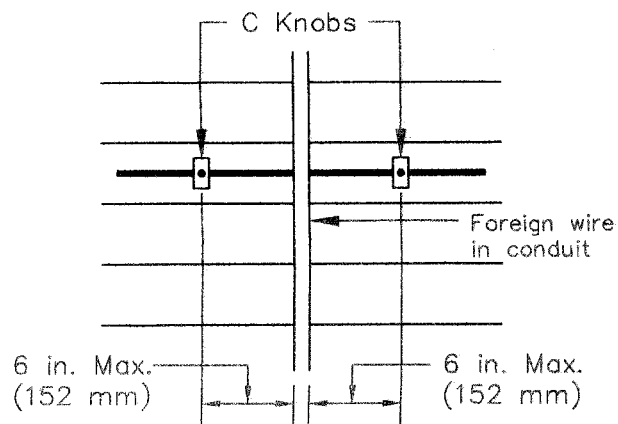
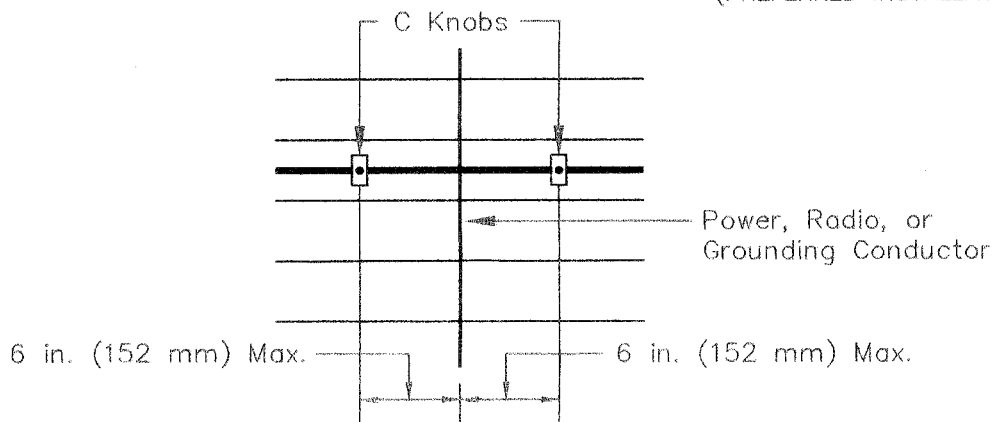
FIGURE 4

AERIAL SERVICE WIRE CROSSING OBSTRUCTIONS
WOODEN BUILDING SURFACESSKETCH A: PASSING BEHIND DRAIN SPOUT
(PREFERRED INSTALLATION METHOD)

SKETCH B: PASSING IN FRONT OF DRAIN SPOUT

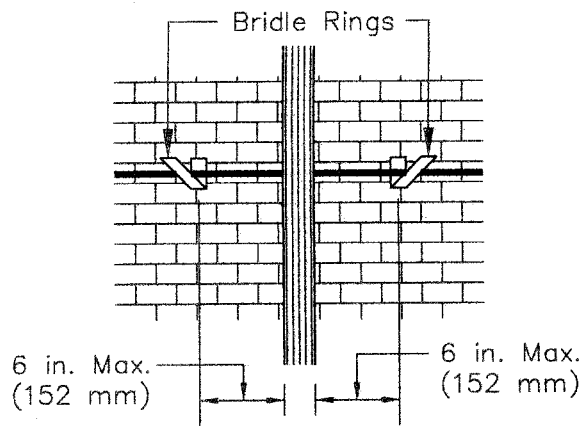
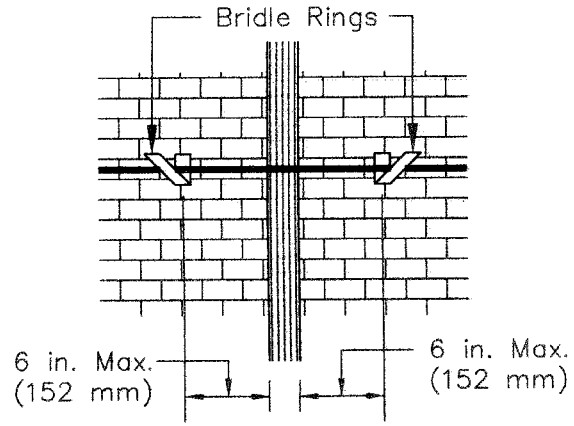


SKETCH C: CROSSING IN FRONT OF CONDUIT

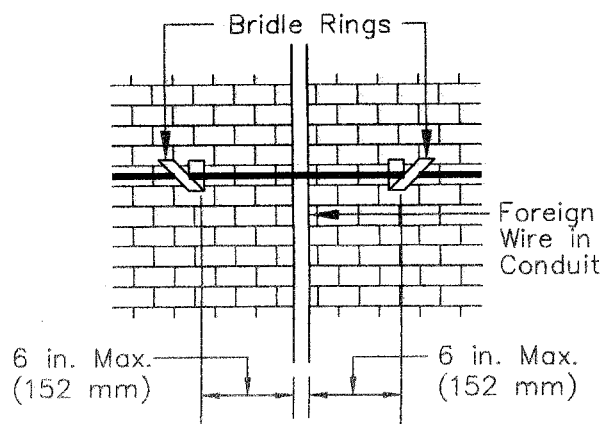
SKETCH D: CROSSING BEHIND CONDUIT
(PREFERRED INSTALLATION METHOD)

SKETCH E: PASSING POWER, RADIO, OR GROUNDING CONDUCTOR

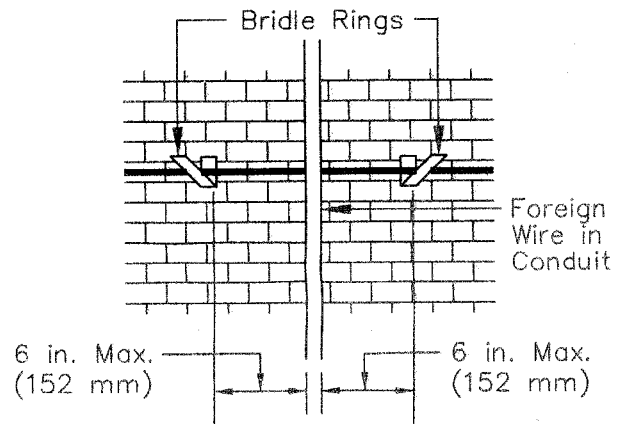
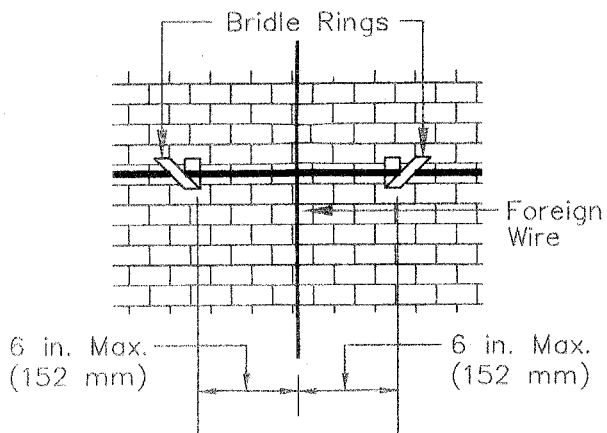
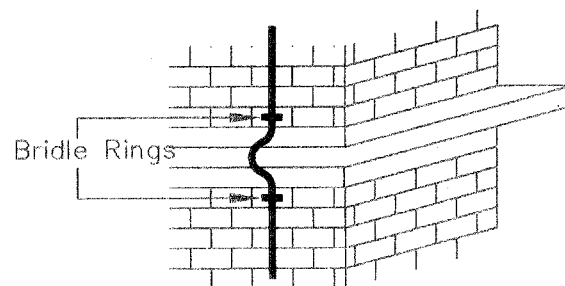
FIGURE 5

AERIAL SERVICE WIRE CROSSING OBSTRUCTIONS
MASONRY BUILDING SURFACESSKETCH A: PASSING BEHIND DRAIN SPOUT
(PREFERRED INSTALLATION METHOD)

SKETCH B: PASSING IN FRONT OF DRAIN SPOUT



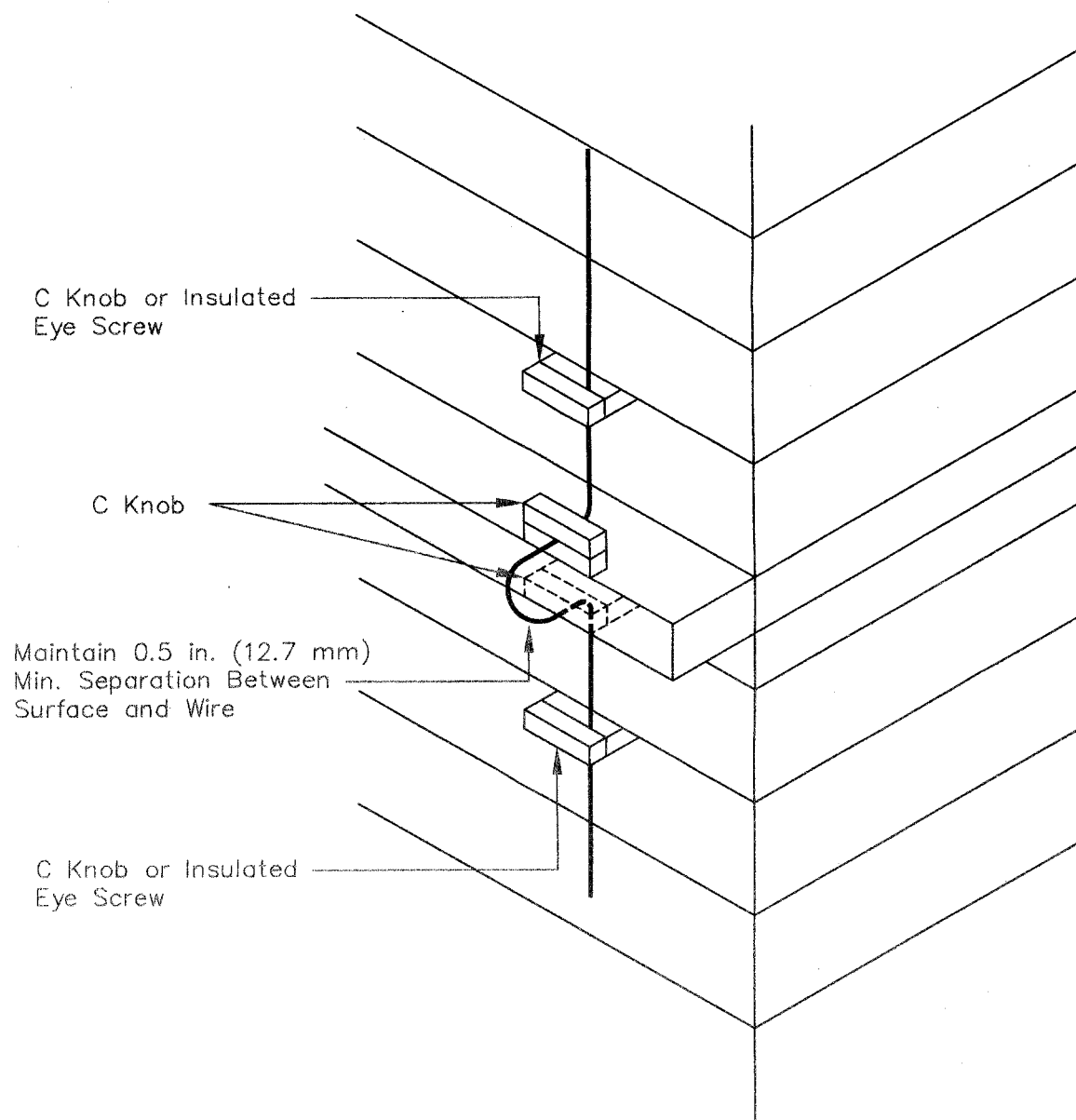
SKETCH C: CROSSING IN FRONT OF CONDUIT

SKETCH D: CROSSING BEHIND CONDUIT
(PREFERRED INSTALLATION METHOD)SKETCH E: PASSING BEHIND FOREIGN WIRE
(PREFERRED INSTALLATION METHOD)

SKETCH F: MASONRY BUILDING PROJECTIONS

FIGURE 6

AERIAL SERVICE WIRE CROSSING COMBUSTIBLE BUILDING PROJECTIONS



(ii) In areas where ice and snow conditions are severe, aerial service wires shall be located so that ice and snow falling from the roof will not strike the wires. However, where aerial service wires must pass under the sloping part of the roof, first attachments shall be made as close as practicable to the eaves.

(jj) If two aerial service wire spans are required to the same building, the first attachment shall be such that both aerial service wires can be attached at the same attachment device. Refer to construction drawing 508-1 contained in § 1755.510. Where more than two aerial service wires are required, additional attachment devices in the same general location on the building shall be used.

(kk) When two or more aerial service wire runs are required on the same building they shall share the same type of attachment devices.

(ll) Aerial service wire entrances to buildings shall conform to sketch B of construction drawing 510-2 contained

in § 1755.510, unless the entrance is made through a conduit.

(mm) When the aerial service wire approaches the entrance hole from above, a 1.5 in. (40 mm) minimum drip loop shall be formed in accordance with sketch B of construction drawing 510-2 contained in § 1755.510.

(nn) If an entrance conduit which slopes upward from outside to inside is available and suitably located, it shall be used for the aerial service wire entrance.

§ 1755.507 Aerial cable services.

(a) Where more than six pairs are needed initially, and where an aerial service is necessary, the service shall consist of 22 AWG filled aerial cable of a pair size adequate for the ultimate anticipated service needs of the building. The cable shall comply with the requirements of § 1755.390, RUS specification for filled telephone cables, and shall be RUS accepted or RUS technically accepted.

(b) Aerial cable services shall be constructed in accordance with specific

installation specifications prepared by the RUS borrower or the engineer delegated by the borrower.

(c) Unless otherwise specified in the installation specifications, aerial cable service installations shall meet the following requirements:

(1) Strand supported lashed construction shall be used.

(2) Where practicable a $\frac{5}{16}$ in. (8 mm) utility grade strand and automatic clamps shall be used in slack spans to avoid damage to the building.

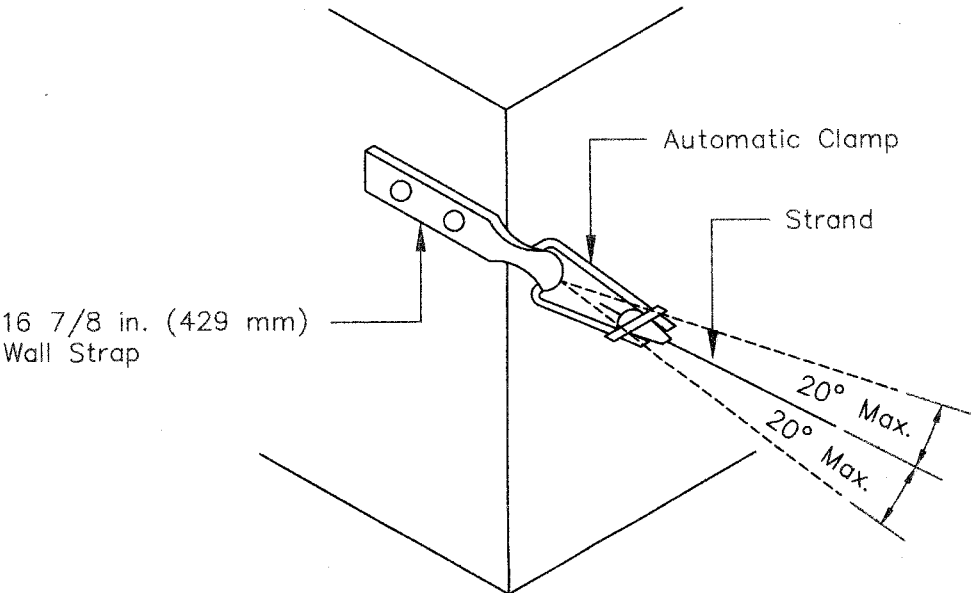
(3) Construction on poles shall comply with applicable construction drawings for regular line construction. Aerial service cable shall be spliced to the main cable in accordance with § 1755.200, RUS standard for splicing copper and fiber optic cables.

(4) Where practicable, aerial cable shall pass under electrical guys, distribution secondaries, and services.

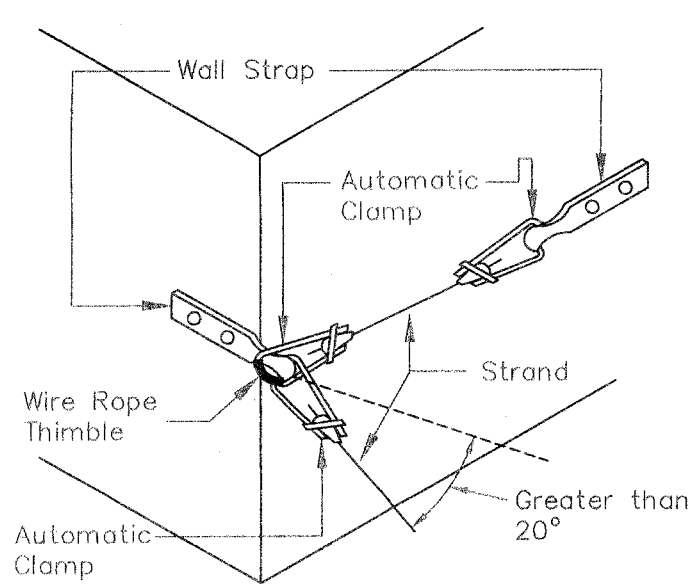
(5) The suspension strand shall be attached to the building by wall brackets as indicated in Figure 7 as follows:

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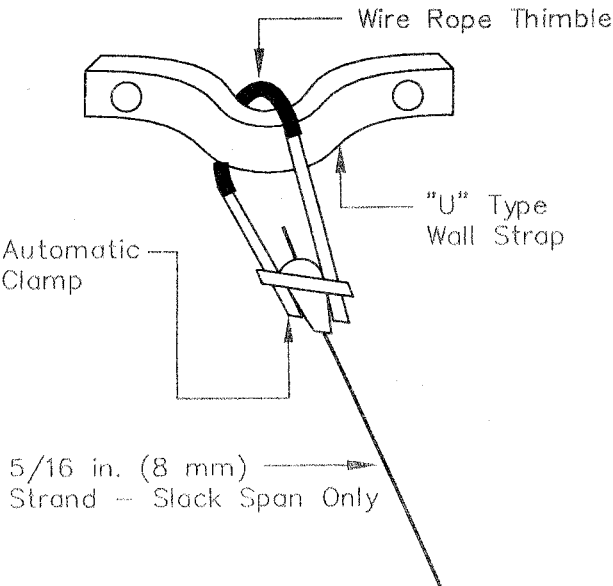
FIGURE 7
SUSPENSION STRAND DEADENDING ON BUILDINGS



SKETCH A: PULL ALONG LINE OF BUILDING WALL



SKETCH B: ANGLE PULL FROM BUILDING WALL



SKETCH C: PULL FROM FACE OF WALL

(i) If taut spans are necessary, appropriate size strand may be used if the pull is in line with one wall of the building, or within 20 degrees of being in line as illustrated in sketch A of Figure 7. If the angle of pull is greater than 20 degrees from the building, the wall bracket shall be reinforced against pullout by an arrangement equivalent to sketch B of Figure 7. Taut spans may be strung using the recommendations in RUS Bulletin 1751F-630, Design of Aerial Plant. The same tension as would be used in normal line construction so as not to exceed 60 percent of the breaking strength of the strand under maximum loading shall be used. Taut spans shall not exceed 100 ft (30.5 m) in length and the cable weight shall not exceed 1 pound/foot (lb/ft) [1.5 kilogram/meter (kg/m)] except when equivalent combinations of greater span lengths with cable weight less than 1 lb/ft (1.5 kg/m) are permissible. Copies of RUS Bulletin 1751F-630 are available upon request from RUS/USDA, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522, FAX (202) 720-4120.

(ii) When an attachment must be made to the face of a building wall away from a corner, a "U" type wall bracket shall be used as indicated in sketch C of Figure 7. Only slack span construction with $\frac{5}{16}$ in. (8 mm) utility grade strand shall be permitted in this situation. The bail of the automatic clamp shall be protected by a wire rope thimble.

(6) Aerial cable shall be located on the rear or side of the building and shall be run only in a horizontal or a vertical direction. The cable route shall be selected so as to avoid building projections and obstructions to the extent practicable.

(7) Cable attachment devices shall be located on solid masonry or on studs of wood frame buildings. Cable attachment devices may be installed on sheet surface materials only when such materials are reinforced with a backing material which allows penetration and firm holding of the attachment devices through the backing material.

(8) The minimum separation on or in buildings between cable and other facilities shall be as indicated in § 1755.505(f)(8), Table 1.

(9) On horizontal runs, cable clamps shall be placed so that the attachment is below the cable. On vertical runs, cable clamps shall be placed so that the attachment is on the same side as horizontal runs. Cable clamps shall be placed on the inside of cable bends.

(10) On horizontal runs, cable clamps shall be placed not more than 16 in. (400 mm) apart for cable diameters

equal to or greater than 1 in. (25.4 mm) and 24 in. (600 mm) apart for cable diameters less than 1 in. (25.4 mm).

(11) On vertical runs, cable clamps shall be approximately 24 in. (600 mm) apart for all sizes of cable.

(12) For the cable entrance, holes shall be bored slightly larger in diameter than the cable and shall slope upward from outside to inside. A duct sealer having RUS acceptance or RUS technical acceptance shall be applied to both ends of the hole after the cable is pulled in.

(13) Section 1755.505(g) and (h) shall also apply to aerial cable services.

§ 1755.508 Customer access location protection.

(a) All customer access locations shall be protected.

(b) Customer access location protection shall consist of installing the telecommunications facilities with proper clearances and insulation from other facilities, providing primary voltage limiting protection, fuse links, NIDs, BETs, or fused primary station protectors, if required, and adequate bonding and grounding.

(c) All NIDs shall be RUS accepted or RUS technically accepted or the RUS borrower shall obtain RUS regional office approval on a case by case basis as applicable.

(d) All BETs shall be RUS accepted or RUS technically accepted.

(e) All fused primary station protectors shall be RUS accepted or RUS technically accepted.

(f) NIDs, BETs, or fused primary station protectors shall be mounted outside for all applications except for those described in paragraphs (g)(1) through (g)(3) of this section.

(g) NIDs, BETs, or fused primary station protectors may be mounted inside when:

(1) Large buildings are to be served and the customer requests an inside installation;

(2) Buried alarm circuits are requested by the subscriber; or

(3) The customer requests an all buried installation for appearance or to prevent the drilling of holes in aluminum or vinyl siding.

(h) Outside mounted NIDs, BETs, or fused primary station protectors shall be easily accessible and shall be located between 3 to 5 ft (1 to 1.5 m) above final grade.

(i) The locations of NIDs, BETs, or fused primary station protectors shall be selected with emphasis on utilizing the shortest primary station protector grounding conductor practicable and on grounding of the telecommunications primary station protector to the electric

service grounding system established at the building served utilizing electrodes (c) through (g) cited in section 800-40(b)(1) of ANSI/NFPA 70-1999, *NEC*®. The *National Electrical Code*® and *NEC*® are registered trademarks of the National Fire Protection Association, Inc., Quincy, MA 02269. The ANSI/NFPA 70-1999, *NEC*®, is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1 (800) 344-3555. Copies of ANSI/NFPA 70-1999, *NEC*®, are available for inspection during normal business hours at RUS, room 2905, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250-1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(j) If access to the building electric service grounding system, as referenced in paragraph (i) of this section, is not possible or is not reasonable (telecommunications primary station protector grounding conductor will be longer than 10 ft (3 m)), the NID, BET, or fused primary station protector shall be located as close as practicable to electrodes (a) or (b) cited in section 800-40(b)(1) of ANSI/NFPA 70-1999, *NEC*®.

(k) In addition, the NID, BET, or fused primary station protector shall be located in, on, or immediately adjacent to the structure or building to be served as close as practicable to the point at which the telecommunications service wire attaches to the building, making sure that the telecommunications primary station protector grounding conductor is connected to the closest, existing, and accessible electrode, of the electrodes cited in paragraph (i) or (j) of this section.

(l) For the preferred customer access location installation, the ANSI/NFPA 70-1999, *NEC*®, permits the telecommunications grounding conductor to be connected to the metallic conduit, service equipment closure, or electric grounding conductor as shown in Figure 8 of paragraph (l)(2) of this section.

(1) Connections to metallic conduits shall be made by ground straps clamped over a portion of the conduit that has been cleaned by sanding down to bare metal.

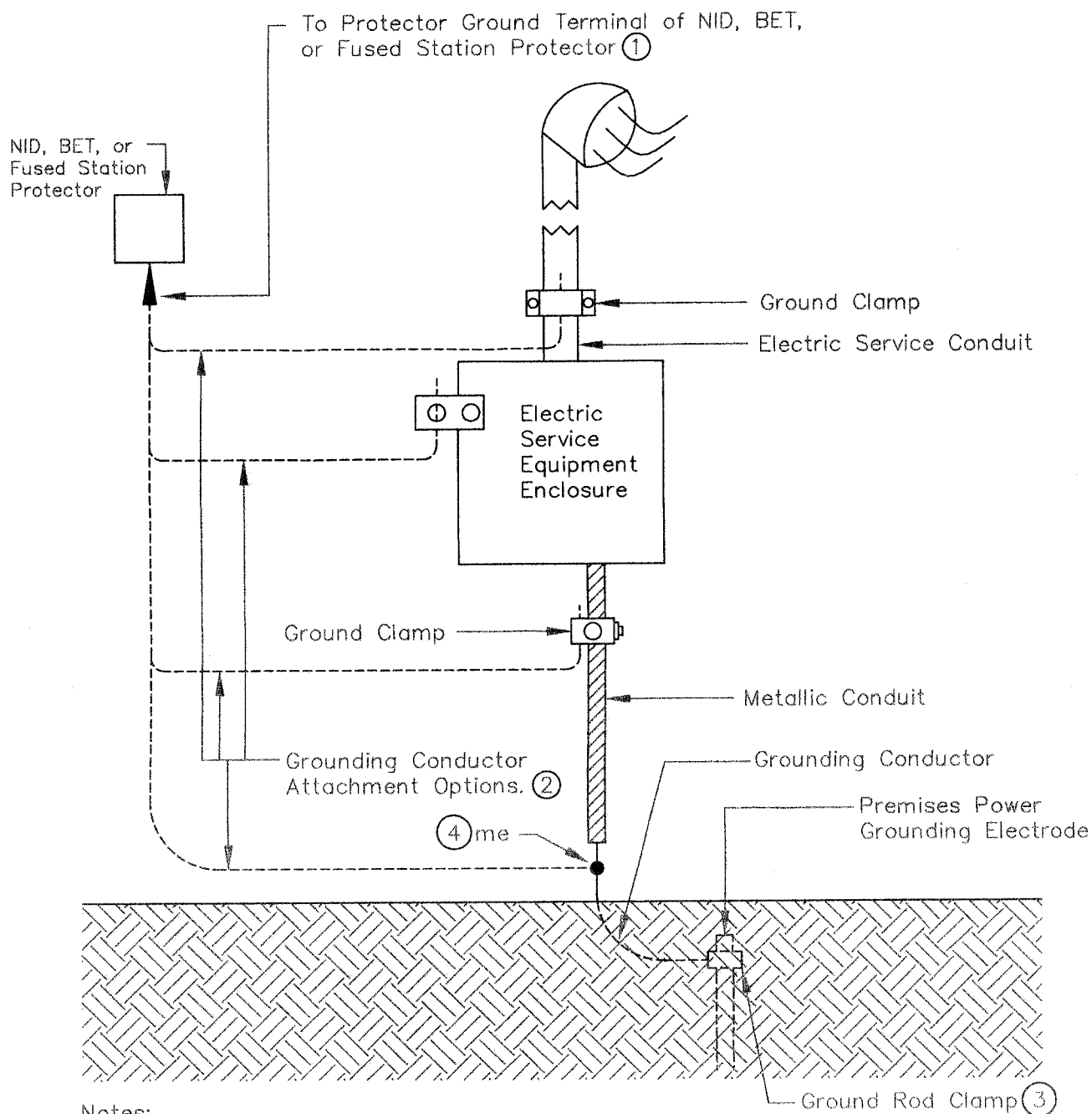
(2) Connections to metallic service equipment closures shall be made by attaching a connector which is listed for the purpose by some organization acceptable to the local authority (State, county, etc.) per article 100 of ANSI/NFPA 70-1999, *NEC*®, definition for

“Listed” (for example connectors listed for the purpose by Underwriters

Laboratories (UL)). Figure 8 is as follows:

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FIGURE 8

GROUNDING OF TELECOMMUNICATIONS SERVICE TO ELECTRIC SERVICE
(PREFERRED METHOD)**Notes:**

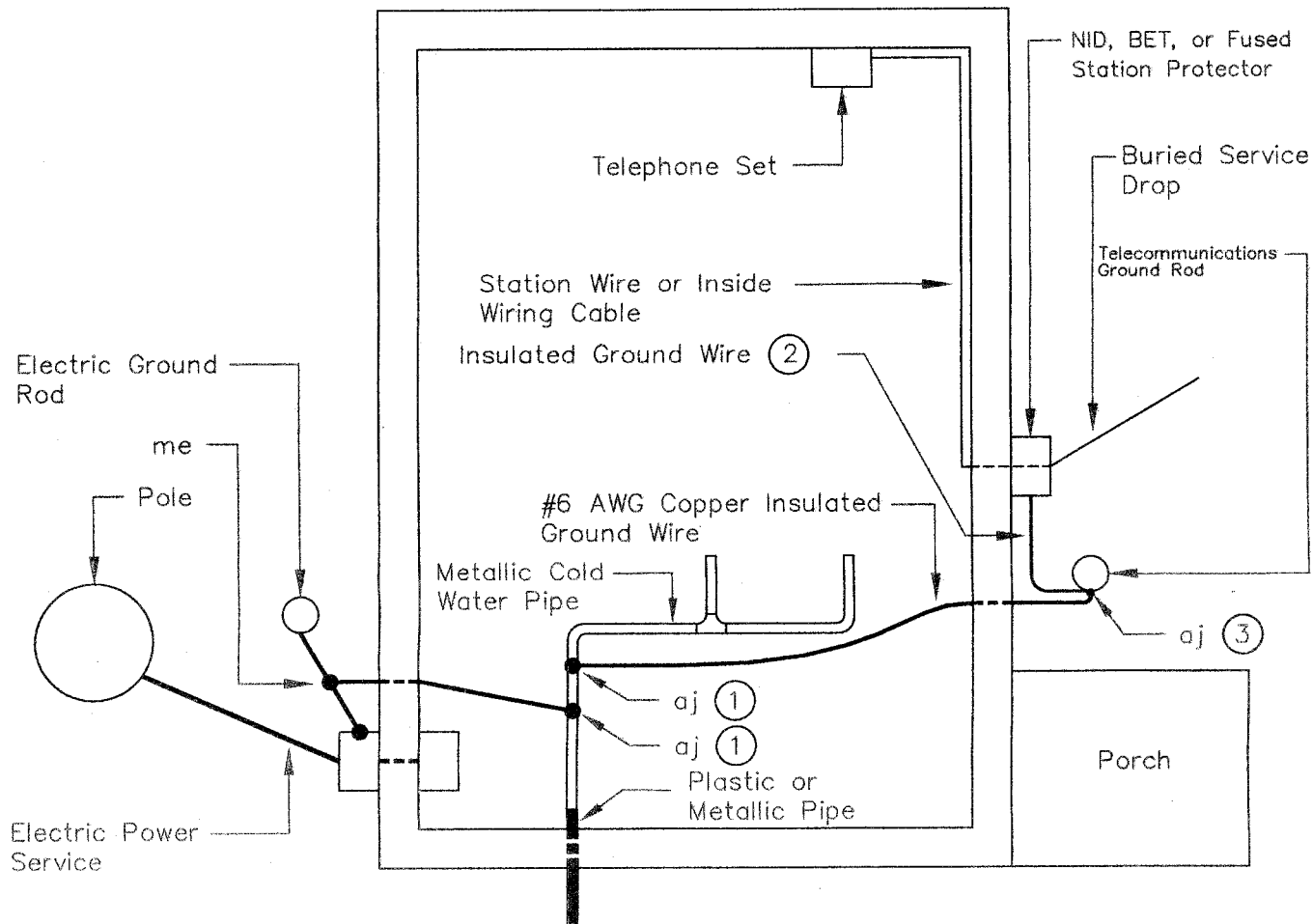
- ① See Section 800-40(a) of ANSI/NFPA 70-1999 NEC®. ② Select one of the attachment options shown above for the installation. ③ Clamp must be accepted by Listing Agency (UL, etc.). ④ Connector (Item "me") must be accepted by a Nationally recognized testing laboratory.

(m) Where it is not possible to accomplish the objective of paragraphs (i), (j), and (k) of this section, interior metallic pipes may be used to the maximum practicable extent to gain access to the electric service ground as shown in Figure 9. Note that the water pipe in Figure 9 is electrically continuous between electric and telecommunications bonds to the cold

water pipe and it is used only as a portion of a bonding conductor and, therefore, does not have to be "acceptable" as a ground electrode but may be floating (isolated from ground by a plastic pipe section). ANSI/NFPA 70–1999, *NEC*[®], requires that metal piping be used as a bonding conductor in this manner only when the connectors to the pipe are within 1.5 m (5 ft) of where the

pipe enters the premises. This is not the preferred installation. The RUS preferred installation has the telecommunications primary station protector grounded directly to an accessible location near the power grounding system. See paragraph (l) of this section. Figure 9 is as follows:

FIGURE 9

ALTERNATIVE TECHNIQUE FOR BONDING TO ELECTRIC SERVICE GROUND
WHERE DIRECT ATTACHMENT IS NOT POSSIBLENotes:

- ① Both electric and telephone "aj" connectors attached to the cold water pipe shall be within 5 ft (1.5 m) of where the pipe enters the premises.
- ② Refer to Section 1755.508, Paragraph (v), Table 5 for the ground wire conductor size. Ground wire must be accepted by a Nationally recognized testing laboratory.
- ③ Connector "aj" must be accepted by a Nationally recognized testing laboratory.

(n) Where the telecommunications premises system at a customer's access location is grounded to a separate electrode (of any type) this telecommunications grounding electrode must be bonded to the electric grounding system with a No. 6 AWG or larger copper insulated grounding conductor. Bonding of separate electrodes is a requirement of the ANSI/NFPA 70-1999, *NEC*®.

(o) The NID, BET, or fused primary station protector pair size shall be selected for the number of lines anticipated within five years.

(p) When lightning damage is considered probable or customer access locations are remote from the borrower's headquarters, use of maximum duty gas tube primary station protectors incorporated in NIDs, BETs, or fused primary station protectors should be considered. (See RUS TE&CM 823, Electrical Protection by Use of Gas Tube Arresters). Copies of RUS TE&CM 823 are available upon request from RUS/USDA, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522, FAX (202) 720-4120.

(q) NIDs or BETs incorporating fuseless station protectors shall always be used in preference to fused station protectors or BETs incorporating fused

protectors, when in the judgment of the RUS borrower or the engineer delegated by the RUS borrower, the requirements of ANSI/NFPA 70-1999, *NEC*®, for fuseless station protectors can be met.

(r) A fuse link consisting of a copper conductor two gauges (AWG) finer (numerically higher) conductivity than the aerial service wire shall be provided between the cable and aerial service wire where NIDs or BETs incorporating fuseless station protectors are used. Thus for a 22 AWG drop, a fuse link of No. 24 AWG or finer copper wire shall be provided. If the cable circuit is No. 24 gauge or finer, the cable conductors serve as the fuse link for the 22 AWG aerial service wire and no separate fuse link is necessary. (Note: The fuse link or the facilities serving as the fuse link must be located between the telecommunications facilities that are exposed to possible power cross and the customer drop where there is no exposure to possible power cross.)

(s) RUS's buried plant practices require buried main line plant to be protected against power contacts to aerial plant extensions and aerial inserts by No. 24 AWG fuse links at every buried-aerial junction.

(t) In aerial cable plant, fuse links are usually provided by No. 24 AWG leads

on filled terminal blocks regardless of the gauge of the cable conductors. This practice is acceptable if the ampacity of the aerial service wire is sufficiently higher than the fuse link's ampacity.

(u) The grounding and bonding of each NID, BET, or fused primary station protector shall be selected by consulting paragraphs (i) through (n) of this section. The "first choice" assembly unit shall be selected whenever the prevailing conditions make its use practicable. The NID, BET, or fused primary station protector assembly unit selected shall be installed in accordance with the appropriate construction drawing specified in RUS Bulletin 1753F-153 (RUS Form 515d), Specifications and Drawings for Service Installations at Customer Access Locations (Incorporated by reference at § 1755.97). Copies of RUS Bulletin 1753F-153 are available upon request from RUS/USDA, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522, FAX (202) 720-4120.

(v) The minimum size grounding conductor that can be used with a single NID; a group of NIDs; a multipair NID; fused protector; or BET shall be in accordance Table 5, as follows:

TABLE 5.—GROUNDING CONDUCTOR SIZE VERSUS NUMBER OF CIRCUITS

Minimum grounding conductor size	Number of circuits	
	Fuseless (carbon or gas tube)	Fused
#12 AWG, copper, insulated	1 to 2	1 to 3.
#10 AWG, copper, insulated	3 to 5	4 to 7.
#6 AWG, copper, insulated	6 or more	8 or more.

(w) Grounding conductor runs between the NID, BET, or fused station protector and the ground electrode shall conform to the following:

(1) The shortest, most direct route practicable shall be used;

(2) Sharp bends in the grounding conductor shall be avoided during installation;

(3) No splices shall be made in the grounding conductor;

(4) Grounding conductors shall not be fished through walls, under floors, or placed in bridle rings or any metal conduit unless the grounding conductor is bonded to the conductor at both ends of the metallic conduit;

(5) Grounding conductor runs from an outside mounted NID, BET, or fused station protector to an inside ground electrode shall use the same entrance as the station wire; and

(6) Grounding conductor runs from an outside mounted NID, BET, or fused station protector to an outside ground electrode at the building shall be attached to the exterior surface of the building or buried. If buried, the grounding conductor shall be either plowed or trenched to a minimum depth of 12 in. (300 mm). When trenched, the trenches shall be as close to the side of the building as practicable, backfilled, and tamped to restore the earth to its original condition.

(x) Telecommunications grounding connectors shall be RUS accepted or RUS technically accepted. Grounding and bonding conductors shall be made of copper. Where the grounding and bonding conductors must be connected to aluminum electric service grounding conductors, bimetal grounding connectors shall be used.

(y) Grounding conductor attachments shall conform to the following:

(1) Galvanized nails or clamps, or nickel-copper alloy staples shall be used for grounding conductor attachments in accordance with Table 6 in paragraph (y)(3) of this section;

(2) Grounding conductors, station or buried service wires in parallel runs may share the same fastening device when the device is specifically designed for two wires. See Table 6 in paragraph (y)(3) of this section for station wire and grounding conductor fasteners; and

(3) Grounding conductor fasteners shall be placed 12 to 18 in. (300 to 450 mm) apart on straight runs and 2 to 4 in. (50.8 to 100 mm) apart at corners and at bends. Table 6 is as follows:

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Table 6

TYPICAL FASTENING DEVICES FOR STATION WIRES AND GROUNDING CONDUCTORS (9)

TYPE AND GAUGE OF WIRE		APPROX. OVERALL DIAMETER	TYPES OF FASTENING DEVICES FOR VARIOUS TYPES OF BUILDINGS OR WALL FINISHES							
			Hard Woods	Soft Woods	Wallboard, Plaster on Wood, or Metal Lath, or Concrete Block(3)	Brick, Stone or Concrete(3)	Shingles and Siding(4)	Sheet Metal(5)	Wall Tile(3)	
#22 AWG Station Wire		.125 in. to .155 in.	A1, D7, E1, F1, G1	A2, A3, D8, E2, F2, G2	D8, D9, E2, E3, G2, G3	D8, E2, G2	A2, A3, D7, D8, E2, F2	D7, D8, D9, G1, G2, G3, H1	D8, D9, E2, E3, G2, G3, H1	
GROUNDING CONDUCTOR	#10 AWG Insulated Wire	.168 in.	A1, B1, D1	A2, A3, B1, B2, D2	B2, D2, D3	B2, D2	A2, A3, B1, B2, D1, D2	D1, D2, D3, H2	B2, D2, D3, H2	
	#12 AWG Insulated Wire	.127 in.	A1, B1, C1, E1, F1, D7, G1	A2, B1, B2, C1, C2, D8, E2, F2, G2	B2, C2, C3, D8, D9, E2, E3, G2, G3	B1, B2, C2, D8, E2, E3, G2	A2, A3, B1, B2, C1, C2, D8, E2, F2, G2	C1, C2, C3, D7, D8, D9, E1, E2, E3, G1, G2, G3, H1	B2, B3, C3, D8, D9, E2, E3, G2, G3, H1	
	#6 AWG Insulated Wire	.290 in.	A2, A3, B1, D4	A3, B2, D5	B2, D5, D6	B2, D5	A3, B2, D5	D4, D5, D6, H3	B2, D5, D6, H3	
EXPLANATION OF FASTENER CODES		A. <u>Staple Machine, Round Crown, Interior Use Only - (Note 6)</u>		D. <u>Clamp, One Hole Offset, Galvanized or Enameled, Interior and Exterior Use - (Note 7)</u>			F. <u>Nail, Station Wiring, Galvanized or Enameled, Interior and Exterior Use - (Note 7)</u>			
		1. 3/16" or 1/4" Crown - 3/8" Leg		Wire Size			Wire Size			
		2. 3/16" or 1/4" Crown - 7/16" or 9/16" Leg		Min. Max. Fasteners (1), (2)			Min. Max. Fasteners			
		3. 3/16" or 1/4" Crown - 9/16" Leg		1. 5/32" to 7/32" 1/2" x #6 RH Screw			1. Two 1/8" to 5/32" 3/4" x #6 RH Screw(1)			
B. <u>Nail, Ground Wire, Single Shank Galvanized, Interior and Exterior Use</u>		1. 7/8" #14			2. 5/32" to 7/32" 3/4" x #6 RH Screw			2. Two 1/8" to 5/32" 1" x #6 RH Screw(1)		
		2. 1-3/8" #13			3. 5/32" to 7/32" 1/8" x 3" Toggle Bolt			3. Two 1/8" to 5/32" 1/8" x 3" Toggle Bolt(2)		
		4. 1/4" to 5/16" 1/2" x #6 RH Screw			7. 1/8" to 5/32" 1/2" x #6 RH Screw					
		5. 1/4" to 5/16" 1" x #6 RH Screw			8. 1/8" to 5/32" 3/4" x #6 RH Screw					
C. <u>Clamp, Ground Wire, One Hole, Galvanized, Interior and Exterior Use</u>		6. 1/4" to 5/16" 1/8" x 3" Toggle Bolt			9. 1/8" to 5/32" 1/8" x 3" Toggle Bolt					
		7. 1/8" to 5/32" 1/2" x #6 RH Screw								
		8. 1/8" to 5/32" 3/4" x #6 RH Screw								
		9. 1/8" to 5/32" 1/8" x 3" Toggle Bolt								
E. <u>Clamp, Station Wiring, One Hole, Galvanized or Enameled, Interior and Exterior Use - (Note 7)</u>		1. Type B-1/2" x #6 RH Screw (1)			1. Type B-1/2" x #6 RH Screw (1)			1. 1/8" Nominal		
		2. Type B-3/4" x #6 RH Screw (1)			2. Type B-3/4" x #6 RH Screw (1)			2. 3/16" Nominal		
		3. Type B-1/8" x 3" Toggle Bolt (2)			3. Type B-1/8" x 3" Toggle Bolt (2)			3. 1/4" Nominal		
H. <u>Station Wire Clip, Adhesive Backed, Interior Use Only -</u>										

Notes: 1. Screw dimensions are minimum. Where appropriate, either or both dimensions shall be increased. All wood screws for exterior use shall be stainless steel. All other exterior metal devices shall be stainless steel, zinc coated steel, silicon bronze, or corrosion resistant aluminum alloy.

2. Toggle bolt dimensions are minimum. Where appropriate, either or both dimensions shall be increased.

3. Wall screw anchors may be used in wall board, plaster or tile walls. Screws and nails in masonry shall be secured by means of expansions type anchors. Equivalent manual or machine-driven devices may be used. Where toggle bolts are specified, equivalent devices may be used.

4. Lead holes shall be drilled for screws, nails, and bridle rings in shingles and drowsiding.

5. Sheet metal screws shall be used except where toggle bolts are required. Where wood sheathing under sheet metal siding is encountered, the sheet metal may be drilled or punched and a wood screw used.

6. Machine-driven staples of nickel-copper composition may be used for exterior wiring.

7. Galvanized clamps and wiring nails may be used for exterior and interior wiring. Enamelled clamps shall be used for interior wiring only. Where toggle bolts or equivalent devices require holes in the structure larger than the clamp being fastened, a suitable washer of sufficient size to cover the hole must be used under the clamp.

8. Double clamp may be used where two #22 AWG station wires, two #12 AWG grounding conductors, or one #22 AWG station wire and one #12 grounding conductor parallels one another.

9. For converting English units to Metric units use 1 in. = 25.4 mm.

(z) Grounding conductors shall be separated from non-telecommunications company wires in accordance with section 800–12(b) of ANSI/NFPA 70–1999, NEC®.

(aa) Grounding conductors run through metal conduits shall be bonded to the conduit at each end. RUS accepted and RUS technically accepted pipe type ground clamps and grounding connectors shall be used for bonding.

(bb) Where NID, BET, or fused station protector assembly units require grounding conductor connections to pipe systems, the following apply:

(1) The connection shall be made to a cold water pipe of an operating water system;

(2) The connection point shall be preferably inside the building;

(3) Allow a minimum of 6 in. (152 mm) between the last fastener and the point where the grounding conductor first touches the water pipe;

(4) Leave 2 in. (50.8 mm) of slack in the grounding conductor to avoid breaking the conductor at the terminating point. Tape the grounding conductor to the pipe where possible to avoid movement. In no case, shall the

grounding conductor be coiled or wrapped around the pipe;

(5) The pipe shall be cleaned with fine sand paper to make a good electrical connection. Care should be taken to avoid damaging the pipe while cleaning it;

(6) Attach the pipe grounding conductor connector to the cleaned area of pipe and tighten. Care shall be exercised to avoid deforming, crushing, or otherwise damaging the pipe. A simple continuity check with an ohmmeter between the connector and the pipe will indicate whether or not a good electrical contact has been made. Set the ohmmeter to “Rx1” scale to ensure that a low resistance contact is made;

(7) A warning tag shall be attached to the ground clamp with the following or equivalent statement: “Call the telecommunications company if this connector or grounding conductor is loose or must be removed;” and

(8) When the water pipe is used, the ANSI/NFPA 70–1999, NEC®, requires that metal piping be used as a bonding conductor in this manner only when the connections to the pipe are within 5 ft (1.5 m) of where the pipe enters the premises.

(cc) Bonding conductors shall consist of either copper or tinned copper insulated wires of appropriate sizes.

(1) Bonding conductors shall be run and attached in the same manner as grounding conductors.

(2) Attaching and terminating devices for bonding conductors shall be adequate for the size of wire involved. The No. 6 AWG copper insulated conductor or larger shall not be terminated by bending it around a threaded stud.

(dd) Where NID, BET, or fused station protector assembly units require a driven ground rod the following shall apply to the ground rod installation:

(1) Locate the ground rod at least 1 ft (300 mm) from buildings, poles, trees and other obstruction;

(2) Ground rods shall not be installed within 6 ft (2 m) of electric service ground rods (Note: This minimum separation is provided to avoid mutual impedance effects of multiple grounding electrodes that will deleteriously degrade the effective impedance-to-earth if grounding electrodes are installed any closer than 6 ft (2 m) to one another. This requirement is included for cases where the telecommunications company is not allowed, for some reason, to observe the RUS preferred grounding method of attaching the primary protector grounding conductor directly to an accessible point on the building electric

service grounding system. RUS believes that if the primary protector location can be sited within 6 ft (2 m) of the electric service ground rod then the electric service ground rod could be used as the preferred telecommunications grounding electrode and a separate telecommunications ground rod is unnecessary);

(3) A hole, 15 in. (380 mm) deep and 6 in. (150 mm) in diameter, shall be dug at the location where the ground rod is to be driven;

(4) Where “slip-on” type ground rod clamps are used instead of “clamp-around” type clamps, the ground rod clamps shall be placed onto the rod prior to driving the rod into the ground (Note there should be one clamp for the NID, BET, or fused station protector grounding conductor and one clamp for the conductor required to bond the telecommunications ground rod to the electric grounding system). However, the clamp shall not be tightened until the rod is completely driven. The end of the rod shall be placed in the bottom of the hole and the rod shall be aligned vertically adjacent to one wall of the hole prior to driving. The rod shall be driven until its tip is 12 in. (300 mm) below final grade. The grounding conductor shall then be attached, the clamp shall be tightened, and hole backfilled. Clamps employed in this manner shall be suitable for direct burial and shall be RUS accepted or RUS technically accepted; and

(5) Where rods are manually driven, a large number of blows from a light hammer (4 lbs (1.8 kg)) shall be used instead of heavy sledgehammer type blows. This should keep the rod from bending.

(ee) Terminations on fuseless primary station protectors incorporated in NIDs and on fused primary station protectors shall be as shown in Figures 10, 11, 12, and 13 of paragraph (ee)(1) of this section, Figure 14 of paragraph (ee)(4) of this section, and Figure 15 of paragraph (ee)(6) of this section. The inner jackets of buried service wires and outer jackets of cables used as service drops shall be extended into the NID or the fused primary station protector. A 10 in. (250 mm) length of each spare wire shall be left in NIDs or fused primary station protectors. The spare wires shall be coiled up neatly and stored in the NID or fused primary station protector housing.

(1) The shields of buried service wires may be connected to the ground binding post using RUS accepted or RUS technically accepted buried service shield bond connectors as shown in Figure 10 for NIDs and Figure 11 for

fused primary station protectors. RUS
accepted or RUS technically accepted
buried service wire harness wires
designed for customer access location

installations may also be used for
terminating buried service wire shields
to the ground binding post of the NID
as shown in Figure 12 and Figure 13 for

fused primary station protectors. Figures
10 through 13 are as follows:

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FIGURE 10

BONDING BURIED SERVICE WIRE AT STATION PROTECTOR OF NID
USING SERVICE WIRE SHIELD BOND CONNECTOR

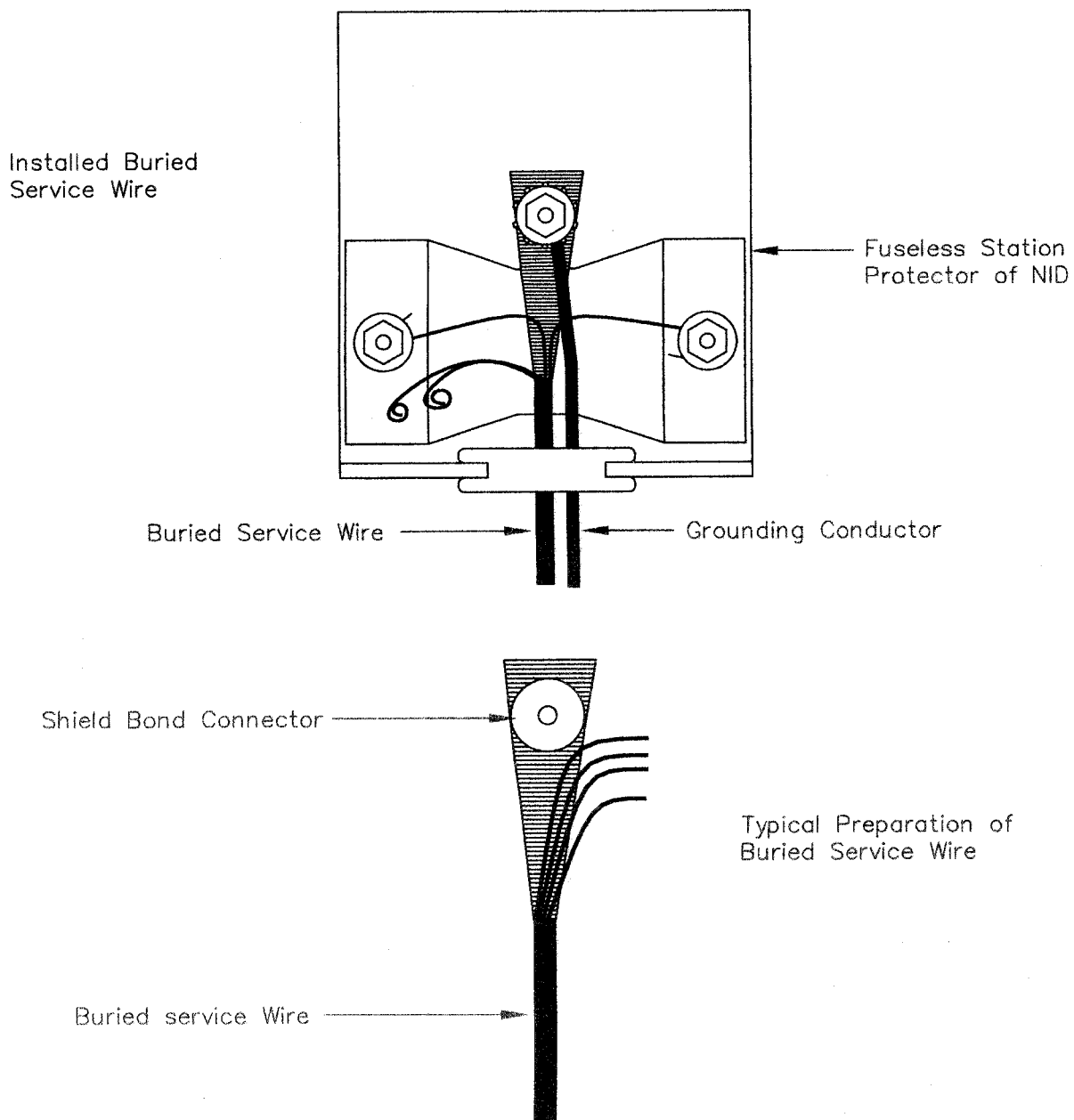


FIGURE 11

BONDING BURIED SERVICE WIRE AT FUSED STATION PROTECTOR
USING SERVICE WIRE SHIELD BOND CONNECTOR

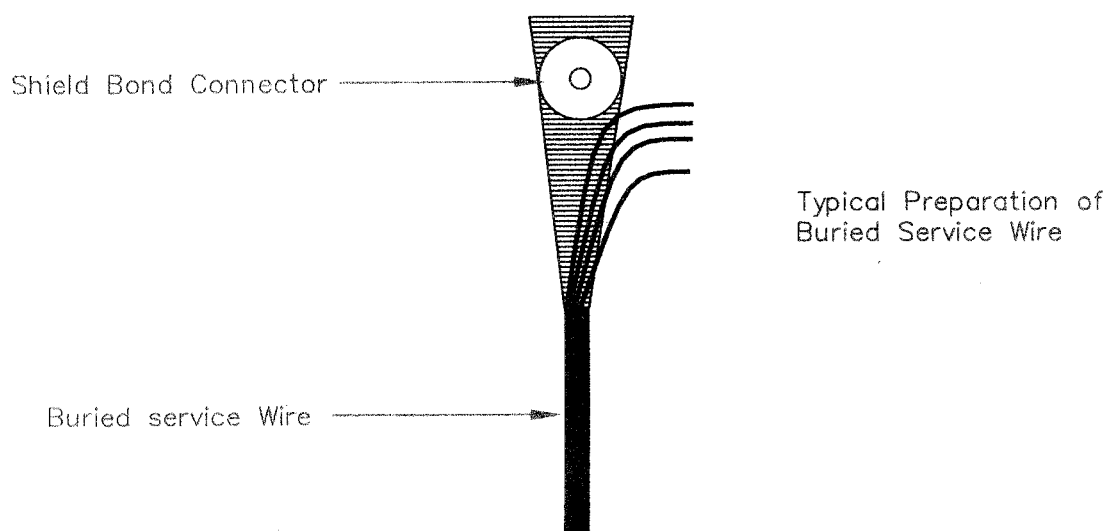
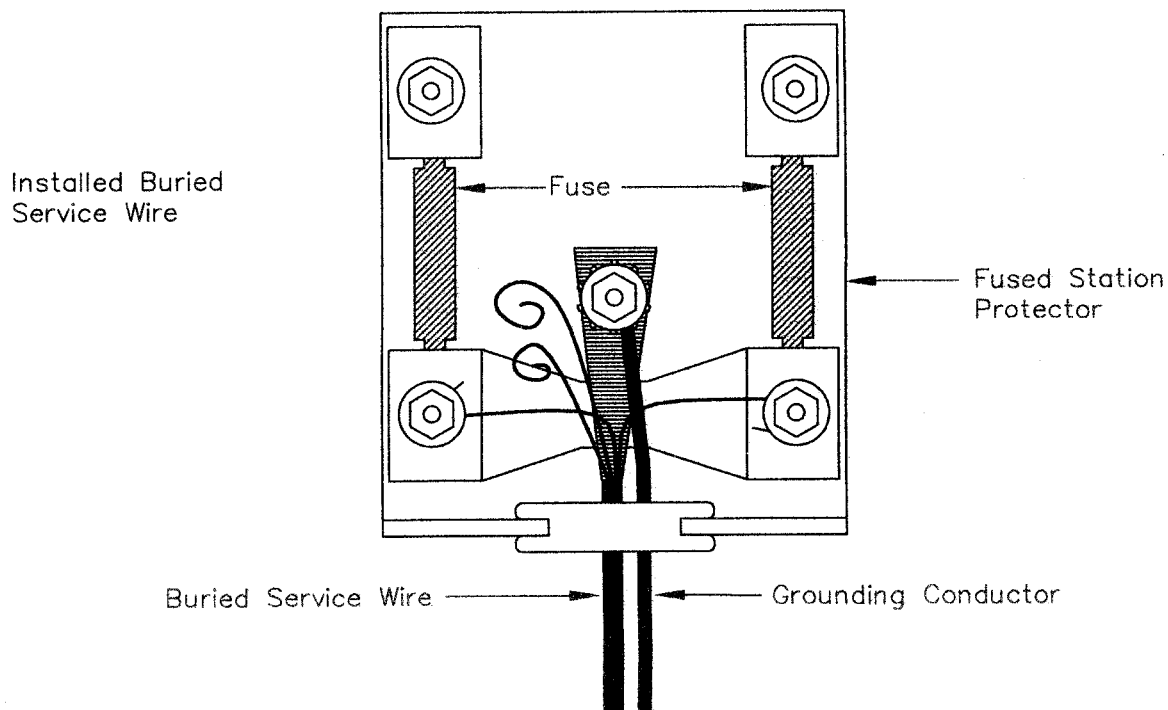


FIGURE 12

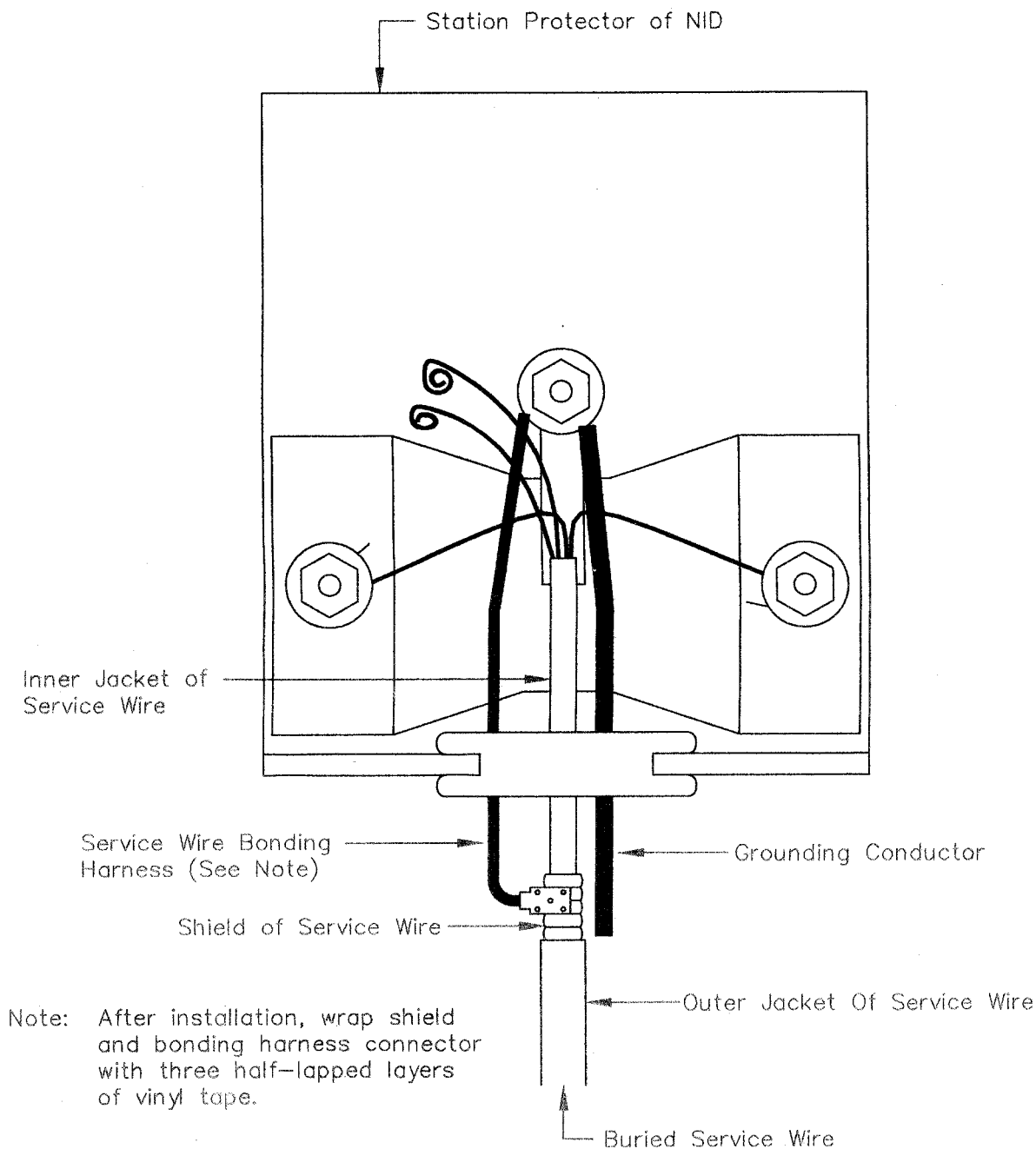
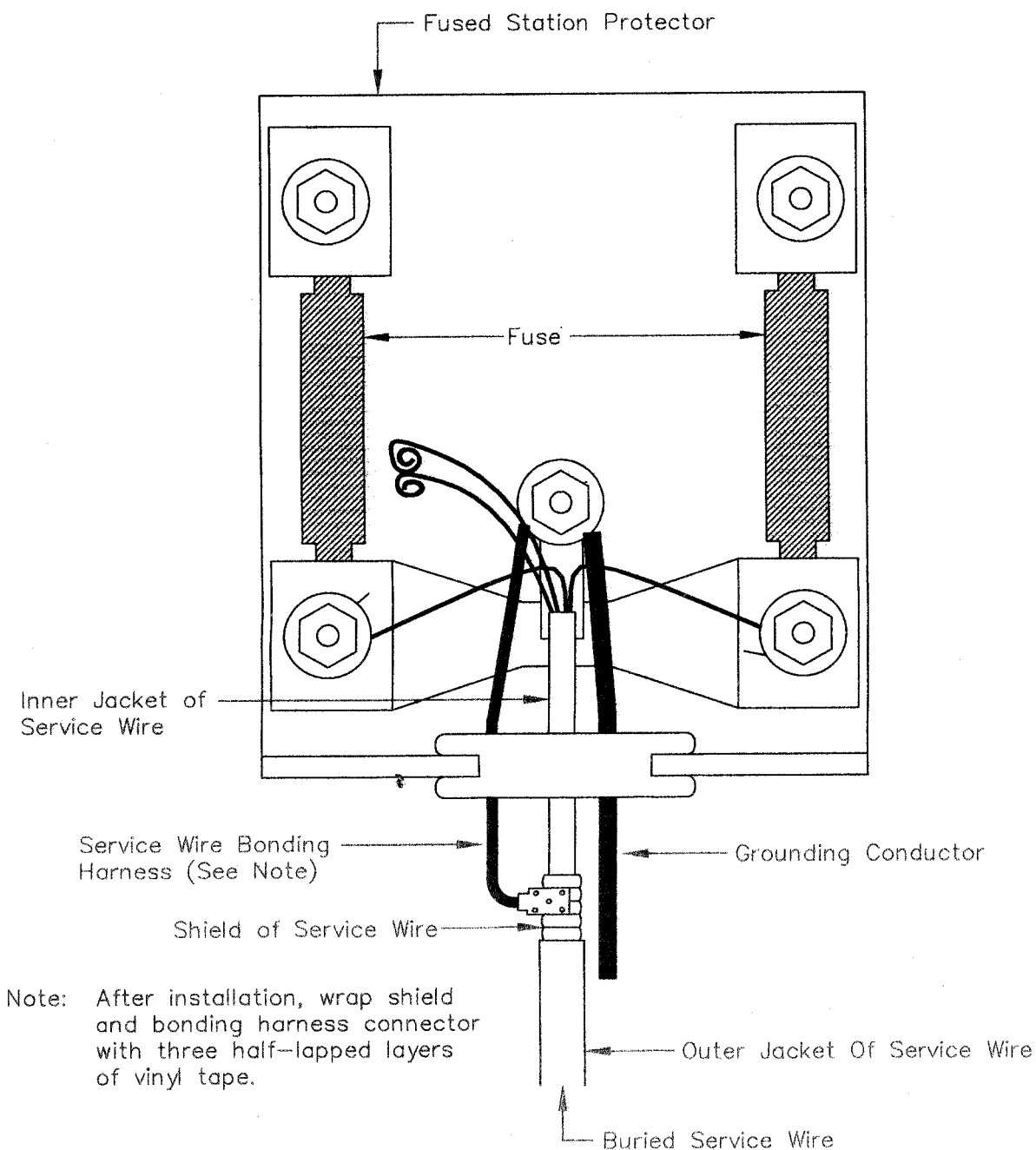
BONDING BURIED SERVICE WIRE AT STATION PROTECTOR OF NID
USING SERVICE WIRE BONDING HARNESS

FIGURE 13

BONDING BURIED SERVICE WIRE AT FUSED STATION PROTECTOR
USING SERVICE WIRE BONDING HARNESS

(2) On buried service drops and aerial service drops of more than 6 pairs using RUS accepted or RUS technically accepted cables, the shields shall be terminated with a RUS accepted or RUS technically accepted cable shield bonding connector and extended to the ground binding post of the NID, BET, or fused primary station protector with an RUS accepted or RUS technically accepted bonding harness wire. The

installation of the shield bond connector and bonding harness wire shall be in accordance with the manufacturer's instructions.

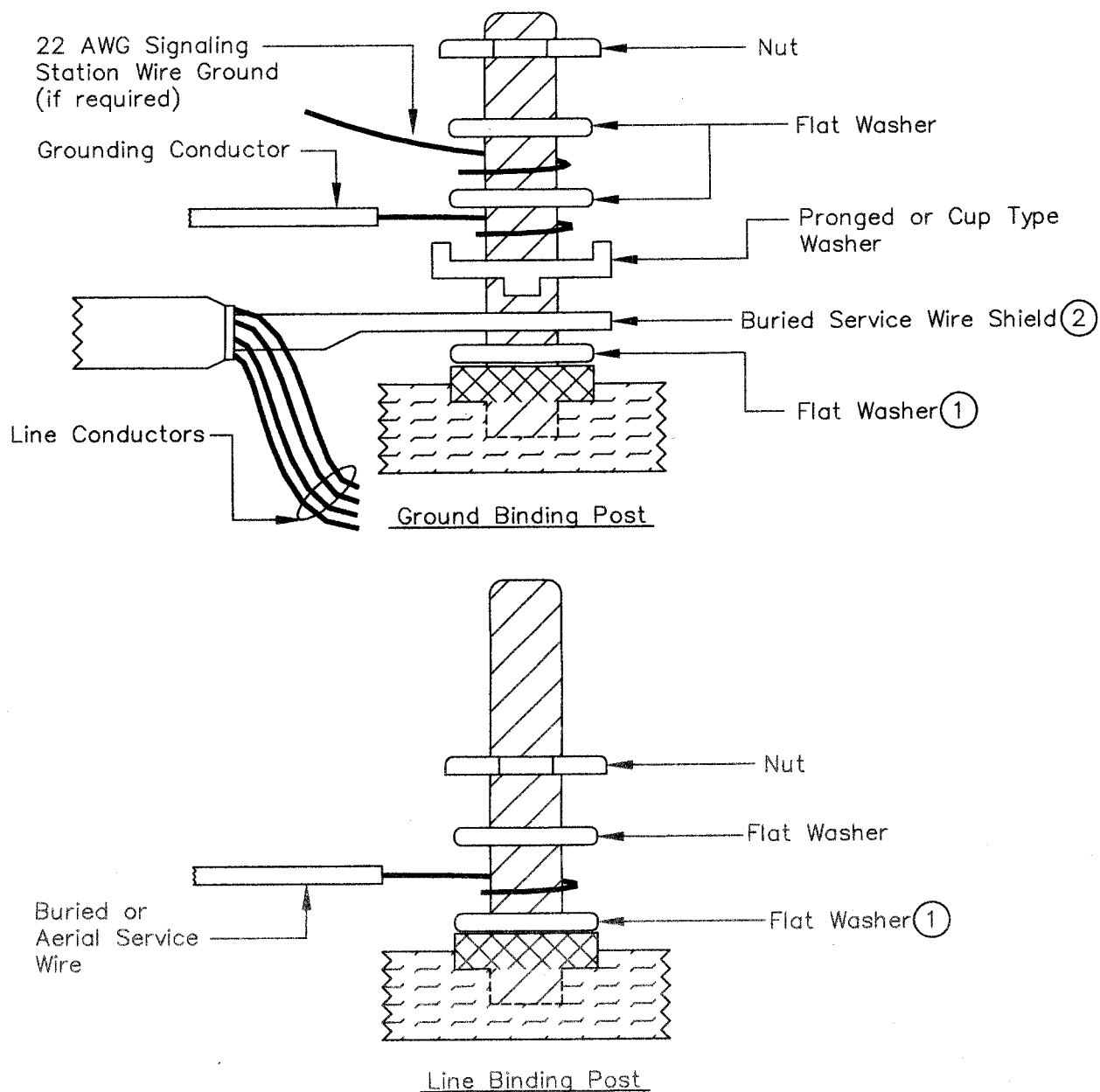
(3) The shield and other conductors at the fuseless primary station protector incorporated in the NID shall be terminated as shown on Figure 14 in paragraph (ee)(4) of this section. The pronged or cupped washer shall be placed above the shield. The grounding

conductor shall be placed around the post on top of the pronged or cupped washer. A flat washer shall be placed above the grounding conductor.

(4) The station wire signaling ground conductor, if required, shall be placed above the first flat washer and beneath the second flat washer as indicated in Figure 14 as follows:

BILLING CODE 3410-15-P

FIGURE 14

TERMINATION OF CONDUCTORS AND SHIELD ON
STATION PROTECTOR BINDING POSTS OF NIDNotes:

- (1) If shoulder is inadequate to support shield or wire add a flat washer.
- (2) Terminate buried service wire shield with station protector grounding lug of NID in accordance with either Figure 10 or 12 of paragraph (ee)(1) of this section.

(5) The shield and other conductors at the fused primary station protector shall be terminated as shown on Figure 15 in paragraph (ee)(6) of this section. The pronged or cupped washer shall be placed above the shield. The grounding

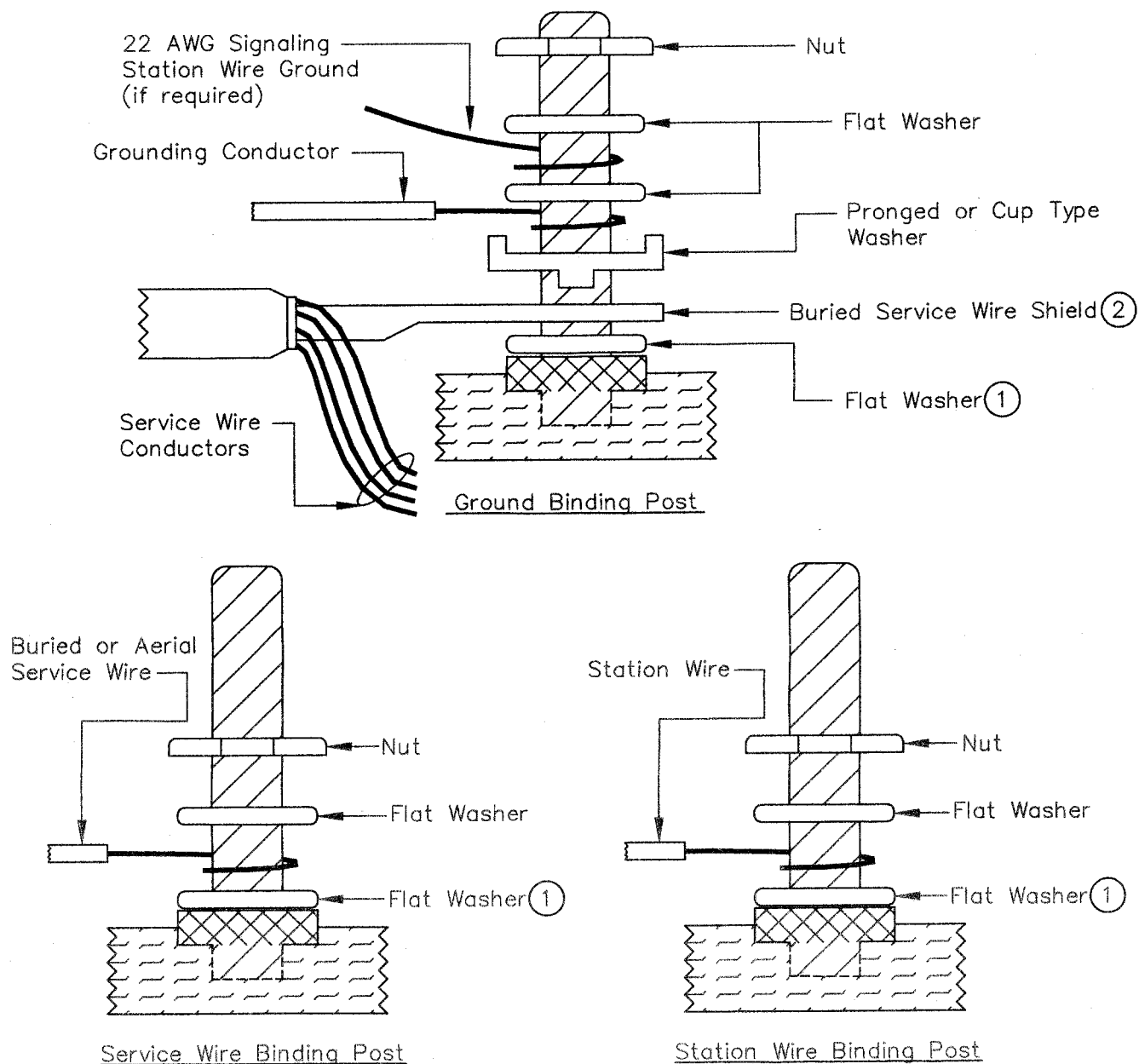
conductor shall be placed around the post on top of the pronged or cupped washer. A flat washer shall be placed above the grounding conductor.

(6) The station wire signaling ground conductor, if required, shall be placed

above the first flat washer and beneath the second flat washer as indicated in Figure 15 as follows:

BILLING CODE 3410-15-P

FIGURE 15

TERMINATION OF CONDUCTORS AND SHIELD ON
FUSED STATION PROTECTOR BINDING POSTSNotes:

- (1) If shoulder is inadequate to support shield or wire add a flat washer.
- (2) Terminate buried service wire shield on fused station protector grounding lug in accordance with either Figure 11 or 13 of paragraph (ee)(1) of this section.

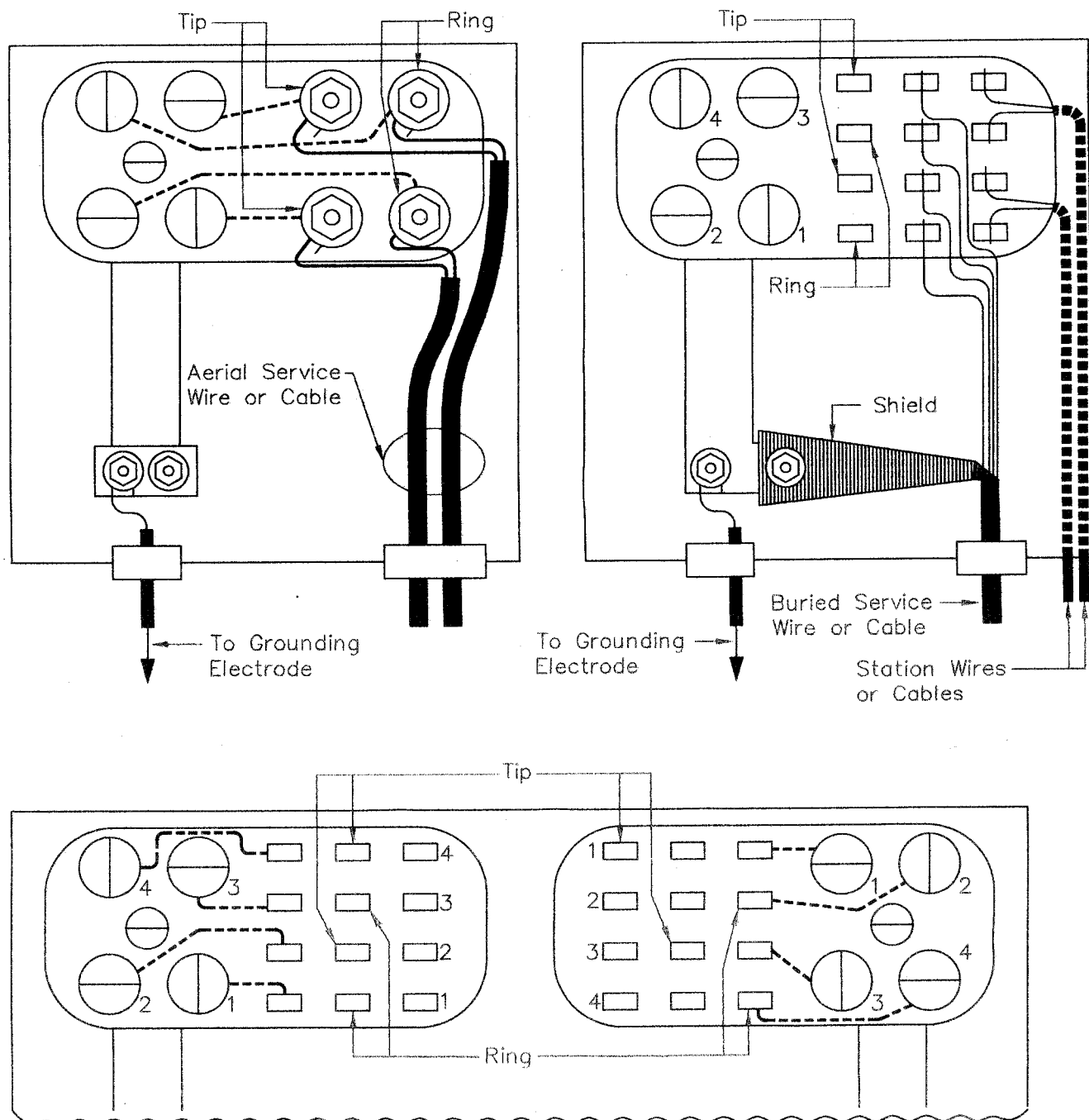
(7) Indoor NIDs or BETs that are equipped with "Quick Connect" type terminals shall not have more than one wire connected per clip. No. 19 AWG copper and No. 18 AWG copper covered-steel reinforced aerial service

wire conductors shall not be connected to quick connect terminals. Nonmetallic reinforced aerial service wire using No. 22 AWG copper conductors may be connected to the quick connect terminals.

(8) Tip and ring connections and other connections in multipair NIDs or BETs shall be as indicated in Figure 16 as follows:

BILLING CODE 3410-15-P

FIGURE 16

MULTIPAIR NID OR BET TERMINAL CONNECTIONS
CONTAINING FUSELESS STATION PROTECTORS

Note: #18 AWG copper-covered steel reinforced aerial service conductors shall not be connected to quick connect terminals. Nonmetallic reinforced aerial service conductors (#22 AWG copper) may be connected to quick connect terminals.

(ff) System polarity and conductor identification shall be maintained in NIDs, BETs, or fused primary station protectors in accordance with construction drawings 815 and 815-1 contained in § 1755.510.

§ 1755.509 Mobile homes.

(a) Customer access location installations at mobile homes shall be treated the same whether the homes are mounted on permanent foundations or temporary foundations and shall be installed as specified in §§ 1755.500 through 1755.510. For the purpose of this section, mobile homes include manufactured homes, motor homes, truck campers, travel trailers, and all forms of recreational vehicles. Customer access location installations at mobile homes can be considerably different than customer access location installations at regular homes and borrowers shall be certain that the two types of installations are properly applied.

(b) The method of customer access location installation prescribed by the ANSI/NFPA 70-1999, *NEC*® for a

mobile home depends on how the electric power is installed at the mobile home and it can involve considerable judgment on the part of the telecommunications installer. The *National Electrical Code*® and *NEC*® are registered trademarks of the National Fire Protection Association, Inc., Quincy, MA 02269. The ANSI/NFPA 70-1999, *NEC*®, is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1 (800) 344-3555. Copies of ANSI/NFPA 70-1999, *NEC*®, are available for inspection during normal business hours at RUS, room 2905, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250-1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. The ANSI/NFPA 70-1999, *NEC*®, requires primary station protectors to be located where specific acceptable grounding electrodes exist. The ANSI/NFPA 70-1999, *NEC*®, allows

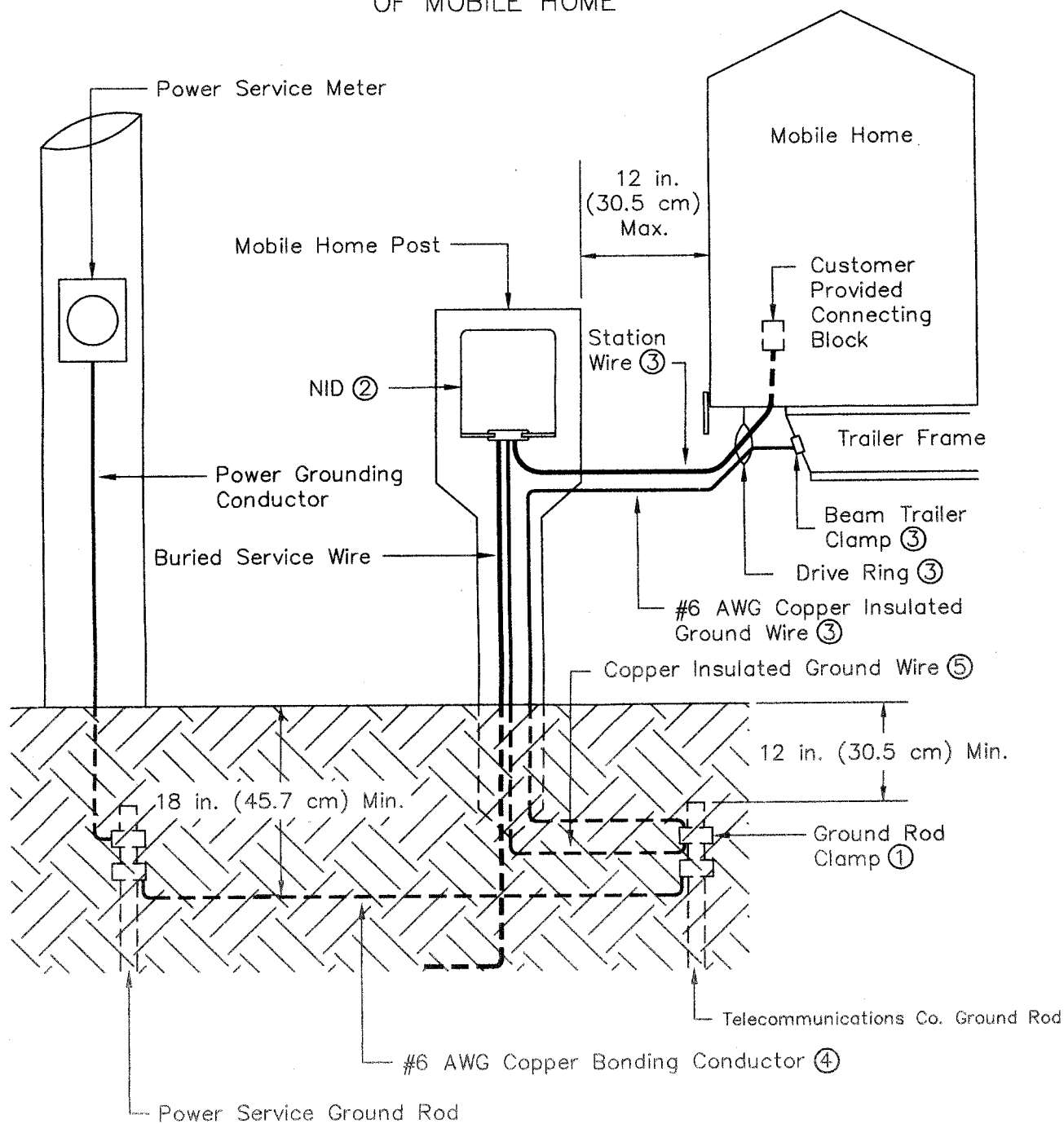
station protector installations to be at the location of the power meter or the electric disconnecting means apparatus serving the mobile home providing these electric facilities are installed in the manner specifically defined by the ANSI/NFPA 70-1999, *NEC*®. The ANSI/NFPA 70-1999, *NEC*®, requires the station protectors to be installed at the nearest of a number of other meticulously defined ANSI/NFPA 70-1999, *NEC*®, acceptable electrodes where the protector cannot be installed at the power meter or the electric disconnecting means apparatus serving the mobile home. The provisions can be confusing.

(c) NIDs shall be installed at mobile homes as follows:

(1) Where the mobile home electric service equipment (power meter, etc.) or the electric service disconnecting means associated with the mobile home is located within 35 ft (10.7 m) of the exterior wall of the mobile homes it serves, the NID shall be installed in accordance with Figure 17 as follows:

BILLING CODE 3410-15-P

FIGURE 17
 NETWORK INTERFACE DEVICE (NID) INSTALLATION
 ELECTRIC SERVICE EQUIPMENT WITHIN 35 FEET (10.7 METERS)
 OF MOBILE HOME

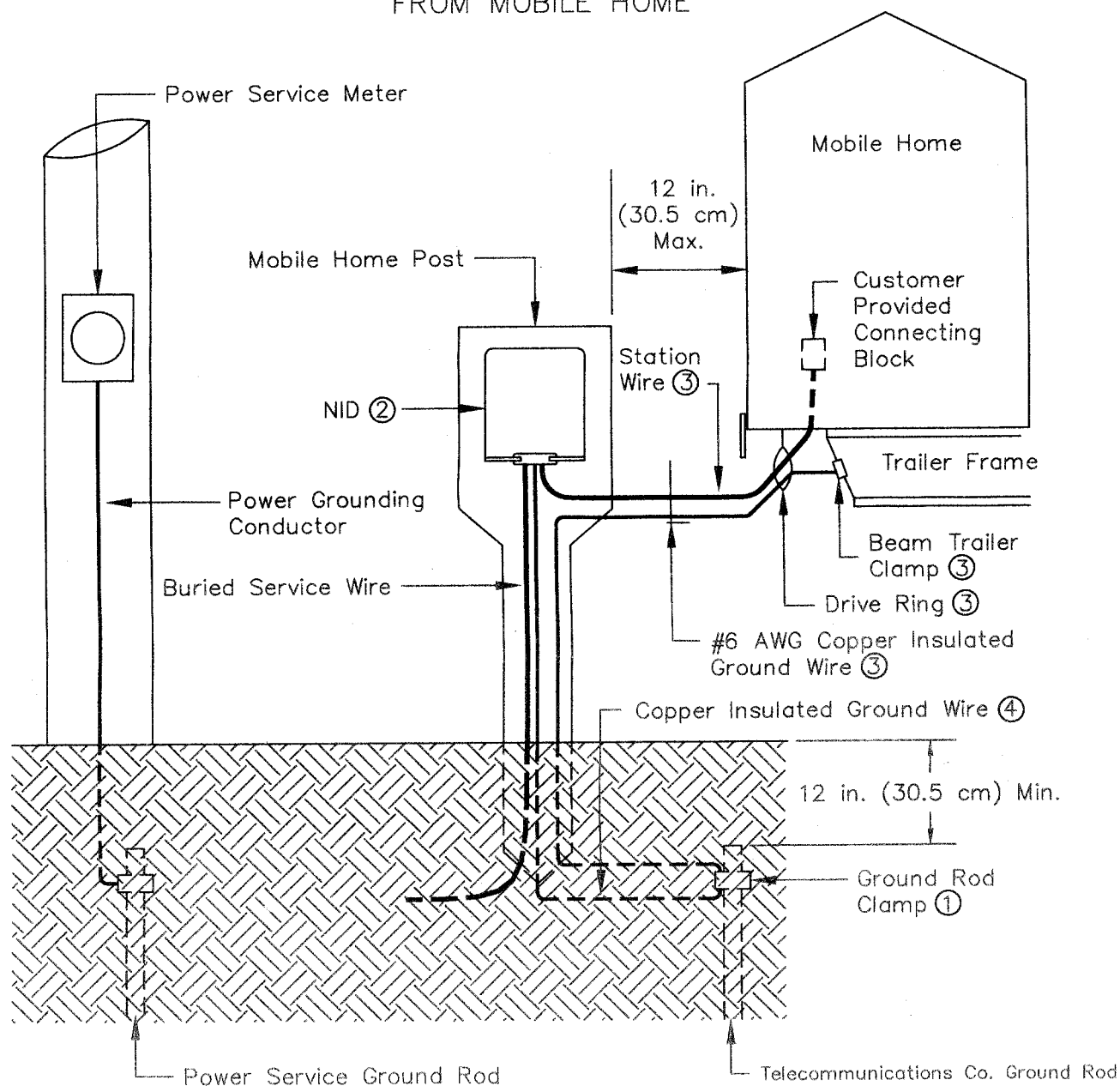


- Notes:
- ① Clamp must be accepted by Listing Agency (UL, etc.) for two conductors, otherwise two clamps must be used.
 - ② See Figure 19 of paragraph (e) of this section for NID terminations.
 - ③ See Figure 20 of paragraph (e) of this section for mobile home installation.
 - ④ Bare if buried its entire length; insulated where human contact is possible.
 - ⑤ See Section 1755.508, paragraph (v), Table 5 for the correct conductor size of the ground wire.

(2) Where the mobile home electric service equipment (power meter, etc.) or the electric service disconnecting means associated with the mobile home is located more than 35 ft (10.7 m) from the exterior wall of the mobile homes it serves, the NID shall be installed in accordance with Figure 18 as follows:

FIGURE 18

NETWORK INTERFACE DEVICE (NID) INSTALLATION
ELECTRIC SERVICE EQUIPMENT MORE THAN 35 FEET (10.7 METERS)
FROM MOBILE HOME



Notes: (1) Clamp must be accepted by Listing Agency (UL, etc.) for two conductors, otherwise two clamps must be used. (2) See Figure 19 of paragraph (e) of this section for NID terminations. (3) See Figure 20 of paragraph (e) of this section for mobile home installation. (4) See Section 1755.508, paragraph (v), Table for the correct conductor size of the ground wire.

(d) The service wire and station wire shall be terminated in the NID in accordance with Figure 19 in paragraph (e) of this section.

(e) Installation of the station wire and grounding conductor at the mobile home shall be in accordance with Figure 20. Figures 19 and 20 are as follows:

FIGURE 19
NID TERMINATIONS

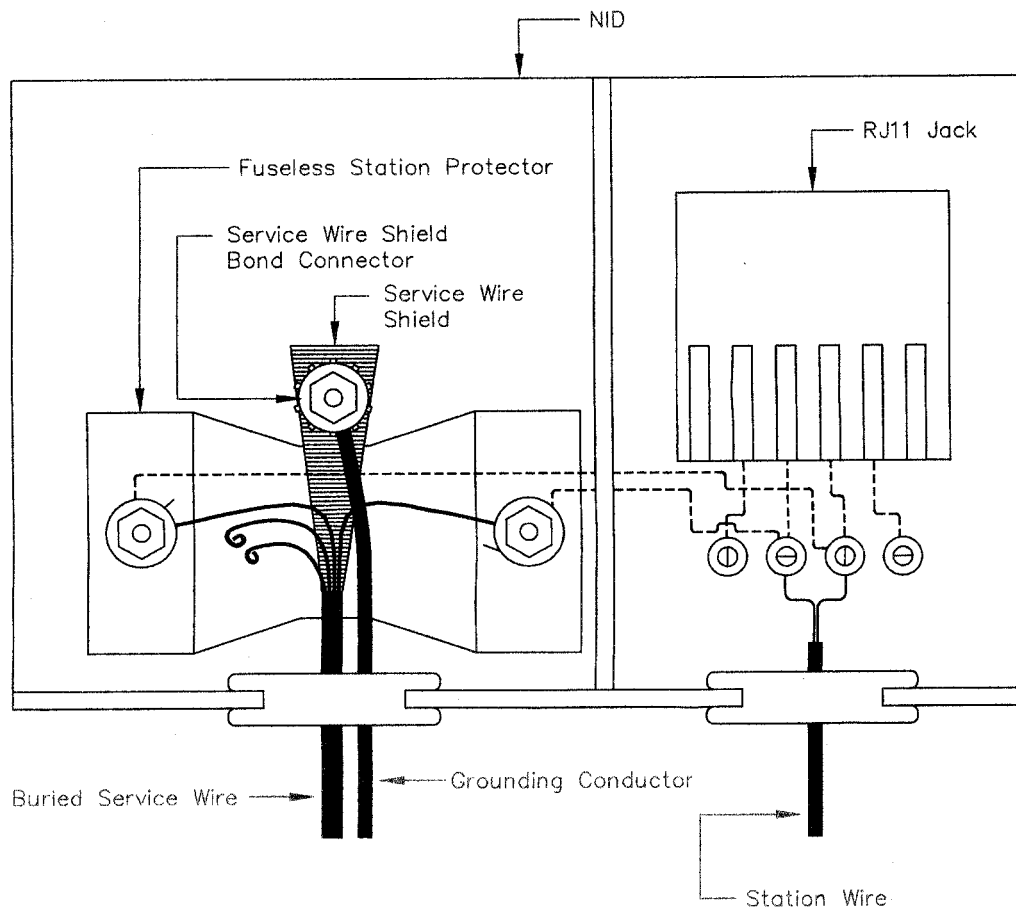
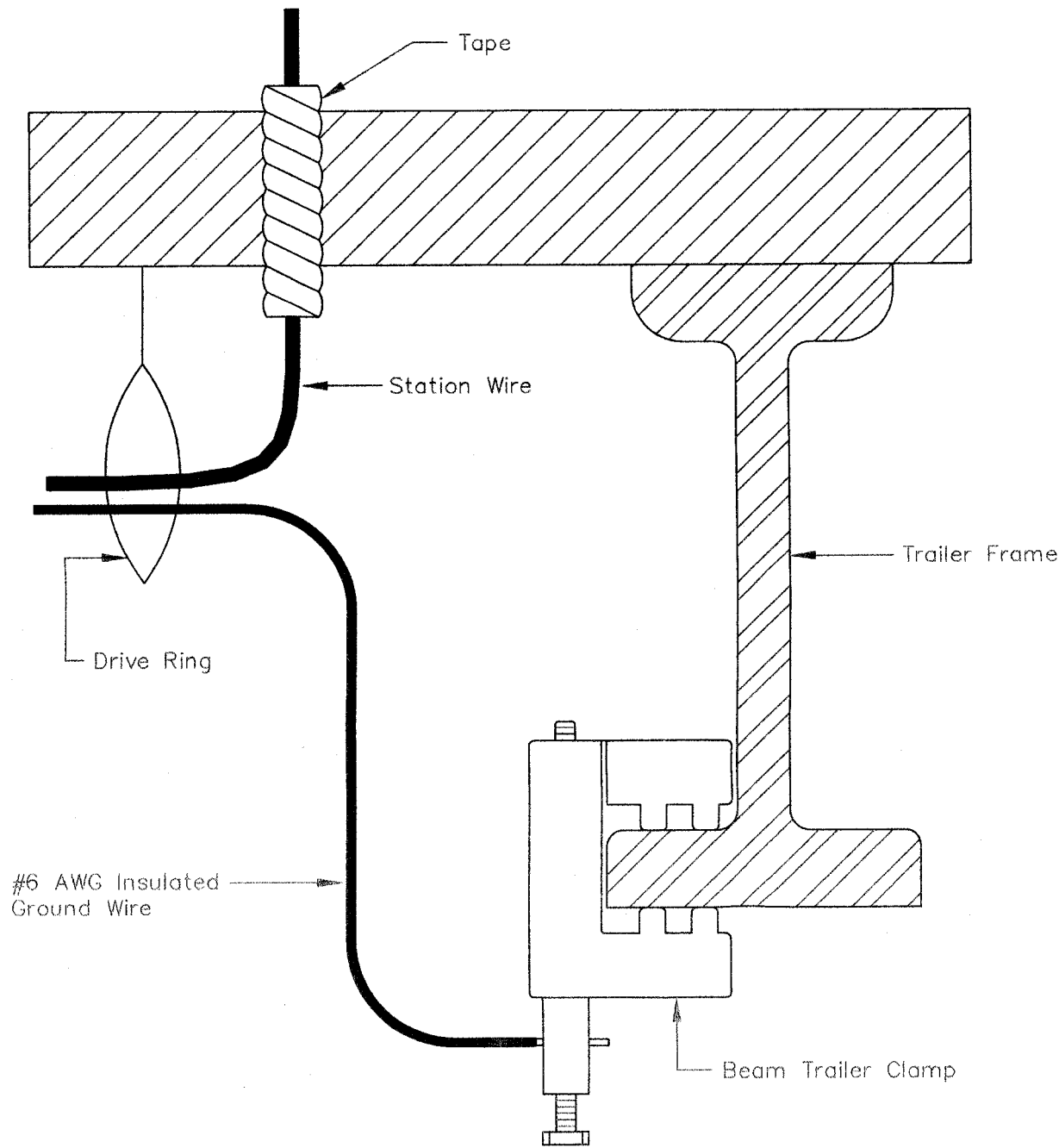


FIGURE 20
MOBILE HOME INSTALLATION



§ 1755.510 Construction and assembly unit drawings.

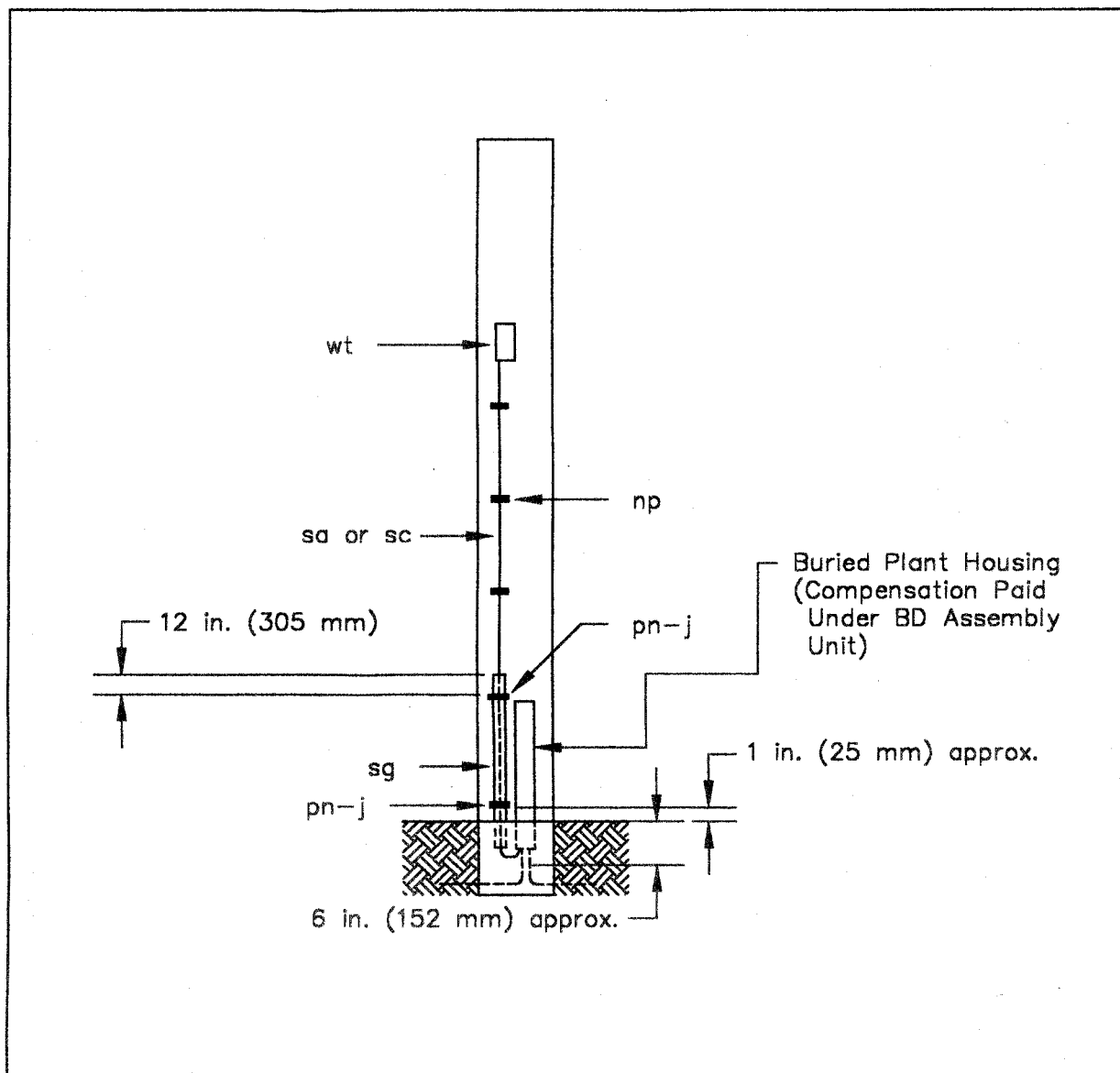
(a) The construction and assembly unit drawings in this section shall be used by borrowers to assist the installer in making the customer access location installations.

(b) The asterisks appearing on the construction drawings indicate that the items are no longer listed in the RUS Informational Publication (IP) 344-2, "List of Materials Acceptable for Use on Telecommunications Systems of RUS Borrowers." RUS IP 344-2 can be obtained from the Superintendent of

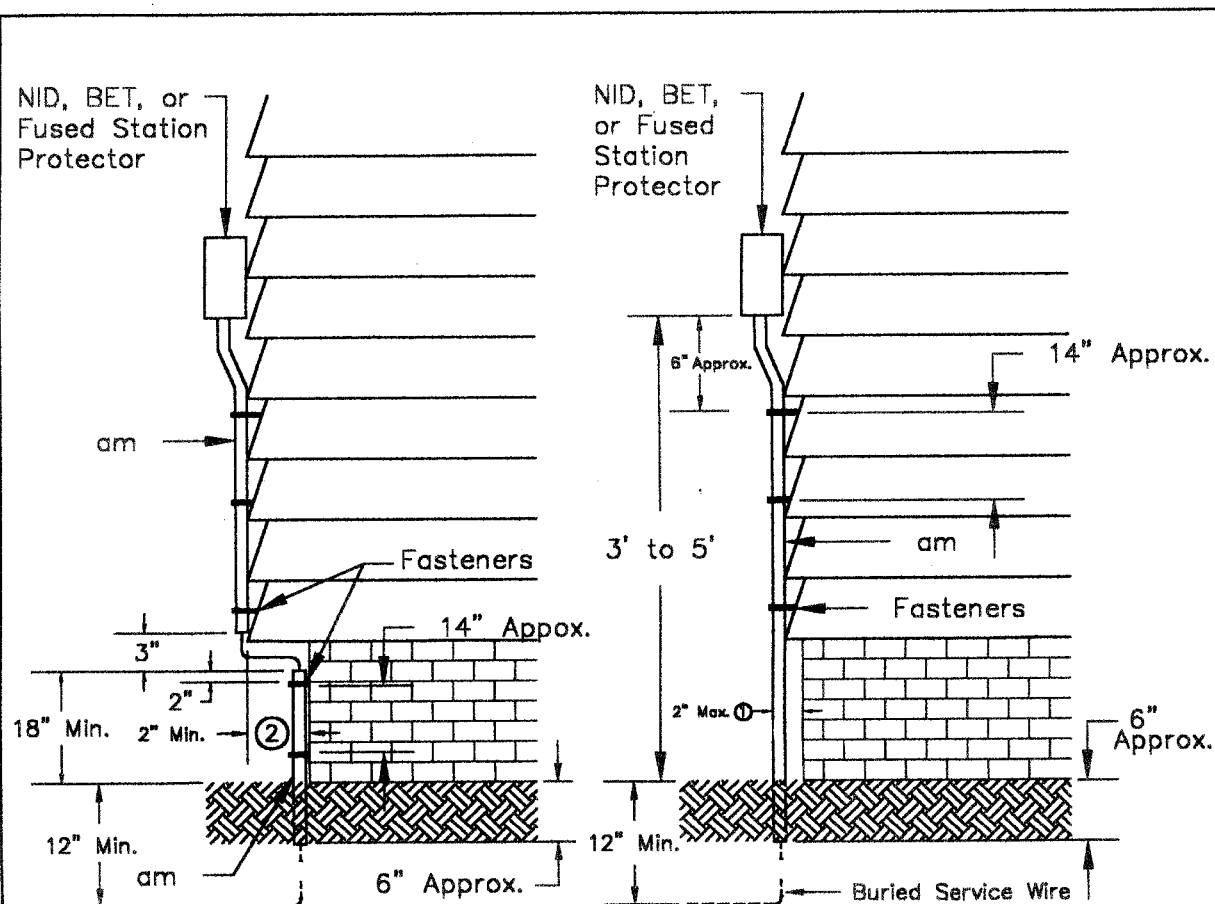
Documents, P. O. Box 371954, Pittsburgh, PA 15250-7954, telephone number (202) 512-1800.

(c) Drawings BM50, BM83, 312-1, 501-1, 501-2, 503-2, 504, 505, 506, 507, 508-1, 510, 510-1, 510-2, 513, 815, 815-1, 958, and 962 are as follows:

BILLING CODE 3410-15-P



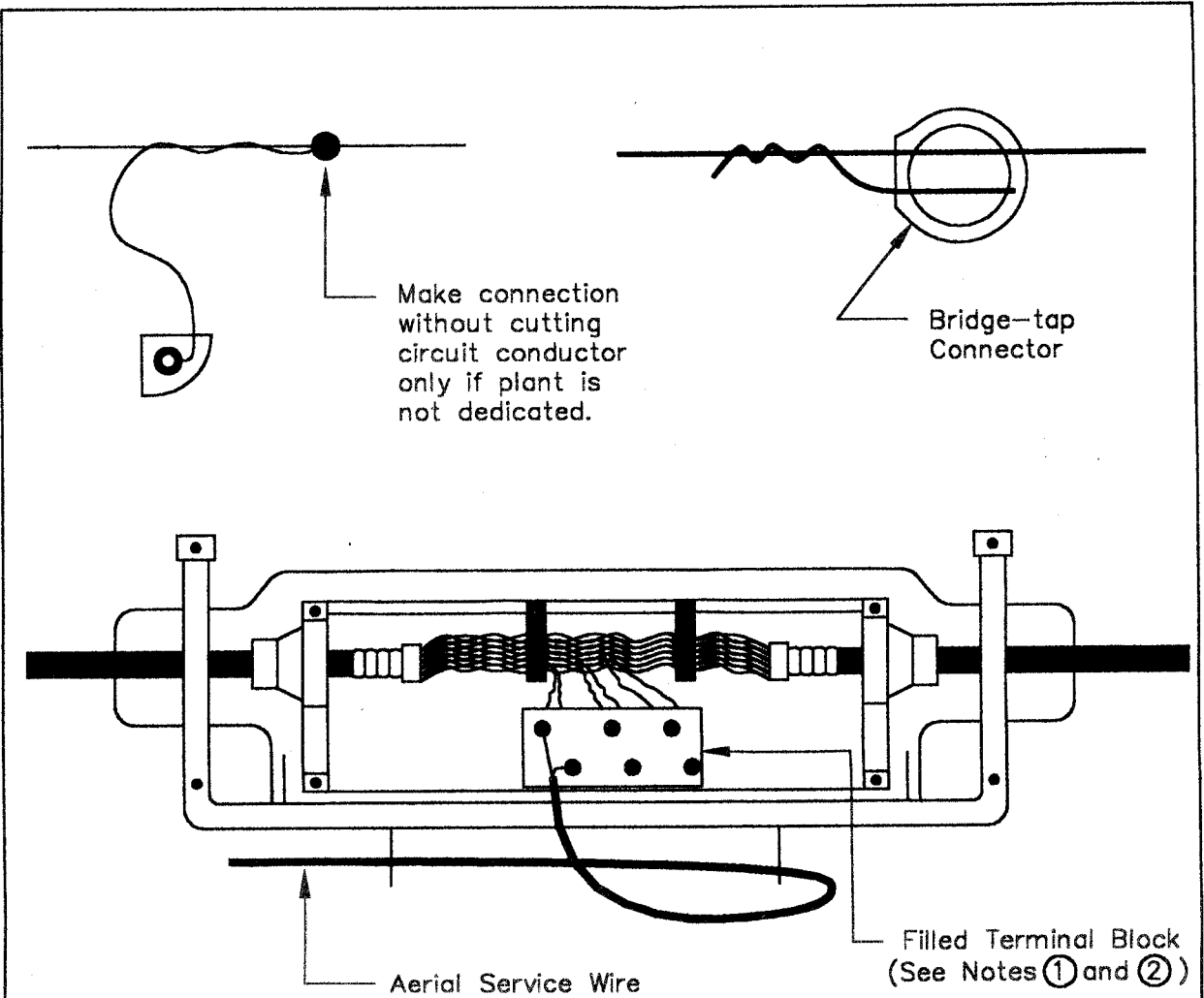
ITEMS	MATERIALS	NO. REQ'D
wt	Terminal, wire, filled, unprotected, pole-mounted (specify pair size)	1
*pn	Strap, riser guard	2
*np	Clamp, one-hole, offset	as req'd
sa or sc	Wire or cable, filled, buried	as req'd
sg	Guard, riser, 1 in. ID by 8 ft (25 mm ID by 2.4 m)	as req'd
j	Screws, lag (size as required)	4
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES BURIED SERVICE WIRE OR CABLE INSTALLATION TO POLE-MOUNTED WIRE TERMINAL		
Scale: NTS		March 2001
		BM50



Notes:

- ① Where an obstruction of less than 2 in. is encountered, the buried service guard (item am) shall extend from the NID, BET, or fused protector to 6 in. below the ground.
- ② Where an obstruction of greater than 2 in. is encountered, the buried service guard (item am) shall be divided as shown (from the NID, BET, or fused protector to the obstruction, and from 3 in. below the obstruction to 6 in. below the ground). In lieu of divided service guards (item am), a continuous flexible conduit may be used from the NID, BET, or fused protector to 6 in. below the ground.
- ③ For converting English units to metric units use 1 in. = 25.4 mm and 1 ft = 0.3048 m.

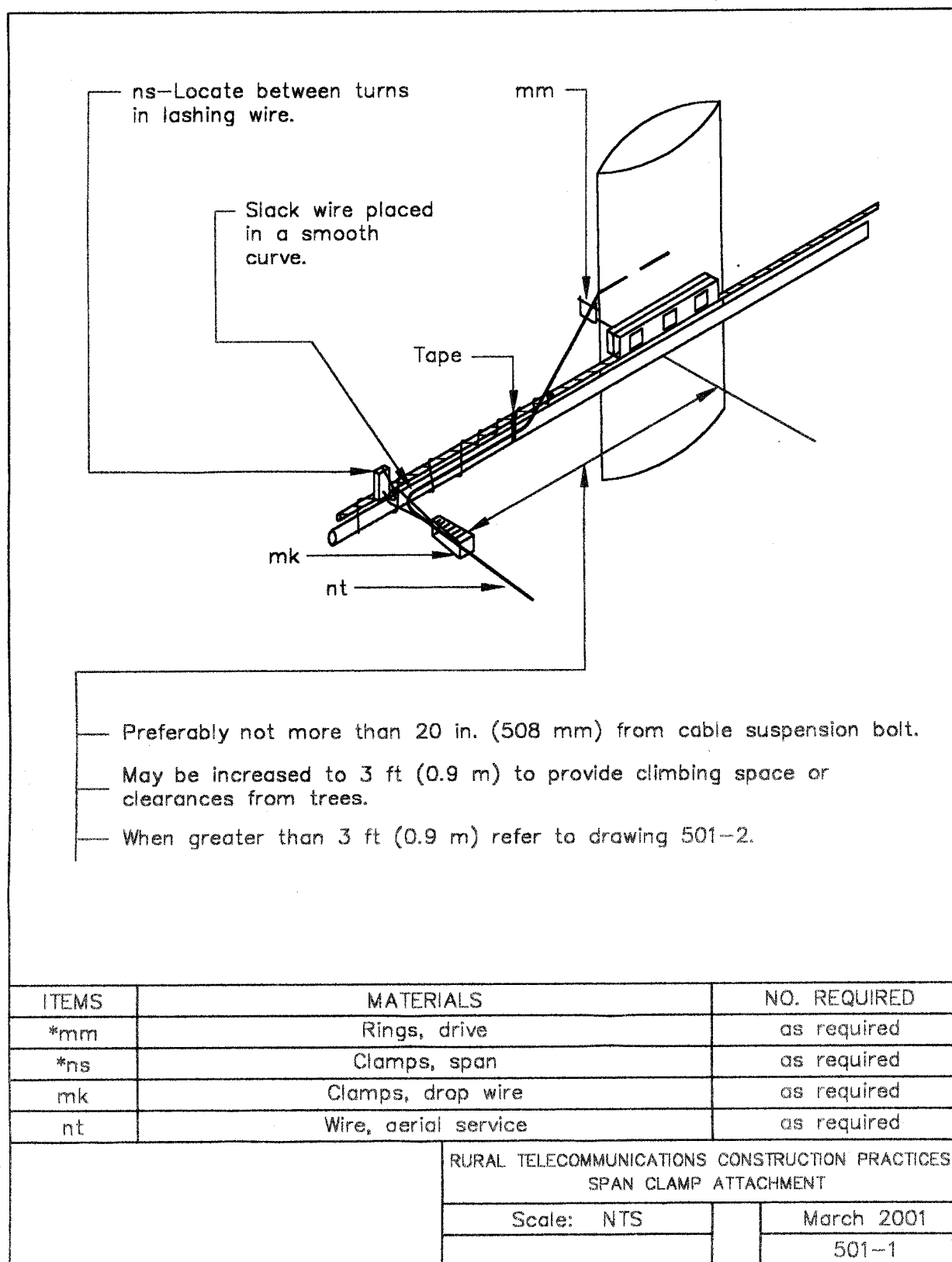
ITEM	MATERIAL	NO. REQ'D
am	Guard, buried service (including fasteners)	1
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES BURIED SERVICE GUARD		
Scale: NTS		March 2001
		BM83

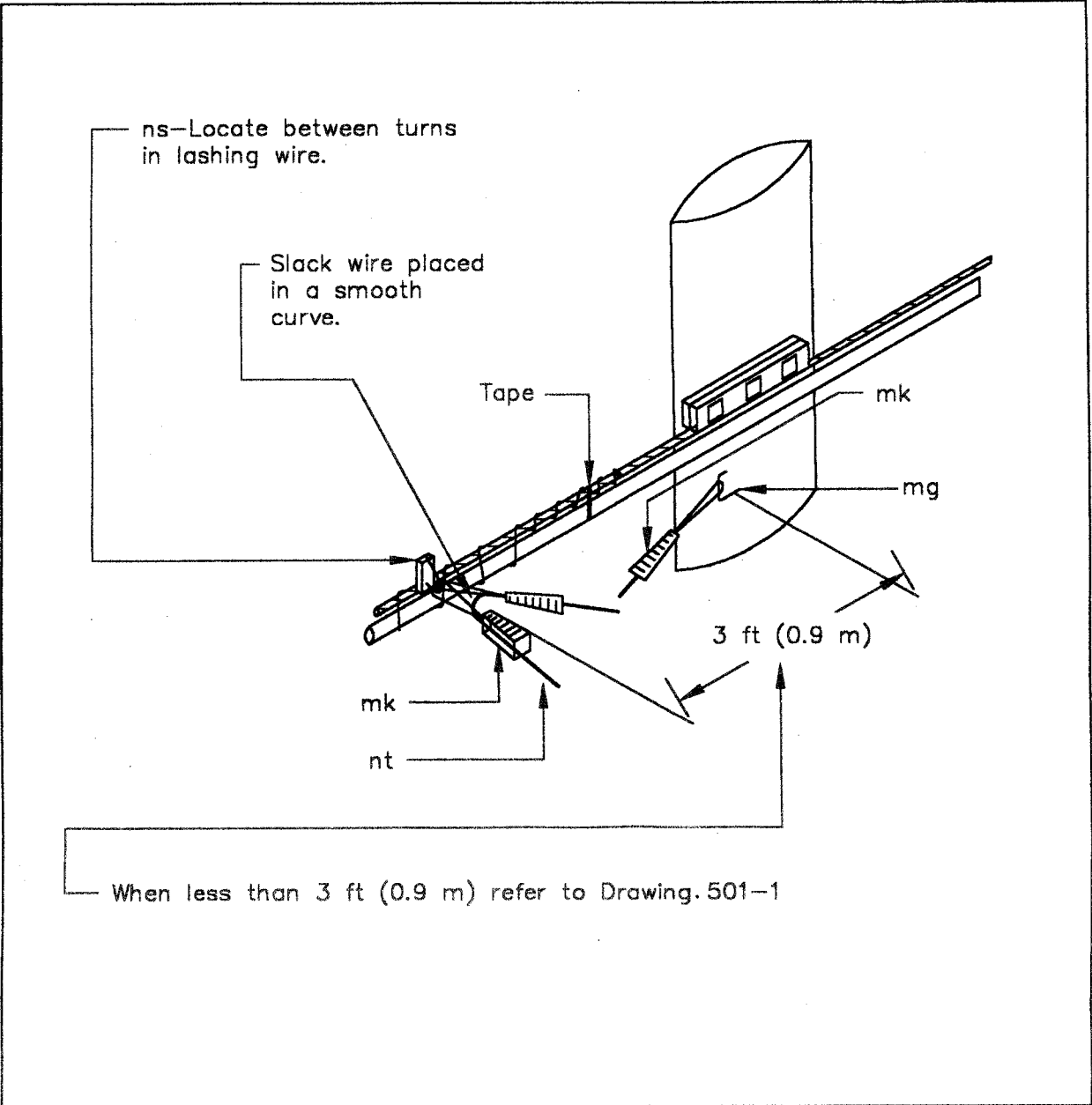


Notes:

- ① Where aerial service wire connections are made along aerial plastic cable, unprotected filled terminal blocks equipped with lead-out wires shall be used.
- ② Conductors of the aerial service wire shall be connected directly to the binding posts of the filled terminal block.

RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES			
AERIAL PLASTIC CABLE DETAILS OF WIRE			
CONNECTIONS TO FILLED TERMINAL BLOCKS			
Scale: NTS		March 2001	
		312-1	





ITEMS	MATERIALS	NO. REQUIRED
*mg	Hooks, drive	as required
*ns	Clamps, span	as required
mk	Clamps, drop wire	as required
nt	Wire, aerial service	as required
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES		
SPAN CLAMP ATTACHMENT		
Scale: NTS		March 2001
		501-2

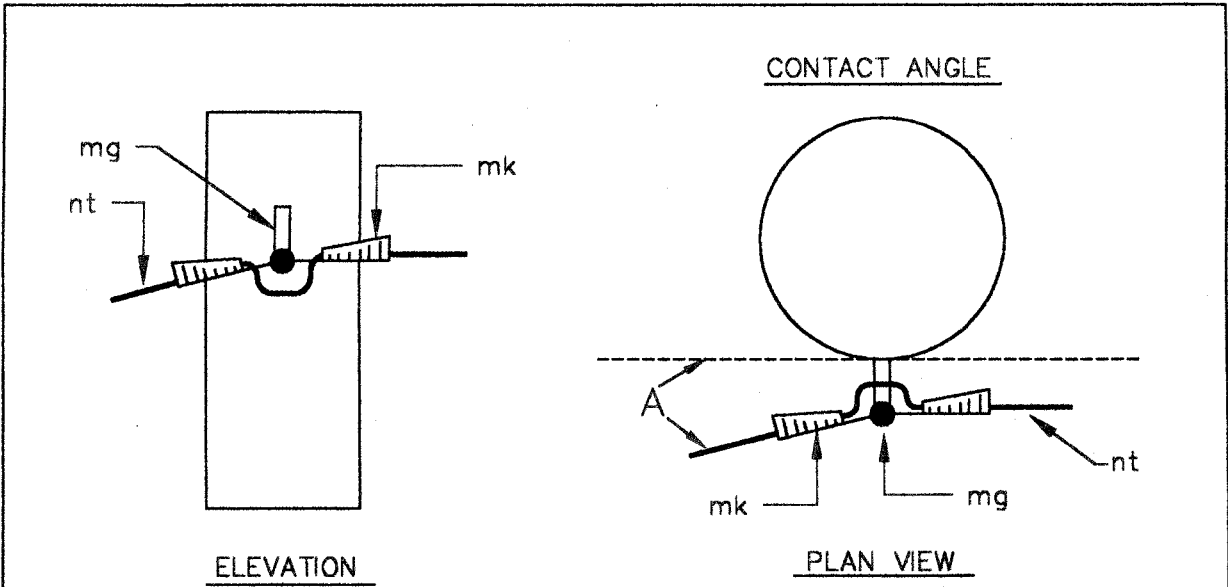


FIGURE A: Aerial service wires whose contact angle (A) exceeds five degrees and/or whose adjacent span lengths are different by 25 percent or more.

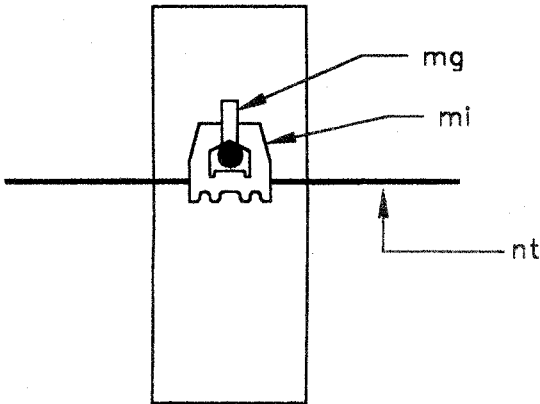
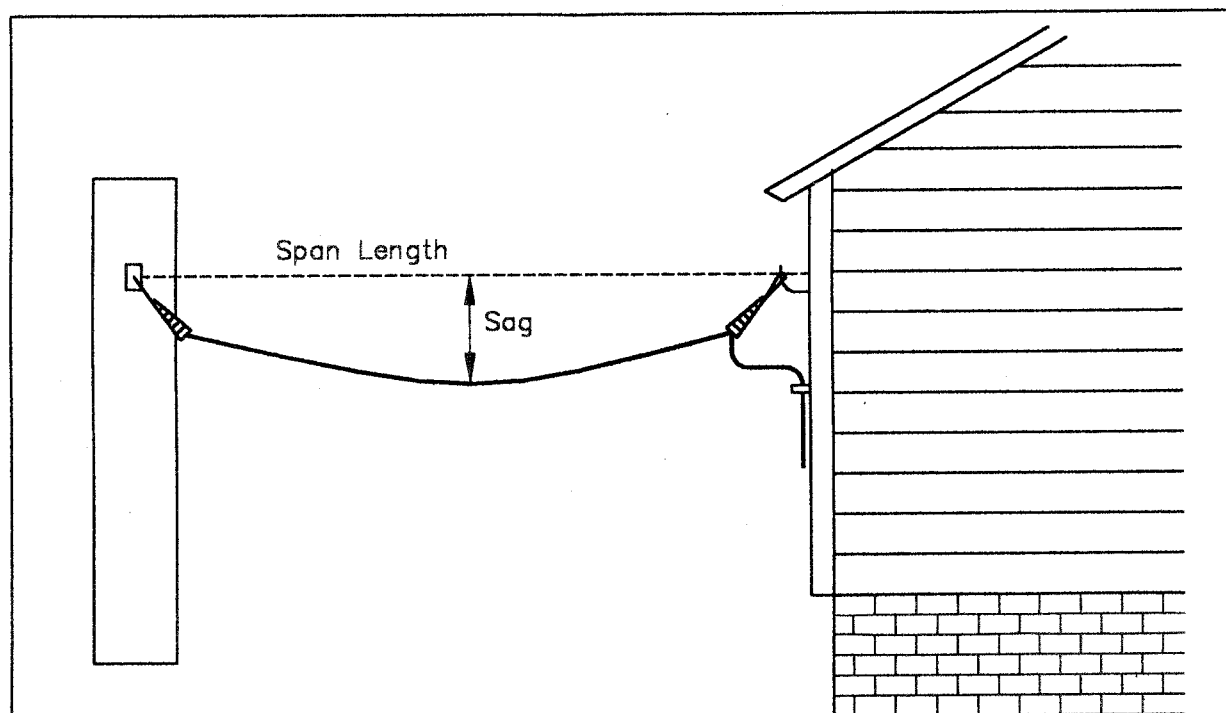


FIGURE B: Aerial service wires whose contact angle (A) is less than five degrees and/or whose adjacent span lengths are different by less than 25 percent.

ITEMS	MATERIALS	NO. REQUIRED
*mg	Hooks, drive	as required
nt	Wire, aerial service	as required
mk	Clamps, drop wire	as required
*mi	Support, drop wire	as required
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES		
SERVICE WIRE ATTACHMENT AT INTERMEDIATE POLE		
Scale: NTS		March 2001
		504



MINIMUM STRINGING SAG – COPPER COVERED STEEL REINFORCED (CCSR) and
NONMETALLIC REINFORCED (NMR) AERIAL SERVICE WIRES

SPAN LENGTH ft (m)	SAG—MEDIUM AND LIGHT LOADING DISTRICTS	SAG—HEAVY LOADING DISTRICT
100 (30.5) OR LESS	20 in. (510 mm)	20 in. (510 mm)
125 (38)	34 in. (860 mm)	34 in. (860 mm)
150 (46)	4 ft (1.2 m)	4 ft (1.2 m)
175 (53)	5.5 ft (1.7 m)	7 ft (2.1 m)
200 (61)	7 ft (2.1 m)	11 ft (3.4 m)
225 (66.5)	9 ft (2.7 m)	
250 (76)	11 ft (3.4 m)	

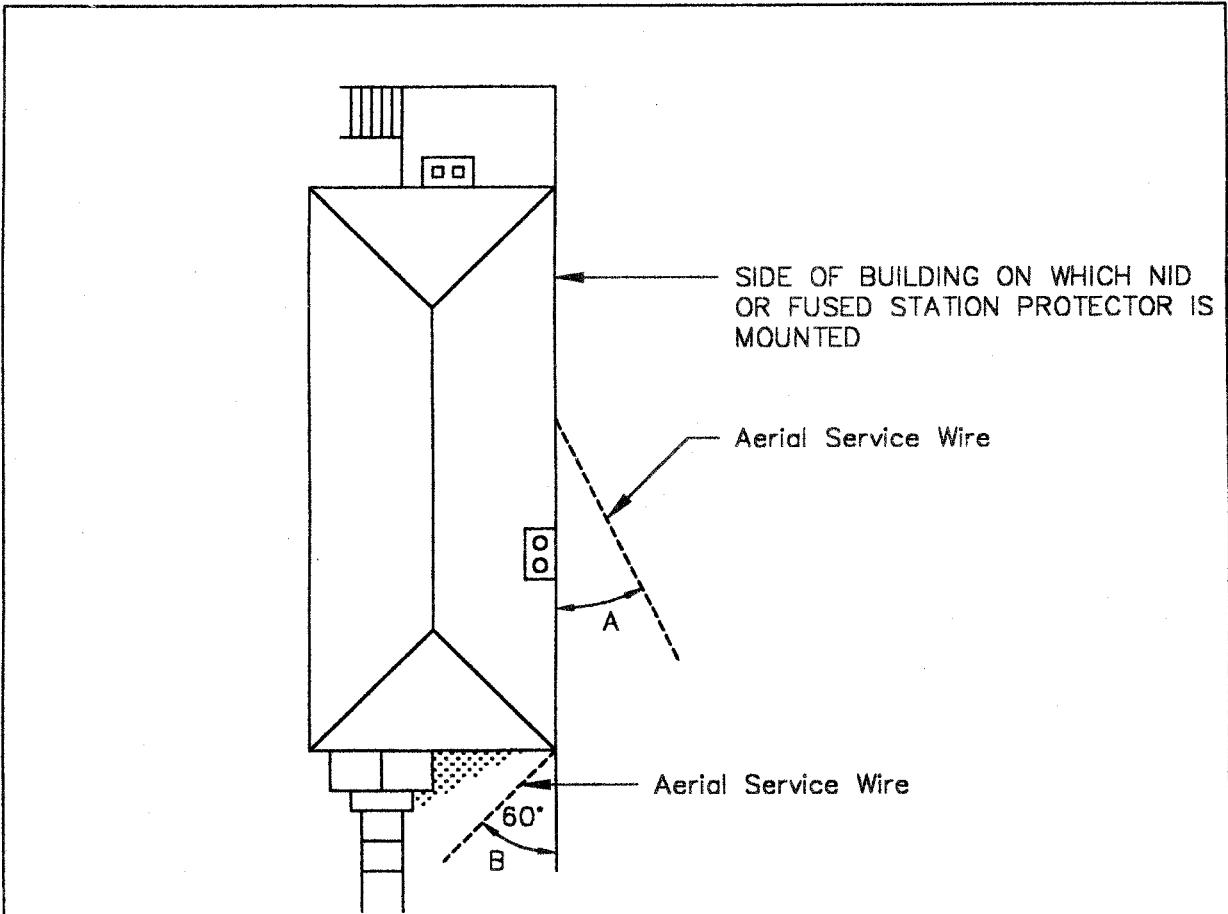
Note: To reduce vibration and dancing, service wire shall be twisted one complete turn for each 10 ft (3 m) of span length at the time installation.

RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES
AERIAL SERVICE WIRE SAGS

Scale: NTS

March 2001

505



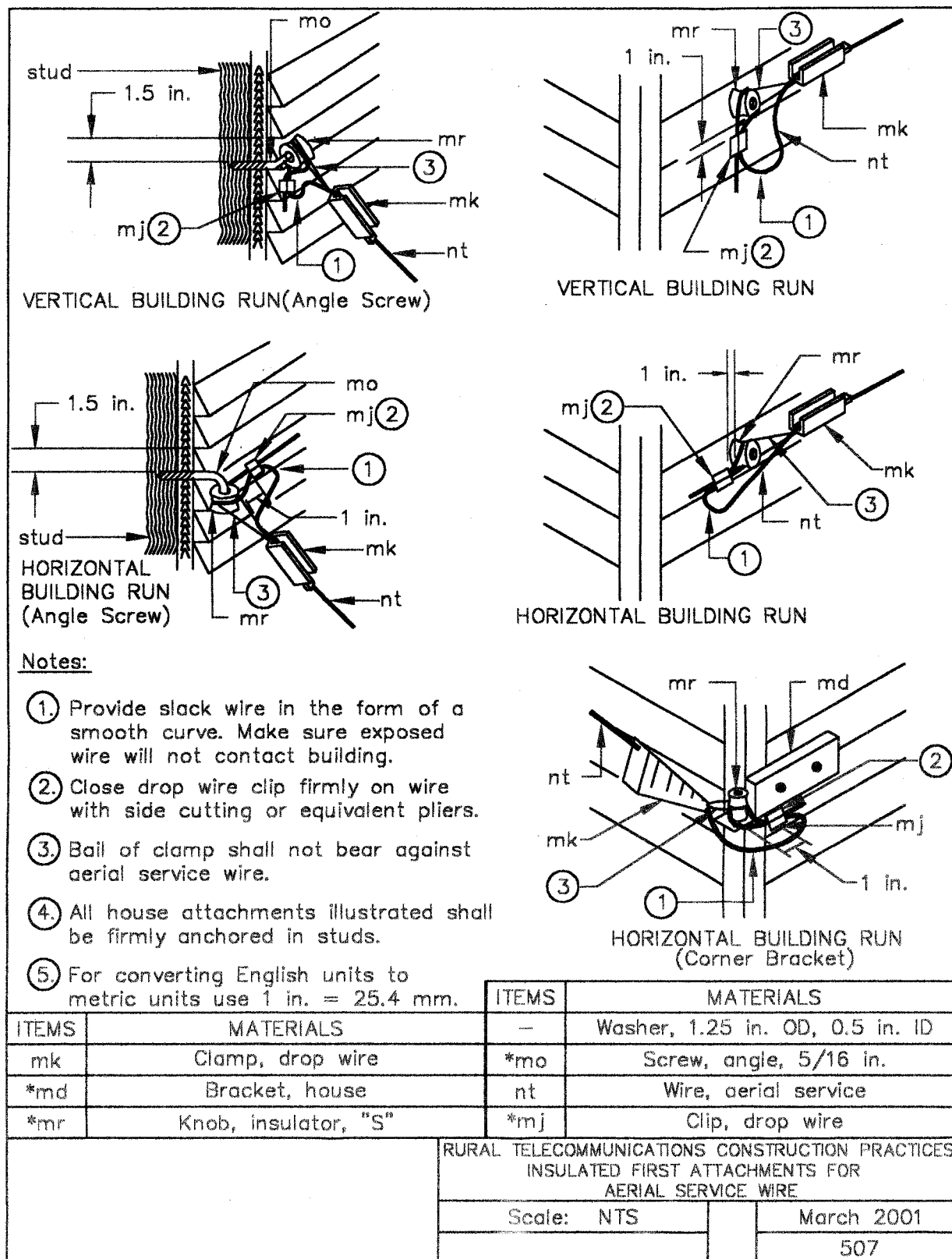
Frame Buildings Where NIDs Containing Fuseless Station Protectors are Used on Fire Resistant Buildings.

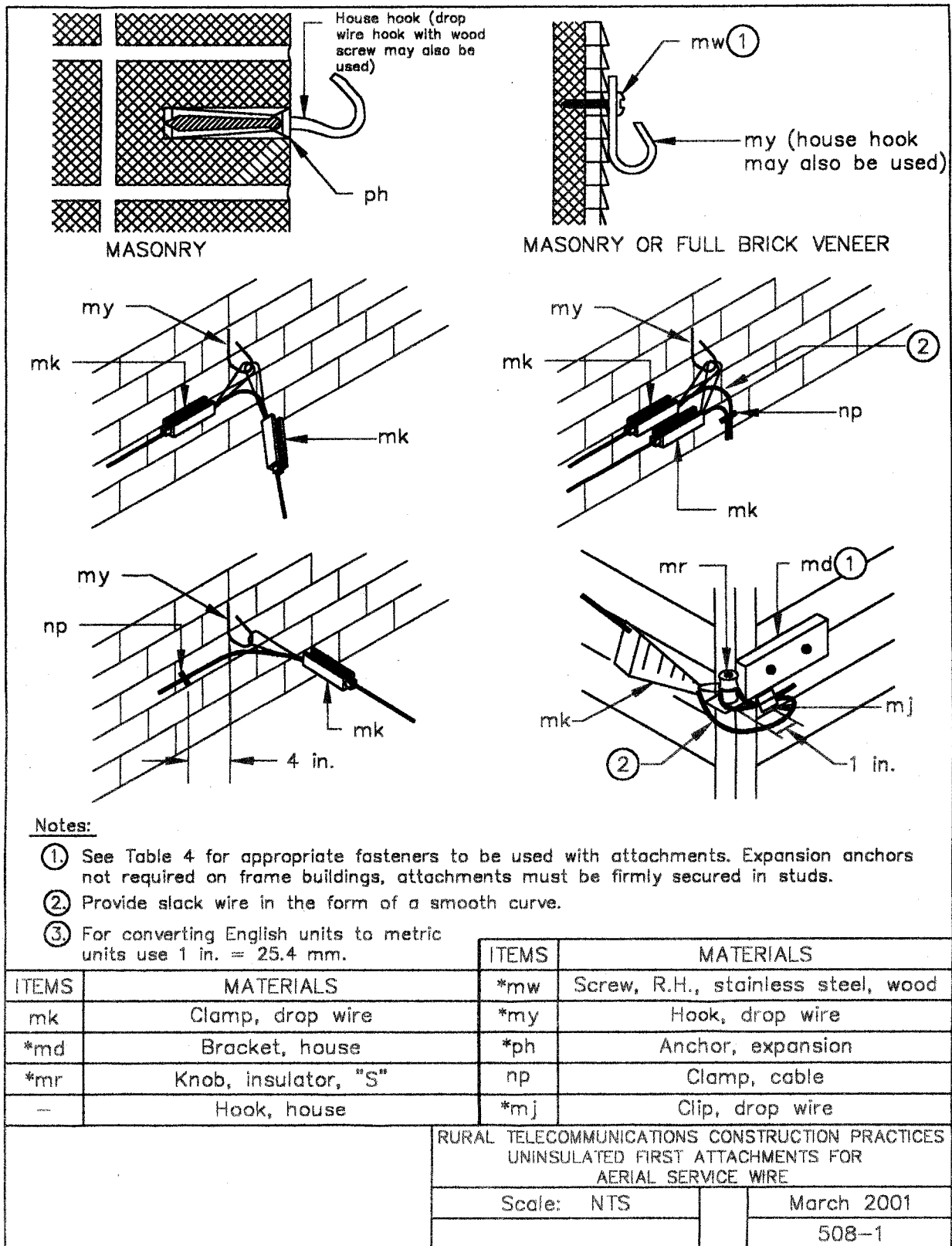
Use house hook or drop wire hook for any angle except angle B. When necessary to place service wire within angle B use "S" knob with corner bracket to avoid service wire attachment on front of building.

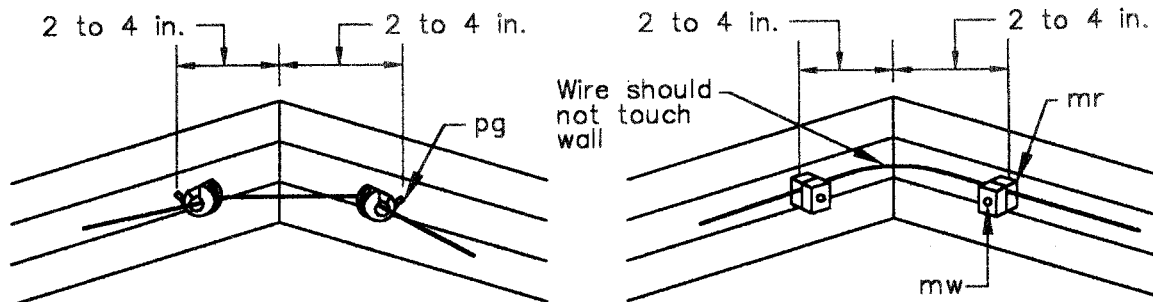
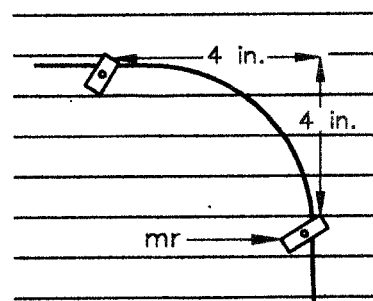
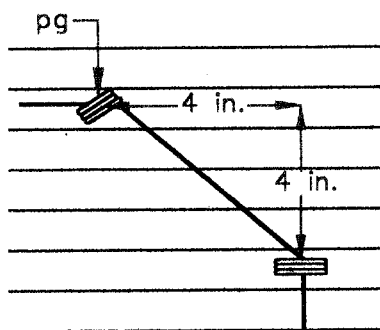
Frame Buildings Where Fused Station Protectors are Used.

If angle A is less than 30° use "S" knob. If angle A is greater than 30° use "S" knob with 5/16 in. (7.9 mm) angle screw. When necessary to place service wire within angle B use "S" knob with corner bracket to avoid service wire attachments on front of buildings.

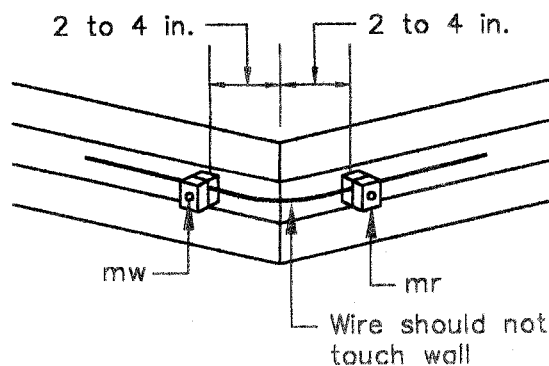
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES			
SELECTION OF SERVICE WIRE ATTACHMENT			
Scale: NTS		March 2001	
		506	



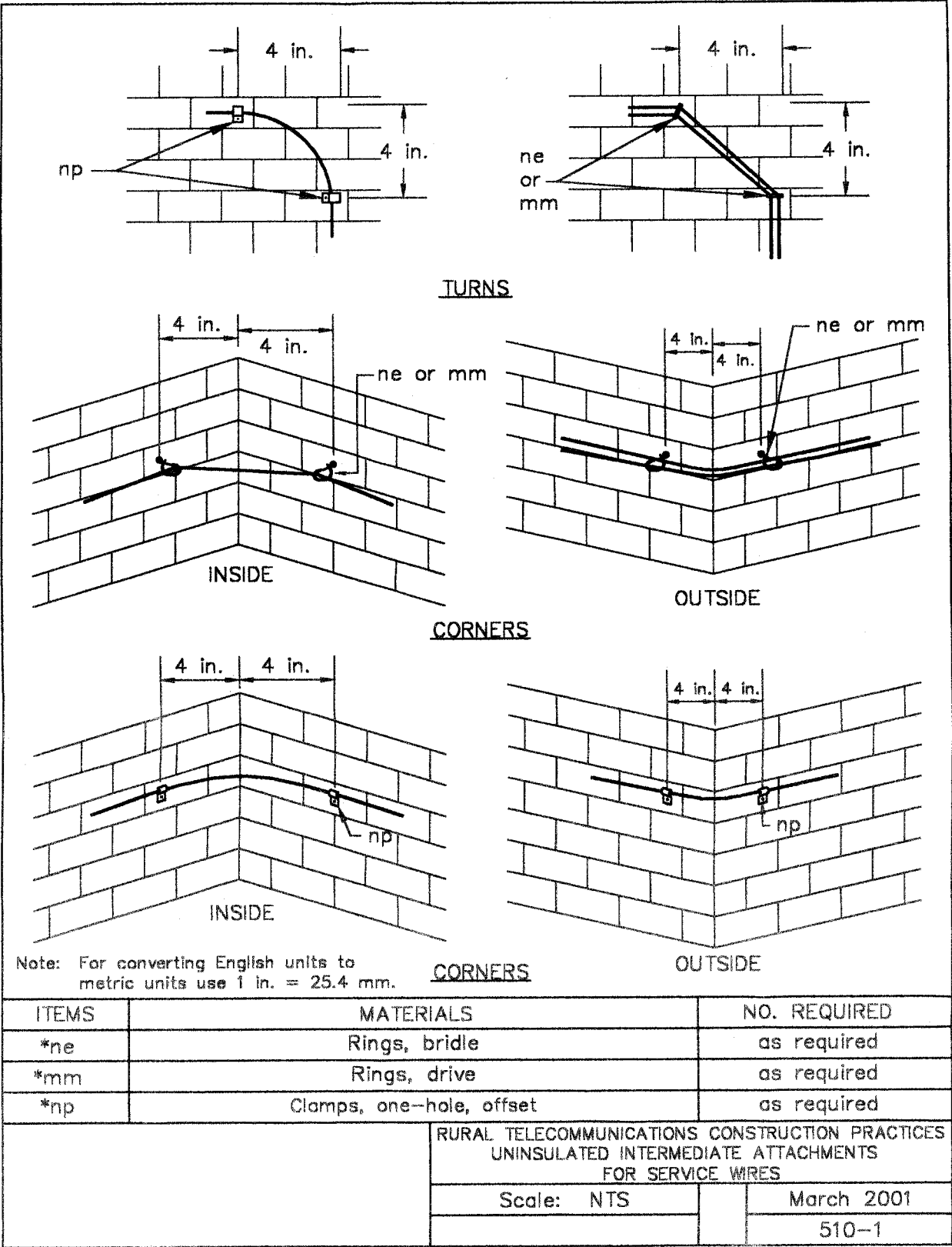


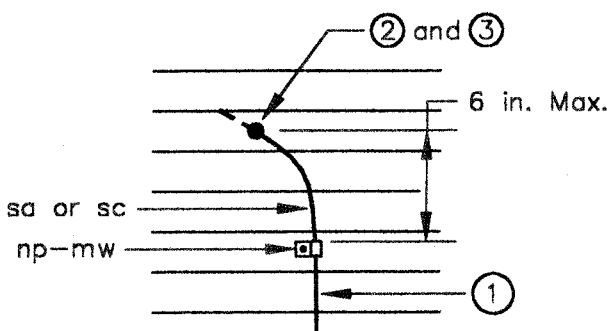
INSIDE CORNERTURNNotes:

- ① Refer to Table 4 for appropriate fastening device.
- ② For converting English units to metric units use 1 in. = 25.4 mm.

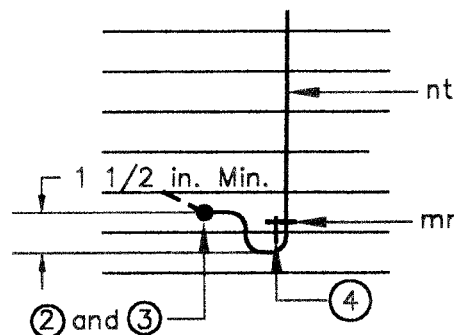
OUTSIDE CORNER

ITEMS	MATERIALS	NO. REQUIRED
*pg	Screw eye, insulated	as required
*mr	Knob, insulator, "C"	as required
*mw	Screw, R.H., wood	as required
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES INSULATED INTERMEDIATE ATTACHMENTS FOR SERVICE WIRES		
Scale: NTS		March 2001
		510





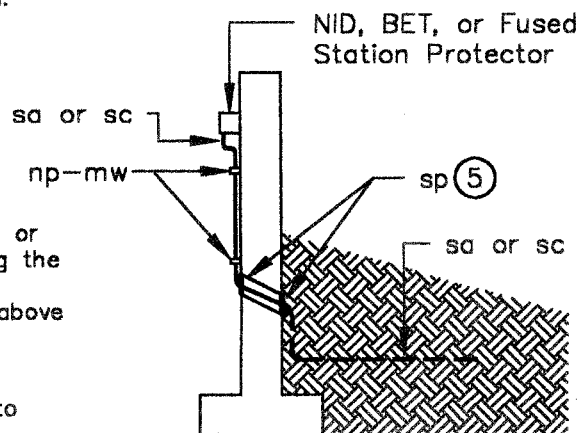
SKETCH A: Buried Service Above Grade Entrance



SKETCH B: Aerial Service Wire - Aerial Service Entrance

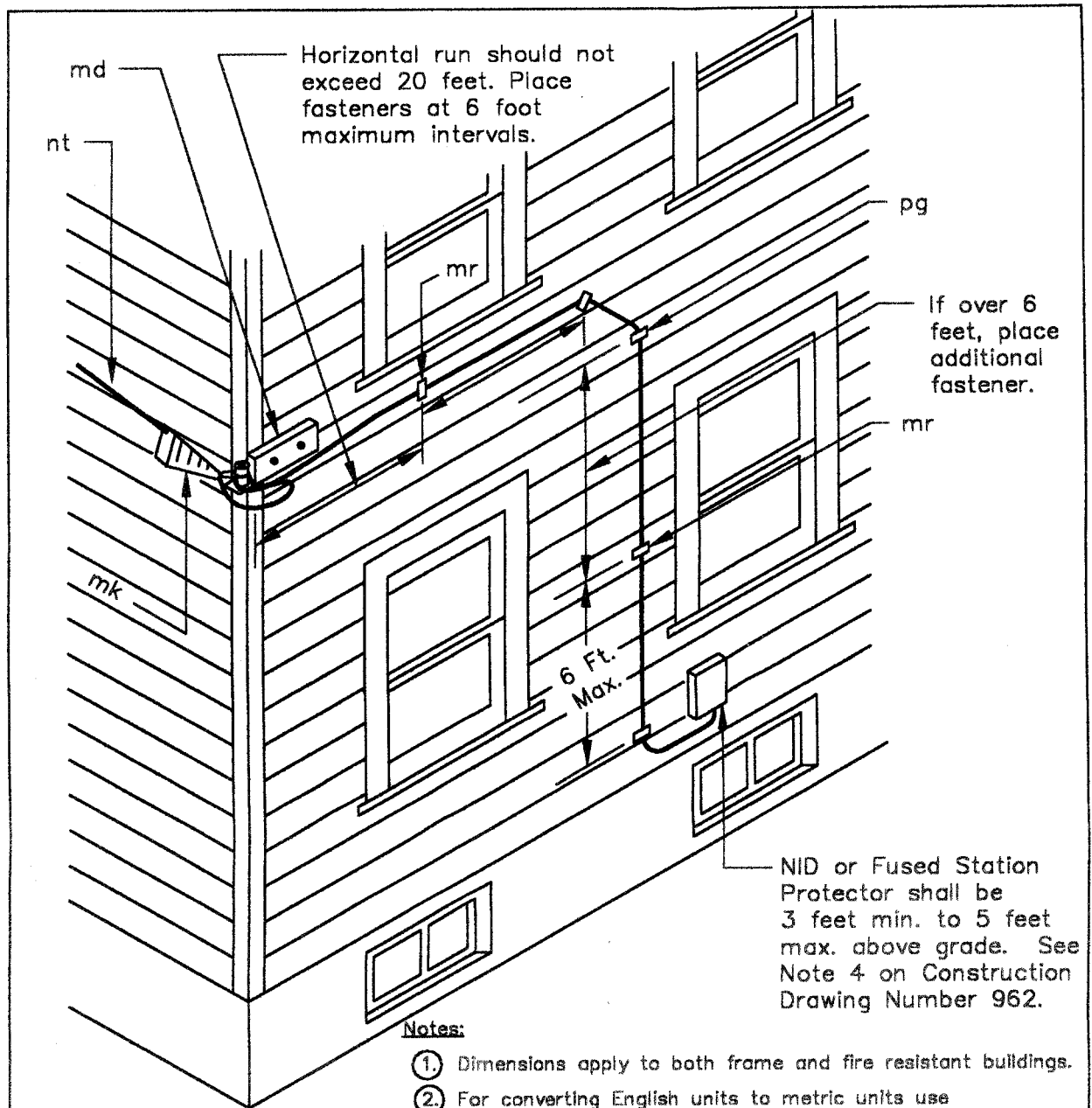
Notes:

- ① The first attachment of the buried wire to the building should be located approximately 4 inches above the ground. The remaining attachments shall be spaced approximately 14 inches apart.
- ② A porcelain or plastic tube shall be employed only when insulated attachments are required for support of aerial service wire on buildings.
- ③ Entrance hole shall be drilled to slope slightly upward. Except where a porcelain or plastic tube is required, all wires entering the hole shall be taped for a tight fit. When the aerial service wire approaches from above the entrance hole, a drip loop shall be made as shown.
- ④ Insert short piece of aerial service wire to cushion "C" knob.
- ⑤ Seal both ends of hole or conduit with duct seal.
- ⑥ For converting English units to metric units use 1 in. = 25.4 mm.



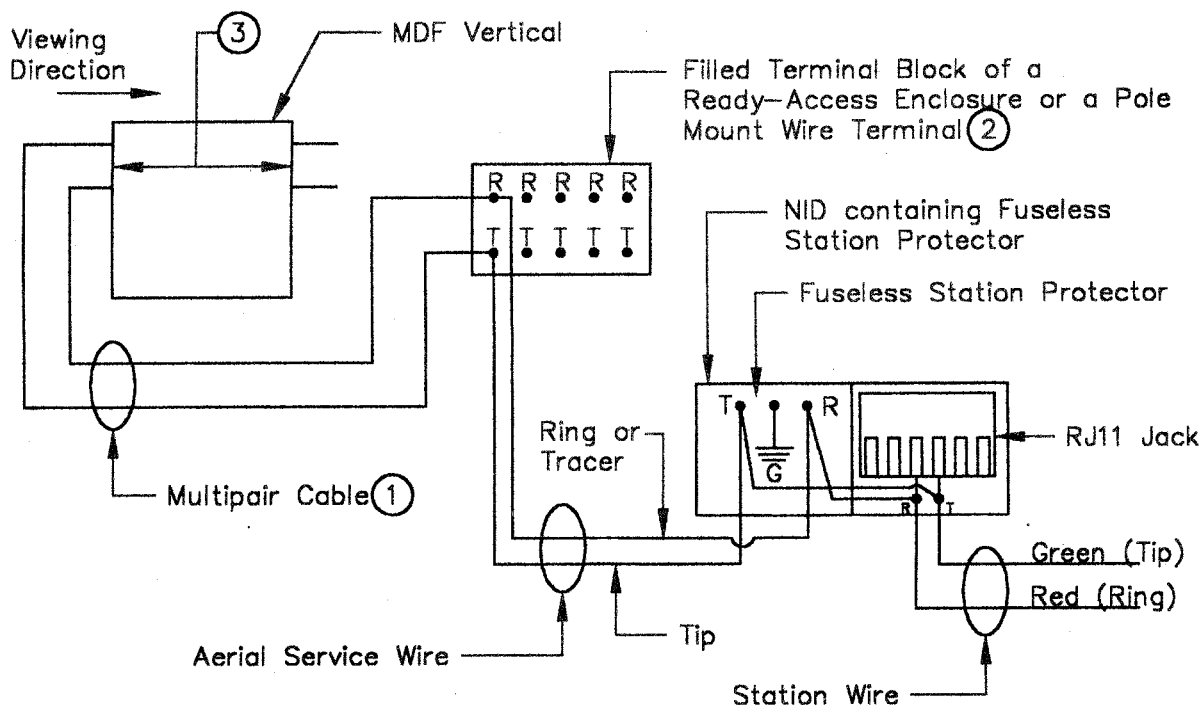
SKETCH C: Buried Service - Below Grade Entrance

ITEMS	MATERIALS	ITEMS	MATERIALS
*mr	Knob, insulator, "C"	*mw	Screw, wood
nt	Wire, aerial service	sa/sc	Wire or cable, filled, buried
-	Tube, plastic	sp	Sealer, duct
*np	Clamp, one-hole, offset		
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES SERVICE ENTRANCES			
Scale: NTS		March 2001	
		510-2	

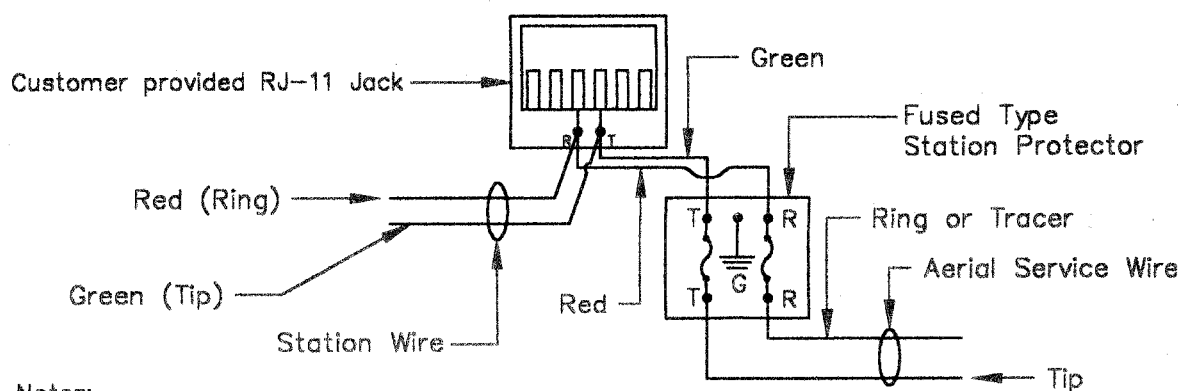


ITEMS	MATERIALS	ITEMS	MATERIALS
mk	Clamp, drop wire	nt	Wire, aerial service
*md	Bracket, corner	*pg	Screweyes, porcelain, insulated
*mr	Knob, "C"	*mr	Knob, insulator
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES AERIAL SERVICE WIRE RUN ON BUILDINGS			
Scale: NTS		March 2001	
		513	

Conductor Polarity Diagram For NID Incorporating Fuseless Station Protector



Conductor Polarity Diagram For Fused Station Protector



Notes:

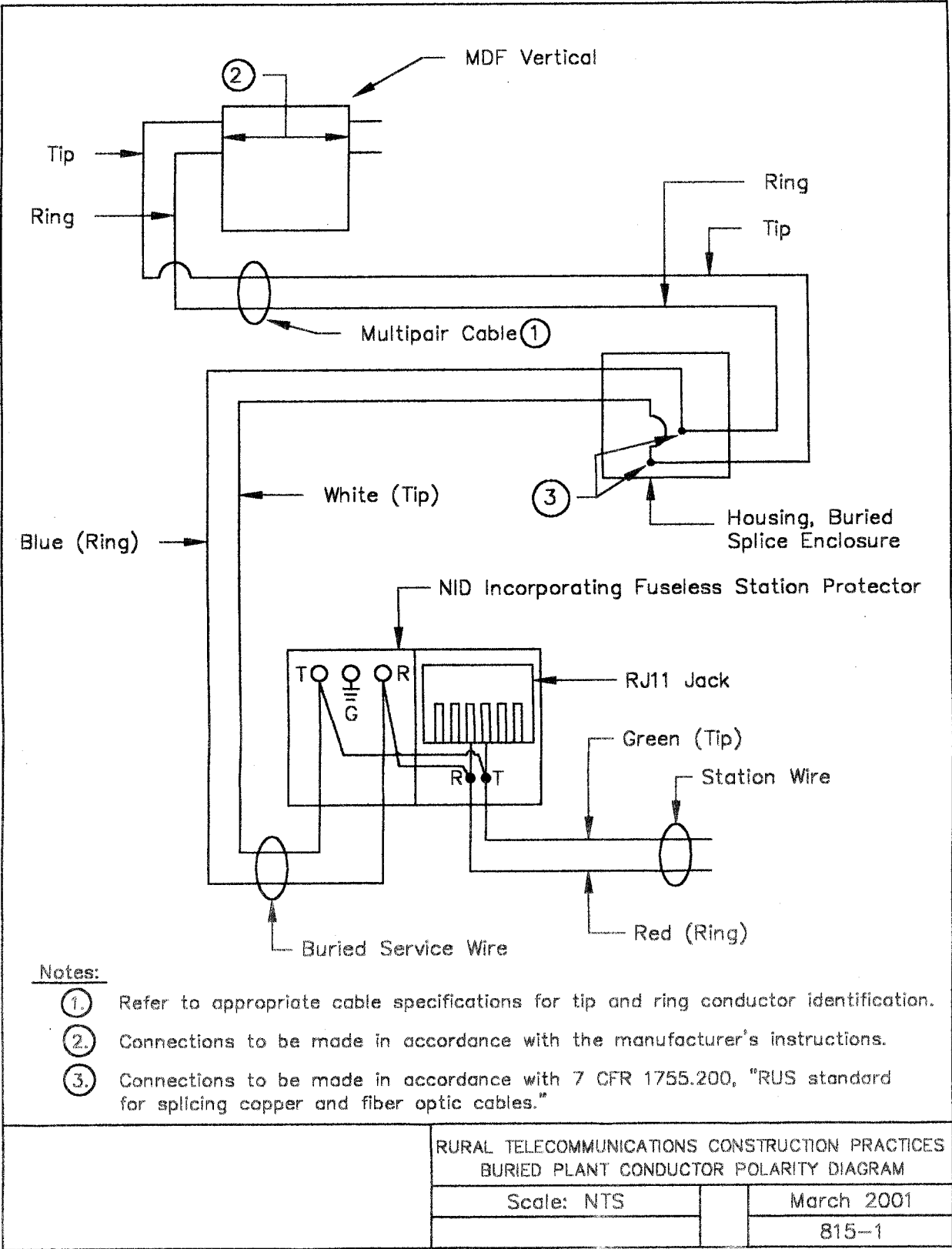
- (1) Refer to appropriate cable specifications for tip and ring conductor identification.
- (2) When facing the cable terminal the positive (tip) is on the left and the negative (ring) is on the right side of the pair.
- (3) Connections to be made in accordance with the manufacturer's instructions.

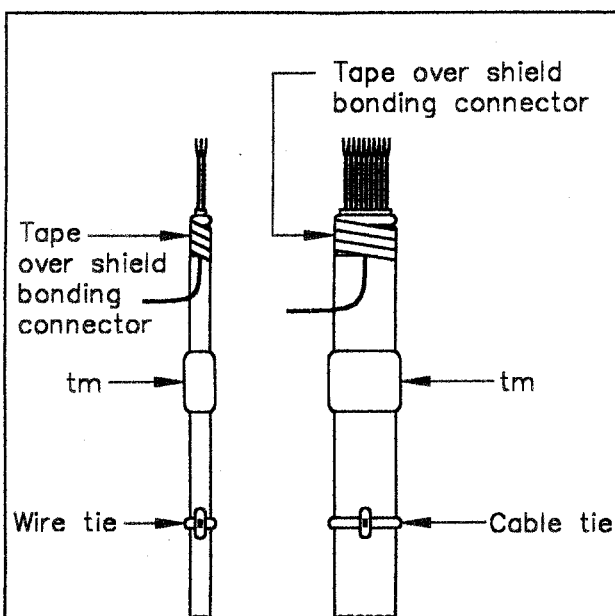
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES
CONDUCTOR POLARITY (TIP AND RING) DIAGRAM
(AERIAL PLANT)

Scale: NTS

March 2001

815



**Notes:**

- ① Markers shall be installed on all buried wires and cables at each housing as shown in 7 CFR 1755.200.
- ② The marker shall be wrapped around the cable in a manner such that the printed portion of the marker is completely covered and protected by at least one layer of transparent tape. On cables too large for this to be accomplished with a single marker, a second marker shall be applied so that the clear tape of the second marker provides protection for the printed portion of the first. The information shall be legibly printed and shall be readily visible.
- ③ The markers shall contain the following information unless indicated otherwise by the Borrower or Borrower's Engineer.

Buried Service Wire:

Line 1 — Subscribers identification
(Such as: name, telephone number, or address)

Buried Cable or Wire:

Line 1 — Nearest sequential marking
Line 2 — Direction of cable or wire
Line 3 — Cable reel number
Line 4 — Name of cable manufacturer

- ④ Other methods or materials of directional marking may be used when specified by the Borrower or the Borrower's Engineer.

Buried Service Wire Marker

Line 1	Tom Brown 5671234	

Transparent tape

Printing area

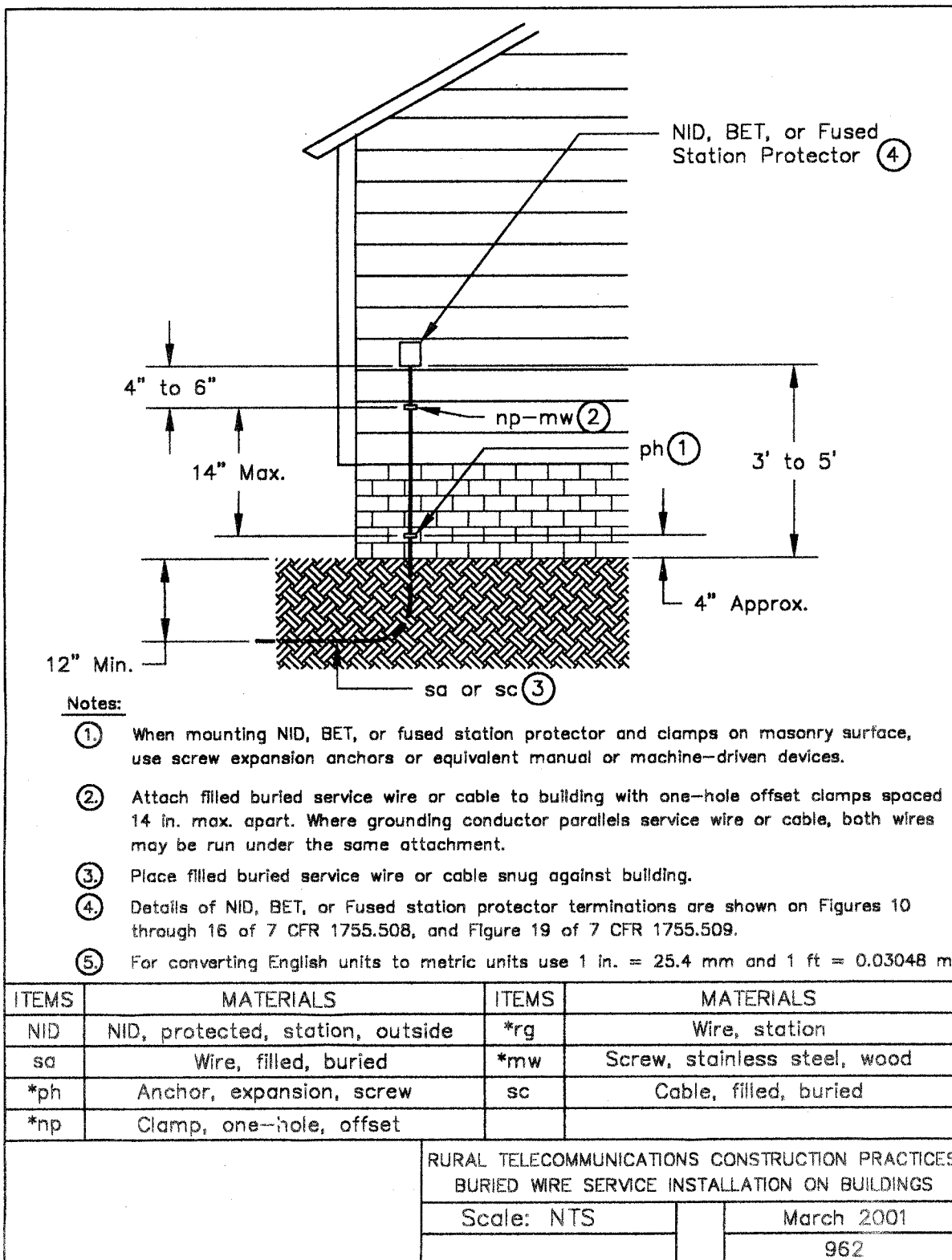
Buried Cable Marker

Line 1	3461	
Line 2	West to Housing 18	
Line 3	Reel #6942	
Line 4	Manufacturer	

Transparent tape

Printing area

ITEM	MATERIAL	NO. REQ'D
*tm	Tape, marker	as required
RURAL TELECOMMUNICATIONS CONSTRUCTION PRACTICES BURIED CABLE AND WIRE DIRECTIONAL MARKING		
Scale: NTS		March 2001
		958



Dated: August 1, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01-20121 Filed 8-16-01; 8:45 am]

BILLING CODE 3410-15-P



Federal Register

**Friday,
August 17, 2001**

Part III

Department of Agriculture

Forest Service

Department of the Interior

Bureau of Indian Affairs

Bureau of Land Management

Fish and Wildlife Service

National Park Service

**Urban Wildland Interface Communities
Within the Vicinity of Federal Lands That
Are at High Risk From Wildfire; Notice**

DEPARTMENT OF AGRICULTURE**Forest Service****DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****Bureau of Land Management****Fish and Wildlife Service****National Park Service****Urban Wildland Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire**

AGENCIES: Forest Service, Department of Agriculture; Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, and National Park Service, Department of the Interior.

ACTION: Notice.

SUMMARY: This notice provides an update to the initial list of urban wildland interface communities in the vicinity of Federal lands that are at high risk from wildfire published in the **Federal Register** on January 4, 2001. Pursuant to Congressional direction, this updated list indicates those communities for which the Secretaries have ongoing projects, and this notice identifies reasons why treatments are not planned or ongoing in the remaining communities in FY 2001.

FOR FURTHER INFORMATION CONTACT: Dick Bahr, Fire Management Program Center, National Park Service, USDI, 3833 S. Development Avenue, Boise, Idaho 83705-5354, (208) 387-5217 (e-mail: dick_bahr@nps.gov); or Janet Anderson Tyler, USDA Forest Service, Attn: Fire and Aviation Management, Yates Bldg., 201 14th Street, SW., Washington, DC 20024, (202) 205-1494 (e-mail: janderson03@fs.fed.us). Information specific to individual State listings should be directed to the respective State Foresters as listed with the National Association of State Foresters (NASF), 444 N. Capitol St., NW., Suite 540, Washington, DC 20001, or electronically from the NASF World Wide Web/Internet home page at <http://www.stateforesters.org/SFlist.html>.

SUPPLEMENTARY INFORMATION: The initial list of urban wildland interface communities, published in the **Federal Register** on January 4, 2001 (66 FR 751), was prepared in accordance with Title IV of the FY 2001 Appropriations Act for the Department of Interior and Related Agencies (Pub. L. 106-291). The list was compiled from preliminary information provided by the States and

Tribes and was prepared for publication by the Secretaries of Agriculture and the Interior. The information in the updated list set out at the end of this notice was compiled at the State and/or Tribal level by collaborative interagency groups. As a result of this collaborative effort, the Secretaries have prepared a more complete list that better reflects the relationship between Federal lands and the urban wildland interface problem in the United States. This annotated list supersedes the list published in the **Federal Register** on January 4, 2001 (66 FR 751).

It is important to note that the urban wildland interface is not limited to communities in the vicinity of Federal land. Many States, particularly in the East, submitted revised community lists that included all interface communities in their State, regardless of their relationship to Federal land. These States felt strongly that the full, nationwide scope of the urban wildland interface problem must be conveyed.

Due to the specificity of Congressional direction, the list set out at the end of this notice contains only those communities identified by the States or Tribes as "in the vicinity of Federal land."

A list of all the interface communities submitted by the States and Tribes is available from the National Association of State Foresters (NASF). Please see the **FOR FURTHER INFORMATION CONTACT** section above for the NASF website and other contact information.

The Federal agencies do not now plan to publish any subsequent lists in the **Federal Register**, but the interagency teams that developed the list published with this notice will update the community lists in each State as necessary.

Prior to revising the list of communities previously published in the **Federal Register** on January 4, 2001 (66 FR 751), an interagency group at the national level established a consistent process to be used by local land managers in reviewing each State's or Tribe's initial community list. This process was designed to lead interagency groups through an analysis of the communities in their State, including a description of the risk factors associated with each community and identification of Federal lands in the vicinity of the community.

The process outlined provided the flexibility for State teams to use existing community assessment systems when those systems met or exceeded the standardized process. State-level groups also retain the right to prioritize subsequent hazard reduction efforts according to local goals and

opportunities. Although this State-level flexibility has resulted in some variance among State submissions, the Secretaries feel the application of a standardized process has resulted in greater nationwide consistency for the revised lists.

The information contained in the list set out at the end of this notice will be used by interagency groups of land managers at the State and/or Tribal level to collaboratively identify priority areas within their jurisdictions that would benefit from hazard reduction activity. This will ensure that available funding is focused on areas of local importance and where opportunities are most conducive to reducing risks on a meaningful scale.

As described above, the list includes only those communities in the vicinity of lands managed by the Federal Government, especially the Departments of Agriculture and the Interior. This list is annotated to identify those communities around which the Secretaries have ongoing hazardous fuel reduction treatments or plan to begin treatments in FY 2001. These treatments will be focused primarily on Federal lands in the urban wildland interface and on nearby tribal and non-Federal lands where the landowner is a willing participant. All treatments will be subject to review for conformance with applicable laws, as addressed in the report accompanying the FY 2001 Appropriations Act for the Department of the Interior and Related Agencies (Pub. L. 106-291).

Of the 11,376 communities contained in the revised list, 9,457 communities are near Federal lands managed by the Departments of Agriculture and the Interior. The remaining 2,007 communities are near lands managed by other Federal agencies.¹ Of the total 11,376 communities, 9,600 have no hazardous fuels reduction treatments ongoing or planned for implementation in fiscal year 2001. The primary reasons for the lack of treatments around these communities are as follows:

- **Planning Requirements:** The Federal agencies, working with their State, Tribal and local partners, must accurately assess the level of wildfire risk and types and extent of treatments required to mitigate this risk. Interagency/Tribal groups working at the state level are in the process of defining projects that will significantly reduce the threat of wildfire to the

¹ These communities are annotated in the list with a footnote to indicate that they are generally not in the vicinity of lands managed by agencies of the Departments of Agriculture and the Interior for which urban wildland interface risk reduction funds were appropriated in FY 2001.

highest-risk communities, and setting priorities for treatments in FY 2002. This collaborative planning process for large, multi-jurisdictional projects, potentially affecting many diverse resource components, cannot be completed quickly. The completion of Federally mandated planning, consultation, and environmental compliance activities for projects associated with the large number of communities remaining to be addressed will require significant time and effort. The Federal agencies, working with their State, Tribal, and local partners, must accurately assess the level of wildfire risk and types and extent of treatments required to mitigate this risk. In some cases, this may require revising land management plans and preparing new environmental assessments or environmental impact statements. The Secretaries are beginning to increase staff and contracting capabilities to address this issue. In order to achieve significant results within a reasonable time period, the Federal agencies and their partners must balance the allocation of available funding between planning future projects and implementing those that are ready now. Most projects planned for implementation in FY 2001 were begun two years prior to the National Fire Plan publication, and do not necessarily reflect the emphasis on treatment for urban wildland interface communities. Projects in FY 2002 and beyond will more closely address wildfire risk associated with the list of communities in this notice.

- **Community Awareness and Support:** The States, Federal agencies, and Tribes are working with many communities to build an awareness of wildfire risk in the urban wildland interface, and to educate homeowners and stakeholders about effective steps that should be taken to mitigate this risk. In many areas, multiple land ownerships and jurisdictions have made it difficult for all parties to agree on a course of action. In some cases, further effort is required to obtain agreement on the types of treatments that will result in acceptable impacts as well as hazard mitigation. The Secretaries believe that these problems must be resolved at the local level, working with all interested parties and applying the best available science. The collaborative interagency groups that developed the community lists will continue to work with local communities to define risk reduction projects that will result in significant positive impacts within acceptable time frames.

- **Lack of Implementation Capability:** On-the-ground implementation of fuel

reduction projects around urban wildland interface communities will require a trained and available workforce, not only to implement project prescriptions, but also to assist communities with utilization or disposal of removed vegetative materials. Pursuant to Congressional direction, the Secretaries will seek to engage local workers and businesses in implementing these efforts. In many areas, these local resources will need time and assistance in preparing for this opportunity; program effectiveness will likely improve over time once stability and trust is built with local partners. Federal and State agencies will also need to develop trained personnel to facilitate the contracting requirements associated with the implementation of hazardous fuel reduction projects.

- **Additional Funding Needs:** Funding continuity in future years will be needed to continue to address the needs of communities in the urban wildland interface. The Secretaries will evaluate their needs based on information from the 2001 implementation process, including the scope and progress made, and will keep Congress and the Administration apprized as the full extent of funding needs is determined.

- **Federal Role:** The Federal government will prioritize projects where the wildfire threat is clearly coming from Federal land. In cases where there are wide buffers of State and private land between a community and Federal land, the agencies will work with local partners to determine how best to fund projects when private or State lands are an equal or greater factor contributing to the wildfire risk of a community. As discussed under "Planning Requirements," the interagency/Tribal groups at the State level are in the process of defining projects and will consider a variety of factors in setting priorities for treatments in 2002.

The updated list of urban wildland interface communities in the vicinity of Federal lands at high risk from wildfire is set out at the end of this notice.

Dated: August 9, 2001.

For the Department of Agriculture.

Dale N. Bosworth,
Chief, USDA Forest Service.

Dated: August 10, 2001.

For the Department of the Interior.

P. Lynn Scarlett,

Assistant Secretary for Policy, Management and Budget.

Communities in the vicinity of Federal lands at risk from wildfire

Footnote (1) indicates that one or more treatments are planned or ongoing for this community in FY 2001. Footnote (2) indicates communities in the vicinity of Federal lands other than those managed by the Departments of Agriculture and the Interior.

Alcan, AK
Allakaket, AK
Anchorage, AK
Crooked Creek, AK
Dot Lake, AK
Dry Creek, AK
Fort Greely, AK
Funny River, AK
Healy Lake, AK
Lime Village, AK
Mcgrath, AK
Nikiski, AK
Ninilchik, AK
Northway, AK
Northway Junction, AK
Northway Village, AK
Nulato, AK
Salamatof, AK
Tanacross, AK ¹
Tok, AK

Bishop, AL
Bridgeport, AL
Burnstown, AL
Central Heights, AL
Cherokee, AL
Cloverdale, AL
Dadeville, AL
Daviston, AL
Fort Payne, AL
Franklin, AL
Gravelly Springs, AL
Lime Kiln, AL
Maud, AL
Mount Carmel, AL
Mount Hester, AL
Mynot, AL
New Site, AL
Oakland, AL
Rhodesville, AL
Stevenson, AL
Threet, AL¹
Tuskegee, AL
Waterloo, AL

Abbott, AR
Abeerdeen, AR
Acorn, AR
Alamo, AR
Alpine, AR ²
Altus, AR ²
Aly, AR
Appleton, AR
Ashdown, AR ²
Athens, AR
Avant, AR
Banks, AR
Barling, AR
Bates, AR
Big Flat, AR
Big Fork, AR

Bismarck, AR²
Black Fork, AR
Black Springs, AR
Bloomer, AR²
Blue Ball, AR
Blue Mountain, AR
Bluffton, AR
Boles, AR
Bonnerdale, AR
Boxley, AR
Bradley Rural, AR
Briggsville, AR
Caddo Gap, AR
Cass, AR
Casscoe, AR
Cauthron, AR
Cecil, AR²
Cedar Creek, AR
Central, AR
Central City, AR²
Chalybeate Sprgs, AR
Charleston, AR²
Clarendon, AR
Combs, AR
Compton, AR
Cooter, AR
Cosahome, AR
Cove, AR
Cozahome, AR
Crockett's Bluff, AR
Crossett, AR¹
Crystal, AR
Daisy, AR
Dallas, AR
Danville, AR
Deer, AR
Diamond City, AR²
Dierks, AR²
Driggs, AR
Dutton, AR
Eagleton, AR
East Lake, AR
Ethel, AR
Fancy Hill, AR
Fannie, AR
Felsenthal, AR
Fern, AR
Fifty Six, AR
Flat Rock, AR²
Fort Smith, AR¹
Fourche Junction, AR
Fourche Valley, AR
Garfield, AR
Gibbs, AR
Gilbert, AR
Glenwood, AR
Godfry's Landing, AR
Gravelly, AR
Green Lake, AR
Hagarville, AR
Hartford, AR
Harvey, AR
Hasty, AR
Hatfield, AR
Havana, AR
Hector, AR
Hog Jaw, AR
Holly Grove, AR
Hopper, AR
Horatio, AR
Hot Springs, AR
Hot Springs Village, AR¹
Huddleston, AR
Hunt, AR
Indian Bay, AR
Jasper, AR
Jenny Lind, AR
Jones Lake, AR
Joplin, AR
Jordan, AR²
Kirby, AR
La Grange, AR
Lake Hinkie, AR
Lakeway, AR²
Langley, AR
Lawrenceville, AR
Lawson/Urbana, AR
Lead Hill, AR²
Liberty, AR
Limestone, AR
Lone Rock, AR
Ludwig, AR
Lurton, AR
Marianna, AR
Marshall, AR
Mena, AR
Meyers, AR
Midway, AR
Mount Sherman, AR
Mountain Fork, AR
Mountain Pine, AR
Mountain View, AR
Mt. Ida, AR
Mt. Judea, AR
Mt. Sherman, AR
Mull, AR
Murfreesboro, AR²
Nail, AR
Nathan, AR²
Natural Dam, AR
Needmore, AR
New Blaine, AR
Norman, AR
Oark, AR
Oden, AR
Omaha, AR²
Onyx, AR
Optimus, AR
Ozark, AR²
Ozone, AR
Parks, AR
Paron, AR
Parthenon, AR
Pearcy, AR
Pelsor, AR
Pencil Bluff, AR
Pine Prairie, AR
Pine Ridge, AR
Plainview, AR²
Pleasant Grove, AR
Pleasant Hill, AR
Pleasant Valley, AR
Point Cedar, AR²
Ponca, AR
Rea Valley, AR
Redfield, AR^{1 2}
Robinson, AR
Roe, AR
Rover, AR²
Scottsville, AR
Silver Hill, AR
Sims, AR
Snowball, AR
Spadra, AR²
St. Charles, AR
St. Joe, AR
St. Paul, AR
Steve, AR
Story, AR
Sugar Grove, AR
Sunshine, AR
Sweethome, AR
Thornburg, AR
Tichnor, AR
Tilly, AR
Union Hill, AR
Unity/Frost, AR
Waltreak, AR
Washita, AR
Washman's Bay, AR
Webb City, AR²
Weber, AR
Wedington, AR¹
West Helena, AR
White Hall, AR^{1 2}
Wicks, AR²
Wilcox Acres, AR
Wild Goose, AR
Wilton, AR²
Winfield, AR
Winthrop, AR
Witt Springs, AR
Y City, AR
Alpine, AZ²
Arivaca, AZ
Bonita Creek, AZ
Camp Geronimo, AZ
Camp Verde, AZ
Cherry, AZ
Chircahua Headquarters, AZ
Christopher Creek, AZ
Cibola, AZ
Colcord, AZ
Cottonwood, AZ
Crown King, AZ
Cutter, AZ
Deer Springs, AZ
Desert View, AZ
Diamond Shadows, AZ²
Eager, AZ
East Rim Drive, AZ
Ellision Creek, AZ
Flagstaff, AZ
Forest Lakes, AZ
Fort Huachuca, AZ
Geronimo Estates, AZ
Globe, AZ
Golden Shores, AZ
Gordon Canyon, AZ
Grand Canyon Village, AZ
Greer, AZ
Groom Creek, AZ
Haigler Canyon, AZ
Hawley Lake, AZ
Heber, AZ
Heber/Overgaard, AZ
Hermit's Rest, AZ
Hideway, AZ
Highway 64, AZ
Hondah, AZ
Houston Mesa, AZ
Hunter Creek, AZ
Hunters Point, AZ
Jeddito, AZ
Jerome, AZ
Juniper, AZ
Kaibab, AZ
Kaibab Lodge, AZ
Keams Canyon, AZ
Kingman, AZ
Kitt Peak, AZ
Kohl's Ranch, AZ
Lakeside, AZ
Linden, AZ
Little Field, AZ
Mandera Canyon, AZ
Maricopa Colony, AZ
McNary, AZ

Mingus Mountain, AZ	Alleghany, CA	Boulder Creek, CA
Mormon Lake, AZ	Almanor, CA	Boulder Oaks, CA
Mount Graham, AZ	Alpine, CA	Boulevard, CA
Mount Hopkins, AZ	Alpine Meadows (Rampart), CA	Bowman, CA
Mount Lemmon, AZ	Alta, CA	Bradbury, CA
Mt Union/Mtn Pine Acres, AZ	Alta Hill, CA	Brea, CA
New River, AZ	Alta Sierra, CA	Bridgeport, CA
Nogales, AZ	Altadena, CA	Bridgeville, CA
North Rim Developed, AZ	Altaville, CA	Browns Valley, CA
North Rim Historic, AZ	Alturas, CA	Brownsville, CA
Nutrioso, AZ	Amador City (Amador), CA	Buck Meadows, CA
Oak Creek, AZ	Anderson Springs, CA	Bucks Lake, CA
Oak Springs, AZ	Angels, CA	Bumblebee, CA
Oracle, AZ	Antelope Valley—East, CA	Burney, CA
Overgaard, AZ	Anza, CA	Burnt Ranch, CA
Paradise, AZ	Apple Valley, CA	Burson, CA
Parker Canyon, AZ	Aqua Caliente, CA	Butte Creek, CA
Parks, AZ	Arastraville, CA	Butte Meadows, CA
Patagonia/Canelo Hills, AZ	Arcadia, CA	Cabazon, CA
Payson, AZ	Arnold, CA	Cal Pines Lower Units, CA
Peridot, AZ	Aspen Springs, CA	Cal Pines Upper Units, CA
Pine, AZ	Aspendel, CA	Calaveritas, CA
Pine Springs, AZ	Atascadero, CA	Cal-Ida, CA
Pinedale, AZ	Auberry, CA ¹	California City, CA
Pinelake, AZ	Auburn, CA ¹	Callahan, CA
Pinetop, AZ ¹	Avenal, CA	Calpella, CA
Pinewood, AZ	Avila Beach, CA	Cameron Corners, CA
Pleasant Valley, AZ	Azusa, CA	Cameron Park, CA
Point of Pines, AZ	Badger, CA	Camp Connell, CA
Polacca, AZ	Bakersfield, CA	Camp Nelson, CA ¹
Ponderosa Springs, AZ	Banning, CA ¹	Camp Pendleton North, CA
Portal, AZ	Barona, CA ¹	Camp Rest, CA
Prescott, AZ	Barrett Junction, CA	Campo, CA
Rim Shadows Girl Scout, AZ	Bass Lake, CA	Campo Seco, CA
Rim Trails Estate, AZ	Bassets, CA	Camptonville, CA
Rose Creek / YMCA, AZ	Baxter, CA	Canby, CA
Saint John, AZ	Beale Air Force Base East, CA	Canyon Dam, CA
San Carlos, AZ	Bear Valley, CA	Canyon Lake, CA
San Pedro, AZ	Beaumont, CA	Cape Horn, CA
Santa Cruz, AZ	Beckwourth, CA	Capell Valley, CA
Sasabe, AZ	Beegum, CA	Caribou, CA
Second Mesa, AZ	Belden, CA	Carlsbad, CA
Show Low, AZ	Bella Vista, CA	Carmel Valley, CA
Sierra Vista, AZ	Bend, CA	Carmel Valley Village, CA
St. John, AZ	Benicia, CA	Carnelian Bay, CA
Star Valley, AZ	Berry Creek, CA	Carpinteria, CA
Strawberry, AZ	Berry Glen, CA	Cartago, CA
Summit, AZ	Berryessa Highlands, CA	Casa De Oro-Mount Helix, CA
Supai, AZ	Beverly Hills, CA	Casa Loma, CA
Third Mesa, AZ	Bieber, CA	Casmalia, CA
Thompson Draw, AZ	Big Bar, CA	Cassel, CA
Tonto Apache, AZ	Big Bear City, CA	Castella, CA
Tonto Village, AZ	Big Bear Lake (Corporate Name for Big Bear), CA	Cathedral City, CA
Tsaile, AZ	Big Bend, CA	Cecilville, CA
Tusayan, AZ	Big Creek, CA	Cedar Ridge, CA
Verde Glen, AZ	Big Flat, CA	Cedarville, CA
Vernon, AZ	Big Lagoon, CA	Centerville, CA
Walker, AZ	Big Lagoon Rancheria, CA	Central Valley, CA
Washington Park, AZ	Big Meadow, CA	Challenge, CA
West Rim Drive, AZ	Big Pine, CA	Challenge-Brownsville, CA
West Turkey Creek, AZ	Big River, CA	Cherokee, CA
Whispering Pines, AZ	Big Rock Springs, CA	Cherry Creek Acres, CA
Whiteriver, AZ ¹	Big Sandy, CA	Cherry Valley, CA
Williams, AZ	Big Springs, CA	Chester, CA ¹
Yaki Point, AZ	Big Sur, CA	Chicago Park (Pinecrest), CA
Yavapai Prescott, AZ	Big Trees, CA	Chico, CA
Yuma, AZ	Bishop, CA	Chinese Camp, CA
Aberdeen, CA	Blairsden, CA	Chino, CA
Acton, CA	Blue Lake, CA	Christian Valley (Nielsburg), CA
Adelaida, CA	Blue Lake Rancheria, CA	Chula Vista, CA
Adelanto, CA	Blue Lakes, CA	Claremont, CA
Adin, CA	Bluewater, CA	Clayton, CA
Agoura Hills, CA	Bodfish, CA	Clearlake, CA
Agua Dulce, CA	Bolinas, CA	Clio, CA
Aguanga, CA	Bootjack, CA	Cloverdale, CA
Ahwahnee, CA		Coachella, CA

Cobb, CA	Elizabeth Lake, CA	Hat Creek, CA
Cobb Ridge, CA	Elk Creek, CA	Hathaway Pines, CA
Coffee, CA	Emerald Lake Hills, CA	Hawkins Bar, CA
Cohasset, CA	Emigrant Gap, CA	Hayfork, CA
Cold Springs, CA	Encinitas, CA	Heather Glen—Applegate, CA
Coleville, CA	Escondido, CA	Hemet, CA
Colfax, CA	Etna, CA	Hesperia, CA
Coloma, CA	Ettersburg, CA	Hidden Meadows, CA
Columbia, CA	Fair Oaks, CA	Hidden Valley Lake, CA
Concord, CA	Fall River Mills, CA	Higgins Corner (Wolf), CA
Concow, CA	Fallbrook, CA	Highland, CA
Confidence, CA	Feather Falls, CA	Hiouchi, CA
Cool, CA	Fickel Hill, CA	Hirschdale, CA
Copic, CA	Fiddletown, CA	Hobart Mills, CA
Copperopolis, CA	Fish Camp, CA	Holcomb Village, CA
Corona, CA	Flinn Springs, CA	Homewood, CA
Coronado, CA	Floriston, CA	Honeydew, CA
Coto De Caza, CA	Flying Aa Ranch, CA	Hoopa, CA ¹
Cottage Springs, CA	Folsom, CA	Hoopa Valley Indian Reservation, CA
Coulterville, CA	Fontana, CA	Hopland, CA
Covelo, CA ¹	Forest, CA	Hornbrook, CA
Covington Mill, CA	Forest Glen, CA	Horse Creek, CA
Cow Creek, CA	Forest Knolls—Banner Mountain, CA	Hulburt Grove, CA
Coyote Valley Indian Reservation, CA	Forest Meadows, CA	Hume, CA
Crescent Mills, CA	Forest Ranch, CA	Hunter Valley, CA
Crestline (Census Name for Crest Forest), CA	Foresta, CA	Hurleton, CA
Crestview, CA	Foresthill, CA	Hurlong, CA
Cromberg, CA	Fort Bidwell, CA ¹	Hyampom, CA
Cummings, CA	Fort Jones, CA	Idyllwild-Pine Cove, CA ¹
Cuyama, CA	Fort Ord (Ord) ¹ (U.S. Army), CA	Igo, CA
Cuyapaipa, CA	Frazier Park, CA	Imperial Beach, CA
Dana, CA	French Corral, CA	Inaja, CA
Dardanelle, CA	French Gulch, CA	Indian Falls, CA
Davis Creek, CA	French Hill, CA	Indian Wells, CA
Day, CA	Friant, CA	Indio, CA
De Luz, CA	Ganns, CA	Inskip, CA
Del Loma, CA	Gasquet, CA	Inverness, CA
Del Monte Forest, CA	Gaviota, CA	Iowa Hill, CA
Del Rey Oaks, CA	Gazelle, CA	Irvine, CA
Delleker, CA	Genesee, CA	Jackson, CA
Denny, CA	George Air Force Base, CA	Jacumba, CA
Descanso, CA	Georgetown, CA	Jamestown, CA
Desert Hot Springs, CA	Gibson, CA	Jamul, CA
Devore, CA	Gilman Hot Springs, CA	Janesville, CA ¹
Devore Heights, CA	Glen Avon, CA	Jenny Lind, CA
Diamond Bar, CA	Glenbrook, CA	Jerseydale, CA
Diamond Springs, CA	Glencoe, CA	Johnstonville, CA
Dinkey Creek, CA	Glendale, CA	Johnsville, CA
Dobbins, CA	Glendora, CA	Jonesville, CA
Dollar Point, CA	Glenshire-Devonshire, CA	Julian, CA
Donner, CA	Gold Flat, CA	Junction City, CA
Dorrington, CA	Gold Hill, CA	June Lake, CA
Dorris, CA	Gold Run, CA	Juniper Flats, CA
Dos Rios, CA	Golden Hills, CA	Juniper Hills, CA
Douglas City, CA	Goleta, CA	Jupiter, CA
Douglas Flat, CA	Goodyears Bar, CA	Kagel Canyon, CA
Douglas Park, CA	Graegle, CA	Kiddie, CA
Downieville, CA	Grass Valley, CA ¹	Kelley, CA
Doyle, CA	Gray Ranch, CA	Kelseyville, CA
Dresserville, CA	Greeley Hill, CA	Kennedy Meadow, CA
Duarte, CA	Green Creek, CA	Kennedy Meadows, CA
Dublin, CA	Green Valley, CA	Kentville, CA
Dulzura, CA	Greenfield, CA	Keswick, CA
Dunlap, CA	Greenville, CA	Kettenpom Valley, CA
Dunsmuir, CA	Grizzly Flat, CA	King City, CA
Durham, CA	Groveland-Big Oak Flat, CA ¹	Kings Beach, CA
Dutch Flat, CA	Guatay, CA	Carked, CA
Eagleville, CA	Gustine, CA	Klammath, CA
East Hemet, CA	Hallelujah Junction, CA	Klammath River, CA
East Porterville (Doyle Colony), CA	Hamburg, CA	Corbel, CA
East Sonora, CA	Hamilton Branch, CA	Kuhn Ranch/Ammon, CA
Edwards Air Force Base, CA	Happy Camp, CA ¹	La Barr Meadows, CA
El Dorado Hills, CA	Harbison Canyon, CA	La Canada Flint Ridge, CA
El Portal, CA	Harden Flat, CA	La Crescent-Montrose, CA
El Toro, CA	Harmony Grove, CA	La Grange, CA
El Toro Marine Corps Air Station, CA	Harrison Park, CA	La Habra Heights, CA

La Jolla, CA ¹	Meadow Lakes, CA	Olema, CA
La Porte, CA	Meadow Valley, CA	Olive View, CA
La Quinta, CA	Miners Oaks, CA	Omo Ranch, CA
La Verne, CA	Menton, CA	Ontario, CA
Lady Del Rio, CA	Mesa Grande, CA ¹	Onyx, CA
Lagunitas-Forest Knolls, CA	Michigan Bluff, CA	Ophir, CA
Lake Arrowhead, CA	Middletown, CA	Orangevale, CA
Lake City, CA	Middies, CA	Orcutt, CA
Lake Don Pedro, CA	Millford, CA	Oregon House, CA
Lake Elsinore, CA	Mill Creek, CA	Orick, CA
Lake Hughes, CA	Mill Valley, CA	Orleans, CA
Lake Isabella, CA	Mineral, CA	Oroville, CA
Lake Moreno Village, CA	Mint Canyon, CA	Oroville East, CA
Lake Nacimiento, CA	Mara Monte, CA	Outingdale, CA
Lake Wildwood, CA	Merriment, CA	Pacific Grove, CA
Lakehead, CA	Mission Hills (Census Name for Lompoc North), CA	Pala, CA ¹
Lakeland Village, CA	Mi-Wk. Village, CA	Palermo, CA
Lakeshore, CA	Moccasin, CA	Palm Desert, CA
Lakeside, CA	Mohawk, CA	Palm Desert Country, CA
Lakeview, CA	Mokelumne Hill, CA	Palm Springs, CA
Lamina, CA	Mono City, CA	Palmdale, CA
Lancaster, CA	Mono Vista, CA	Paloma, CA
Lang, CA	Monrovia, CA	Paradise, CA ¹
Laposta, CA	Montague, CA	Paradise Camp, CA
Latrobe, CA	Monteiro, CA	Pasadena, CA
Lee Vining, CA	Monterey, CA	Paskenta, CA
Lagged, CA	Montgomery Creek, CA	Patrick Creek, CA
Leona Valley, CA	Mooney Flat, CA	Pauma, CA
Levitt, CA	Moreno Valley, CA	Pauma Valley, CA
Lewiston, CA	Morgan Hill (Morganhill), CA	Paxton, CA
Likely, CA	Mormon Bar, CA	Paynes Creek, CA
Lindsay, CA	Moron go, CA ¹	Paynesville, CA
Lichfield, CA	Moron go Valley, CA	Peardale, CA
Little Valley, CA	Mount Laguna, CA	Pechanga, CA ¹
Littlerock, CA	Mount Shasta, CA	Penn Valley, CA
Live Oak Springs, CA	Mountain Center, CA	Pentz, CA
Plano, CA	Mountain Gate, CA	Perris, CA
Ladoga, CA	Mountain Mesa, CA	Petrolia, CA
Loma Linda, CA	Mountain Ranch, CA	Phoenix Lake-Cedar Ridge, CA
Lompoc, CA	Murphies, CA	Pickle Meadows, CA
Lone Pine, CA	Mustang Mesa, CA	Piedra, CA
Long Barn, CA	Napa, CA	Pike, CA
Longview, CA	Napa Soda Springs, CA	Pine Flat, CA
Lookout, CA	National City, CA	Pine Grove, CA
Los Angeles, CA	Needles, CA	Pine Hills, CA
Los Coyotes, CA ¹	Nevada City, CA	Pine Valley, CA
Los Malawians, CA	New Pine Creek, CA	Pinehurst, CA
Los Serrano, CA	Newcastle, CA	Pinnacles National Monument, CA
Lower Lake, CA	Newel, CA	Pinyon Pines, CA
Loyalton, CA	Newton, CA	Pioneer, CA
Lucern, CA	Nice, CA	Pioneer Tract, CA
Lucia, CA	Nippiness, CA	Piru, CA
Lushmeadows Mountain Estates, CA	Narc, CA	Pittsburg, CA
Lyle Creek, CA	Noreen, CA	Pittville, CA
Macdoel, CA	North Auburn, CA	Pitville, CA
Mad River, CA	North Bloomfield, CA	Placerville, CA
Madeline, CA	North Columbia, CA	Platina, CA
Muggily, CA	North Edwards, CA	Pleasant Valley, CA
Magda, CA	North Fork, CA	Plymouth, CA
Major Moore's, CA	North Highlands, CA	Point Arena, CA
Mammoth Lakes, CA	North San Juan, CA	Point Dume, CA
Manchester, CA	Nuevo, CA	Pollock Pines, CA
Manchester Rancheria (Iverson Indian Rancheria), CA	Oak Grove, CA	Pomo, CA
Manson, CA	Oak Park, CA	Pomona, CA
Manzanita, CA	Oak Run, CA	Pope Valley, CA
March Air Force Base, CA	Oakhurst, CA	Portola, CA
Marin City, CA	Oakland, CA	Portola Hills, CA
Marina, CA	Obad., CA	Poso Park, CA
Mariposa, CA	O'Brien, CA	Potrero, CA
Markleeville, CA	Oceanside, CA	Potter Valley, CA
Martinez, CA	Oden Flat, CA	Poway, CA
Mather, CA	Ojai, CA	Prather, CA
MacArthur, CA	Olancha, CA	Prattville, CA
Mccloud, CA	Old Sherwood, CA	Prosser Lakeview Estates, CA
Mead Valley, CA	Old Station, CA	Quail Valley, CA
		Quartz Valley, CA

Quincy-East Quincy, CA
R Ranch (Johnsondale), CA
Rackerby, CA
Rail Road Flat, CA
Rainbow (Rainbow Valley), CA
Ramona, CA ¹
Ranchita, CA
Rancho Cucamonga, CA
Rancho Mirage, CA
Rancho Santa Margarita, CA
Randolph, CA
Randsburg, CA
Ravendale, CA
Ravenna, CA
Red Bluff, CA
Red Dog, CA
Redding, CA ¹
Redding Rancheria, CA
Redlands, CA
Redwood City, CA
Redwood Valley, CA
Ridgecrest, CA
Rincon, CA
Rio Linda, CA
Riverside, CA
Roaring Creek, CA
Robinson Mills, CA
Rock Creek, CA
Rodeo, CA
Rosamond, CA
Rough And Ready (Bitney Corner), CA
Round Mountain, CA
Rowland Heights, CA
Rumsey, CA
Running Springs, CA
Ruth, CA
Ruth Lake East, CA
Ruth Lake West, CA
Sabrina, CA
Sacramento, CA
Sage, CA
Salinas, CA
Salyer, CA
San Andreas, CA
San Antonio Heights, CA
San Bernardino, CA
San Clemente, CA
San Diego, CA
San Diego Country Estates, CA
San Dimas, CA
San Fernando, CA
San Francisco, CA
San Jacinto, CA
San Luis Obispo, CA
San Marcos, CA
San Miguel, CA
San Pasqual, CA
San Ramon, CA
Sand City, CA
Sandy Gulch, CA
Santa Barbara, CA ¹
Santa Clarita, CA
Santa Margarita, CA
Santa Rosa, CA
Santa Ysabel, CA
Santaysabel, CA ¹
Santee, CA
Sattley—Calpine, CA
Saugus-Bouquet Canyon, CA
Sausalito, CA
Sawyers Bar, CA
Scott Bar, CA
Seaside, CA
Secret Town, CA
Seiad Valley, CA
Seneca, CA
Shady Glen, CA
Shasta, CA
Shaver Lake, CA
Sheepranch, CA
Shelter Cove, CA
Sherwood Forest, CA
Shingle Springs, CA ¹
Shingletown, CA ¹
Sicard Flat, CA
Sierra City, CA
Sierra Madre, CA
Sierraville, CA
Simi Valley, CA
Sims, CA
Skyhigh, CA
Sleepy Valley, CA
Smartville, CA
Smith Station, CA
Snow Creek, CA
Soda Springs, CA
Somes Bar, CA
Sonora, CA
Soulsbyville, CA
South Lake, CA
South Lake Tahoe, CA
South Oroville, CA
Spanish Flat, CA
Spaulding, CA
Sportshaven, CA
Spring Valley, CA
Springville, CA
Squaw Valley, CA
Standard, CA
Standish, CA
Starlite, CA
Stent, CA
Stewart Point Rancheria (Indian Res), CA
Stinson Beach, CA
Stirling City, CA
Stones Landing, CA
Strawberry, CA
Strawberry Valley, CA
Sun City, CA
Sun Village, CA
Sunnyside-Tahoe City, CA
Susanville, CA
Sutter Creek, CA
Suzy Q Ranch, CA
Swall Meadows, CA
Sweetland, CA
Sycuan, CA ¹
Taft Heights, CA
Tahoe Pines, CA
Tahoe Vista, CA
Tajiguas, CA
Talmage, CA
Tamalpais-Homestead Valley, CA
Tamarack, CA
Taylorsville, CA
Tecate, CA
Tehachapi, CA
Temecula, CA ¹
Tennant, CA
The Forks, CA
The Geysers, CA
Thomas Mountain, CA
Thousand Oaks, CA
Thousand Palms, CA
Three Rivers, CA
Tierra Del Sol, CA
Timbuctoo, CA
Tollhouse, CA
Toms Place, CA
Topaz, CA
Torres Martinez, CA
Trabuco Highlands, CA
Trinidad, CA
Trinidad Rancheria, CA
Trinity Center, CA
Truckee, CA
Tule River, CA ¹
Tule River Indian Reservation, CA
Tulelake (Tule Lake), CA
Tuolumne, CA ¹
Tuolumne City, CA
Tuttletown, CA
Twain, CA
Twain Harte, CA
Twentynine Palms, CA
Twentynine Palms Marine Corps Base, CA
Twin Lakes, CA
Twin Pines—Weimar, CA
Ukiah, CA ¹
Union Hill, CA
Upland, CA
Upper Lake, CA
Upper Mad River, CA
Val Verde, CA
Valle Vista, CA
Vallecito, CA
Valley Center, CA
Valley Springs, CA
Valyermo, CA
Van Duzen, CA
Vandenberg Air Force Base, CA
Vandenberg Village, CA
Vichy Springs, CA
Victorville, CA
Virginia Creek, CA
Vista, CA
Volcano, CA
Wallace, CA
Walnut Creek, CA
Warner Springs, CA
Washington, CA
Wawona, CA
Weaverville, CA
Weed, CA ¹
Weitchpec, CA ¹
Weldon, CA
Wendel, CA
West Bishop, CA
West Pittsburg, CA
West Point, CA
Westhaven-Moonstone, CA
Westlake Village, CA
White Water, CA
Whitethorn (Thorn), CA
Whitney Portal, CA
Wildomar, CA
Wildwood, CA
Willaura Estates, CA
Willow Creek, CA
Willow Ranch, CA
Willow Valley—Cascade Shores, CA
Wilseyville, CA
Wilsona Gardens, CA
Wilsomia, CA
Winchester, CA
Winterhaven, CA
Witter Springs, CA
Wofford Heights, CA
Woodcrest, CA
Woodfords, CA
Woodfords Community (Indian Reservation), CA
Woodside, CA
Wrightwood, CA
Wynola, CA
Yorba Linda, CA
Yosemite Village, CA
You Bet, CA

Yreka, CA
 Yucaipa, CA
 Yucca Valley, CA
 Zenia, CA
 25 Mesa, CO¹
 Abril Meadows Subdivison, CO¹
 Alamosa Nwr, CO¹
 Allen Homesites Subdivision, CO¹
 Allenspark, CO¹
 Almont Subdivision, CO¹
 Alpine, CO¹
 Alpine Lakes, CO¹
 Alpine Meadows Subdivision, CO¹
 Alps Mtn., CO¹
 Altona, CO¹
 Amerind Spgs., CO
 Angel of Shavano, CO¹
 Anna Road, CO¹
 Antelope Hills Mobile Home Subdivision, CO¹
 Antelope Hills Subdivision, CO¹
 Apex, CO¹
 Apple Valley, CO¹
 Arapaho Nwr, CO¹
 Arrowood, CO¹
 Arvada, CO
 Aspen Canyon, CO¹
 Aspen Meadows (Subdivision), CO¹
 Aspen Park, CO¹
 Aspen Spgs, CO¹
 Aspen Springs, CO¹
 Avian Subdivision, CO¹
 Avon, CO¹
 Baca Grande, CO¹
 Bailey, CO
 Balarat, CO¹
 Bar K Ranch, CO¹
 Bard Creek, CO
 Barnesville, CO
 Barnsville, CO¹
 Battlement Mesa, CO¹
 Bayfield, CO¹
 Bear Creek Hoa, CO¹
 Bear Mtn., CO
 Beaver Point Heights, CO¹
 Beaver Valley Estates, CO¹
 Beaverbrk. Cnyn., CO¹
 Bellaire Lake Cg, CO
 Bergen Park, CO
 Berthoud Dale, CO
 Berthoud Falls, CO
 Beulah, CO¹
 Big Elk Meadows, CO¹
 Big Thompson Canyon, CO
 Bighorn Subdivision, CO¹
 Black Hawk, CO¹
 Black Hollow, CO
 Black Mtn., CO¹
 Blue Mesa Highlands Subdivision, CO¹
 Blue Mesa Subdivision F-1, 2, CO¹
 Blue Valley, CO¹
 Bonanza, CO¹
 Bonanza Mountain Estates (Subdivision), CO¹
 Bond, CO¹
 Bostwick Park, CO¹
 Bosworth Addition Subdivision, CO¹
 Boulder, CO¹
 Boulder Heights, CO¹
 Bow Mountain, CO¹
 Bowie, CO¹
 Braeher Lake, CO¹
 Breckenridge, CO¹
 Breen, CO¹
 Brk. Forest Est., CO¹
 Brook Forest, CO¹
 Brookmont, CO
 Browns Park, CO¹
 Buckhorn Canyon, CO
 Buckhorn Estates, CO
 Buena Vista, CO¹
 Buffalo Creek, CO¹
 Buffalo Park, CO¹
 Buford, CO¹
 Cabazon Canyon, CO¹
 Cabazon Subdivision, CO¹
 Cahone Mesa, CO¹
 Camp Shosoni, CO¹
 Canon, CO¹
 Canyonside, CO¹
 Carbon Junction, CO¹
 Carbondale, CO¹
 Cardinal (Historical), CO¹
 Caribou City, CO¹
 Carrige Hills, CO¹
 Cauffman's Addition Subdivision, CO¹
 Cebolla River Ranchettes, CO
 Cedar Park, CO
 Cedar Ridge Estates, CO¹
 Cedar Springs, CO
 Cedaredge, CO¹
 Cement Creek Shg, CO¹
 Cement Creek Subdivision, CO¹
 Centerville, CO¹
 Central City, CO¹
 Chalet Park, CO¹
 Chalk Creek Acres, CO¹
 Chalk Creek Drive, CO¹
 Chalk Creek Estates, CO¹
 Cheeseman, CO¹
 Cherry Ck, CO¹
 Chicago Crk., CO¹
 Chief Hosa, CO
 Chilton, CO
 Chimney Rock Post Office, CO¹
 Chromo, CO¹
 Cliffdale, CO¹
 Coal Creek, CO¹
 Coal Creek Cnyn, CO¹
 Cold Spring, CO¹
 Collbran, CO¹
 Colona, CO
 Columbus, CO¹
 Conifer, CO
 Conifer Meadows, CO
 Conifer Mtn., CO¹
 Copper, CO¹
 Copper Creek, CO¹
 Copperdale, CO¹
 Cordillera, CO¹
 Corona Heights, CO¹
 County Road 162, CO¹
 County Road 289, CO¹
 Coventry, CO¹
 Cowdrey, CO¹
 Craig, CO¹
 Cranor Acres Subdivision, CO¹
 Crawford, CO¹
 Crawford Gulch, CO
 Creedmore Lakes, CO
 Creekwood Subdivision, CO¹
 Creel Lands Subdivision, CO
 Crescent Village, CO¹
 Crescent Lake Estates, CO¹
 Crested Butte, CO¹
 Crested Butte Highlands Subdivision, CO¹
 Crestone, CO¹
 Crestview Estates, CO¹
 Crisman, CO¹
 Crossons, CO¹
 Crystal Creek Subdivision, CO
 Danni Ranch Subdivision, CO¹
 Dave Wood, CO¹
 Debeque, CO¹
 Deckers, CO¹
 Deer Creek Rd., CO
 Deer Haven Subdivision, CO¹
 Deer Mesa, CO¹
 Deer Valley, CO¹
 Del Norte, CO
 Devils Gulch, CO
 Dgo Hills, CO¹
 Dharma Center, CO
 Diamond Creek, CO
 Dillon/Keystone, CO¹
 Divide Creek, CO¹
 Dolores, CO¹
 Dory Lakes, CO¹
 Double Header, CO
 Douglas Ranch, CO¹
 Downieville, CO¹
 Drew Hill, CO¹
 Dry Gulch, CO
 Dumont, CO¹
 Dunbar Tracts Subdivision, CO¹
 Dunraven Heights, CO
 Durango, CO¹
 Dutch Charlie, CO
 Dutch George Flats, CO
 E. Fork Williams, CO¹
 Eagle, CO¹
 Eagle Ridge Subdivision, CO¹
 Eagle Rock Ranches, CO
 Eagles Roost, CO¹
 East Owassa, CO
 East Portal, CO¹
 Echo Hills, CO
 Edgemont, CO¹
 El Jebel, CO¹
 El Pinal, CO
 El Vado, CO¹
 Eldora, CO¹
 Eldorado Springs, CO¹
 Eldredge, CO¹
 Elk Falls, CO¹
 Elk Meadows Subdivision, CO
 Elk Mountain Resort, CO
 Elk Park, CO¹
 Elk Run, CO¹
 Elk Springs, CO¹
 Elkhead, CO¹
 Empire, CO
 Ench. For, CO¹
 Est. At Blue Crk., CO¹
 Estabrook, CO
 Estes Park, CO¹
 Eubank's Acres Subdivision, CO¹
 Eubank's Spring Creek Tracts Subdivision, CO¹
 Evans Ranch, CO¹
 Evergreen, CO¹
 Evrgm. Highlnd, CO¹
 Evrgm. Meadow, CO¹
 Fairmont, CO
 Fairview Subdivision, CO¹
 Fall River Rd., CO¹
 Ferncliff, CO¹
 Ferndale, CO
 Five Pine, CO¹
 Fl Rd Cor, CO¹
 Florida Mesa, CO¹
 Florida River, CO¹
 Floyd Hill, CO¹
 Flying G, CO¹
 Forbes Wagon Creek, CO¹
 Forest Hills, CO¹
 Forest Lakes, CO¹
 Four Elk, CO¹

Fourth of July Creek Estates Subdivision, CO¹
 Fox Acres, CO
 Fox Creek, CO¹
 Foxton, CO
 Foxton Road, CO
 Fraser Valley, CO¹
 Frisco, CO¹
 Frontier Ranch, CO¹
 Fruita, CO¹
 Fruitland Mesa, CO¹
 Fun Valley, CO¹
 Gamble Gulch, CO¹
 Game Trail, CO¹
 Gateway, CO¹
 Genesee, CO¹
 Georgetown, CO¹
 Gerrard, CO¹
 Gilpin, CO¹
 Ginger Quill, CO¹
 Glade Park, CO¹
 Glen Echo, CO
 Glen Elk, CO
 Glen Mawr, CO¹
 Glendale, CO¹
 Glenwood Springs, CO¹
 Gold Basin Meadows Subdivision, CO¹
 Gold Creek Acres Subdivision, CO¹
 Gold Hill, CO¹
 Gold Run, CO¹
 Golden, CO
 Golden Gate Canyon Estates, CO¹
 Golden Gate Parkestates, CO¹
 Golden Meadow, CO
 Goose Creek Estates Subdivision, CO¹
 Gordon Tracts Subdivision, CO¹
 Gothic, CO¹
 Gothic Mountain Subdivision, CO¹
 Gould, CO¹
 Gould Reservoir, CO
 Government Springs, CO¹
 Granby, CO¹
 Grand Mesa, CO¹
 Grandview, CO¹
 Grant, CO
 Grape Vine, CO
 Great Sand Dunes Np, CO¹
 Green Valley, CO
 Greenwood, CO¹
 Greystone, CO¹
 Grizzly Drive, CO
 Gunnison, CO¹
 Gunnison Heights Subdivision, CO¹
 Gunnison Highlands North Subdivision, CO¹
 Gunnison Ranchettes Subdivision, CO¹
 Gurley, CO¹
 Happy Top, CO
 Harris Park, CO
 Hartman Rocks Subdivision, CO¹
 Hay Camp, CO¹
 Heeney, CO¹
 Helker Subdivision, CO
 Henson, CO
 Hesperus, CO¹
 Hiawatha Heights, CO
 Hidden Hills, CO¹
 Hidden Lake (Subdivision), CO¹
 Hidden River Ranch Subdivision, CO¹
 High Country Estates, CO
 Highgrade, CO
 Hilldale Pines, CO
 Hiwan, CO
 Hiwan Hills, CO
 Homestead, CO
 Horca, CO¹
 Horsefly, CO¹
 Horseshoe Park, CO
 Hotchkiss, CO¹
 Hwy 34 Corridor, CO¹
 Hwy 9, CO¹
 Idaho Springs, CO¹
 Idledale, CO
 Ignacio, CO¹
 Indian Crk. Pk. Ranch, CO¹
 Indian Head, CO
 Indian Hills, CO
 Indian Meadows, CO
 Insmont, CO
 Iola Highlands South Subdivision, CO¹
 Iola Highlands West Subdivision, CO¹
 Iron Springs Mesa (Carstens), CO¹
 Irwin, CO¹
 Jacobs Ladder, CO¹
 Jamestown, CO¹
 Joe Love Ranch, CO¹
 Jubilee, CO
 Junc Ck Cor, CO¹
 Kearns, CO¹
 Ken Caryl, CO
 Kennedy Gulch, CO
 Kerr Gulch, CO
 Kincard Springs, CO
 Kings Canyon, CO¹
 King's Valley, CO¹
 Kittredge, CO
 Knollwood, CO¹
 Kuhlman Heights, CO¹
 Kvehster Road, CO
 K-Z Ranch Estates, CO
 La Plata, CO¹
 Ladder Can. Ranch, CO
 Ladder Cr. Ranch, CO
 Lake City, CO
 Lake City Heights Subdivision, CO
 Lake City North Subdivision, CO
 Lake Edith, CO¹
 Lake Fork Estates I & II Subdivision, CO
 Lake Fork Tracts Subdivision, CO
 Lake Of The Pines, CO¹
 Lake San Cristobal Condominium Subdivision, CO
 Lake San Cristobal Subdivision, CO
 Lake Shore Park (Subdivision), CO¹
 Lake View At Skyland Subdivision, CO¹
 Lakeshore Estates Subdivision, CO
 Lawson, CO¹
 Lazear, CO¹
 Lazy Acres (Subdivision), CO¹
 Lazy Crutch Park Subdivision, CO¹
 Lincoln Hills, CO¹
 Little Bear Crk., CO¹
 Log Hill Mesa, CO
 Log Hill Village, CO
 Log Park, CO¹
 Logan Mill, CO¹
 Loma Linda, CO¹
 Lonetree, CO¹
 Lookout Mtn., CO
 Los Pinos/Cumbres, CO¹
 Lost Can, CO¹
 Lost Valley R., CO
 Lump Gulch, CO¹
 Lyons, CO¹
 Lyons Park Estates, CO¹
 Magnolia, CO¹
 Maher, CO
 Marshall, CO¹
 Marshdale Pk., CO¹
 Marvan Subdivision, CO
 Massadona, CO¹
 Maxwell Hills, CO¹
 Mayday, CO¹
 Mayhen COr, CO¹
 Mccray Tracts Subdivision, CO¹
 McKinley, CO
 Meeker, CO¹
 Meeker Park, CO¹
 Meredith, CO¹
 Meridian Lake Park, F-1, 2 Subdivision, CO¹
 Mesa, CO¹
 Mesa Antero, CO¹
 Mesa Lakes, CO¹
 Mesa Verde Park, CO¹
 Mill Creek, CO¹
 Mill Creek Park, CO
 Millwood, CO¹
 Merriment, CO¹
 Missouri Lake #1, CO¹
 Missouri Lake, CO¹
 Missouri Lake #3, CO¹
 Molina, CO¹
 Monarch Valley Subdivision, CO¹
 Monte Vista Nwr, CO¹
 Montezuma, CO¹
 Moon Gulch, CO¹
 Moon Ridge Subdivision, CO¹
 Morapes Ck., CO¹
 Morrison, CO
 Mount Ethel Estates, CO
 Mountain Glow Subdivision, CO¹
 Mountain House Estates, CO¹
 Mountain Meadows (Subdivision), CO¹
 Mountain Pines, CO¹
 Mountain Ridge, CO¹
 Mountain View, CO¹
 Mountain View Subdivision, CO¹
 Mt. Harvard Estates, CO¹
 Mt. Princeton, CO¹
 Mt. Princeton Hot Springs, CO¹
 Mt. Princeton South, CO¹
 Mt. Signal, CO¹
 Mt. Vernon, CO
 Mtn. View Lakes, CO
 Murdie Subdivision, CO¹
 N. Rainbow Falls, CO¹
 N. Stmbt, CO¹
 Naturita, CO
 Nederland, CO¹
 Nevadaville, CO¹
 New Castle, CO¹
 North Elk Meadows, F-1, 2 Subdivision, CO¹
 North Pointe, CO¹
 North Routt, CO¹
 North Shore Village Subdivision, CO
 Norwood, CO
 Nucla, CO
 Nutria, CO¹
 Oak Hill, CO¹
 Oehlman Park, CO
 Ohio City, CO¹
 Ohio City-Stephenson's Addition Subdivision, CO¹
 Ohio Creek Properties Subdivision, CO¹
 Ohio Meadows, F-1, 2, 3, 4 Subdivision, Aka Castle Creek, CO¹
 Old Park, CO¹
 Old Sq. Pass Rd., CO
 Old Stage, CO¹
 Orodell, CO¹
 Outward Bound, CO
 Owassa Lake, CO
 Oxford, CO
 Oxyoke, CO
 Packer's Knob Subdivision, CO
 Pactolus, CO¹
 Pagosa Lakes, CO¹
 Pagosa Springs, CO¹
 Palisade Retreat Club Subdivision, CO¹

Pan Ark, CO
 Pandrama Est., CO
 Panoview Park Subdivision, CO¹
 Paonia, CO¹
 Paradise Hills, CO
 Paradise Valley Estates, CO¹
 Paradox, CO
 Park 80 West, CO¹
 Park Creek Subdivision, CO
 Park Creek West Subdivision, CO
 Parkview, CO
 Parsons Dr., CO¹
 Peaceful Hills, CO
 Peaceful Valley, CO¹
 Piedra, CO¹
 Pine, CO¹
 Pine Brook Hill (Subdivision), CO¹
 Pine Junction, CO
 Pine Needle Notch, CO¹
 Pine Ridge Road, CO
 Pine Valley, CO¹
 Pine Valley Est., CO
 Pinecliffe, CO¹
 Pinnacles, The Subdivision, CO¹
 Pinon, CO¹
 Pinon Acres, CO¹
 Pinos Creek Hoa's, CO¹
 Pinyon Mesa, CO¹
 Pitkin, CO¹
 Pleasant Park, CO
 Pleasant View, CO
 Post Hill, CO¹
 Poudre City, CO
 Pride Of The West, CO¹
 Princeton Shadows, CO¹
 Pristine Point Subdivision, CO¹
 Pritchett, CO¹
 Quartz Creek Subdivision, CO¹
 Rabbit Gulch, CO
 Rainbow Placer's 1, 2 Subdivision, CO¹
 Rancho Antero, CO¹
 Rancho Carramba Subdivision, CO
 Rancho Mirage, CO
 Rand, CO¹
 Rangely, CO¹
 Raymond, CO¹
 Red Cliff, CO¹
 Red Cross Millsite Subdivision, CO¹
 Red Feather Lakes, CO
 Red Mesa, CO¹
 Red Mtn. Ranches Phase 1, 2, 3, 4 Subdivision, CO¹
 Redlands Mesa, CO¹
 Redstone, CO¹
 Redvale, CO¹
 Resort Creek Rd., CO
 Rice Estates, CO¹
 Richmond Hill, CO
 Ridge At Hiwan, CO
 Ridgewood (Subdivision), CO¹
 Rifle, CO¹
 Riva Chase, CO
 River Bend Subdivision, CO¹
 River Green Subdivision, CO¹
 River Ranch, CO¹
 River Rim Subdivision, CO¹
 River Road Subdivision, CO¹
 Rivergate Ranches Subdivision, CO¹
 Riverland Ind. Park Subdivision, CO¹
 Riverside, CO¹
 Riverside Estates Subdivision, CO
 Roaring Judy At Round Top Subdivision, CO¹
 Roaring Judy, Phase 1, 2 Subdivision, CO¹
 Robinson Hill, CO
 Rockledge, CO¹
 Rockridge, CO¹
 Rocky Mt. Arsenal, CO
 Rocky Mtn Lodge, CO¹
 Rollinsville, CO¹
 Ropp Cnty. Est., CO
 Rowena, CO¹
 Royal Ranch Subdivision, CO
 Rulison, CO¹
 Rustic, CO¹
 Rye, CO¹
 S. Fork Williams, CO¹
 S. Ridge Road, CO
 S. Turkey Creek, CO
 Saddle Club Estates, CO¹
 Saddleback, CO¹
 Salina, CO¹
 Sampson Road, CO
 San Juan Hills Subdivision, CO
 San Juan Meadows Subdivision, CO
 San Juan Ranch Estates Subdivision, CO¹
 San Juan Springs Subdivision, CO
 Sanborn Park, CO¹
 Santa Maria, CO
 Santaz Acres, CO¹
 Sargents, CO¹
 Sawatch View Subdivision, CO¹
 Saxon Hills, CO¹
 Scraggy View, CO¹
 Seven Hills (Subdivision), CO¹
 Seven Mile, CO¹
 Severance Lodge, CO¹
 Shadow Mtn., CO¹
 Shavano Valley, CO
 Shdy.Brk. Cmp., CO¹
 Silesca, CO¹
 Silt, CO¹
 Silver Cliff Club, CO¹
 Silver Cliff Ranch, CO¹
 Silver Plume, CO¹
 Silver Ranch, CO
 Silver Springs (Subdivision), CO¹
 Silver Spruce, CO¹
 Silverado Estates, CO
 Silverthorne, CO¹
 Sims Mesa, CO
 Singleton, CO
 Sj River Vill., CO¹
 Sky Ranch Estates, CO¹
 Skydale, CO¹
 Skyland, F-1, 2, 3 Subdivision, CO¹
 Slate River Estates Subdivision, CO¹
 Snowline, CO¹
 Snowmass, CO¹
 Soda Creek, CO
 Somerset, CO¹
 South Fork And Vic, CO¹
 Southern Ute Youth Camp, CO
 Spar City, CO¹
 Sphinx Park, CO
 Spring Creek, CO¹
 Spring Creek Estates Subdivision, CO¹
 Spring Creek Resort Subdivision, CO¹
 Spring Estates, CO¹
 Spring Gulch, CO¹
 Spring Meadows Subdivision, CO¹
 Springdale, CO¹
 Squaw Mtn., CO¹
 St Anton Highlands, CO¹
 St. Mary's/Alice, CO¹
 St. Vrain Park, CO¹
 Stagecoach X, CO¹
 Staples East River Est Subdivision, CO¹
 Stapleton, CO¹
 Star Mtn. Ranch Subdivision, CO¹
 Steamboat, CO¹
 Steenberg Tracts Subdivision, CO¹
 Stmbt South, CO¹
 Stollsteimer, CO¹
 Stone Chimney, CO
 Stoner, CO¹
 Stringtown Gulch, CO¹
 Sugar Creek, CO¹
 Sugarloaf, CO¹
 Summerville, CO¹
 Summit Subdivision, CO¹
 Sunny Side Trailer Park Subdivision, CO¹
 Sunnyside, CO¹
 Sunset, CO¹
 Sunset Trail, CO
 Sunshine, CO¹
 Swiss Peaks, CO¹
 Swiss Village, CO
 Switzerland Park, CO¹
 Sylvan, CO¹
 Tall Timber (Subdivision), CO¹
 Tanoa, CO
 Taylor Park Unit 1 Subdivision, CO¹
 Taylor Park Unit 2 Subdivision, CO¹
 Taylor River Acres Subdivision, CO¹
 Taylor River Estates Subdivision, CO¹
 Taylor River Tracts Subdivision, CO¹
 Terra Subdivision, CO¹
 Terrace Reservoir, CO¹
 The O Ranch, CO
 Thom. Pk, CO¹
 Thomasville, CO¹
 Thorn Lake, CO¹
 Thornworth Estates Subdivision, CO¹
 Three Elk, CO¹
 Three Forks, CO
 Timber Ridge, CO¹
 Timberline, CO¹
 Tincup, CO¹
 Tomichi Park Subdivision, CO¹
 Towaoc, CO¹
 Trail West Village, CO¹
 Transfer, CO¹
 Trappers Crossing, CO¹
 Trappers Crossing At C.B. Subdivision, CO¹
 Trapper's Crossing At Wildcat, F-1, 2, 3 Subdivision, CO¹
 Trappers Crossing South Subdivision, CO¹
 Trappers Lake, CO¹
 Travis Gulch, CO¹
 Treasure, CO¹
 Trimble, CO¹
 Triple Creek, CO¹
 Trout Creek, CO¹
 Trout Creek Drainage, CO¹
 Trout Creek Meadows, CO¹
 Troutdale, CO
 Trujillo, CO¹
 Trumbull, CO¹
 Trumbull (Snow Water), CO¹
 Tungsten (Historical), CO¹
 Turret, CO¹
 Tween Lakes, CO¹
 Unawee Canyon, CO¹
 Uncompahgre, CO
 Upper Bear Crk., CO¹
 Upper Clear Ck, CO¹
 Upper Dave Wood, CO¹
 Uravan, CO
 Urraca Hoa, CO¹
 Ute, CO
 Vail, CO¹
 Vallecito, CO¹
 Valley Del Rio, CO¹
 Valley View, CO¹
 Vancorum, CO
 Vicker's Enterprise Ranch Estates Subdivision, CO

Virginia Cnyn., CO ¹
 Walden, CO
 Wallstreet, CO ¹
 Walz, CO ¹
 Wamblee Valley, CO
 Wanderest, CO
 Wapiti, CO ¹
 Ward, CO ¹
 Waterman And Hudlers Subdivision, CO ¹
 Weaselskin, CO ¹
 Webster, CO
 Wedgewood #1, CO ¹
 Wedgewood #2, CO ¹
 Weem's Malter Placer Subdivision, CO
 Wellington Lake, CO ¹
 West Dolores, CO ¹
 West Ranch, CO ¹
 Westcreek, CO ¹
 Western Knolls, CO ¹
 Weston, CO ¹
 Wetmore, CO ¹
 Wheeler, CO ¹
 Wheelman, CO ¹
 Whispering Pine (Subdivision), CO ¹
 Whispering Pines, CO ¹
 White Pine, CO ¹
 White Water Estates Subdivision, CO ¹
 Whittingtonestates, CO ¹
 Wilderness Streams Subdivision, CO ¹
 Willow Creek Ranch, CO
 Windy Peak, CO
 Winter Park, CO ¹
 Witter Gulch, CO
 Wolf Canyon Subdivision, CO ¹
 Wondervu, CO ¹
 Woodland Park, CO
 Woods At Evgrn., CO
 Woodside Subdivision, CO
 Yankee Creek, CO ¹
 YMCA Of The Rockies, CO ¹
 York Gulch, CO ¹
 Youth Camp, CO ¹
 Zapata Hoa, CO ¹

 Broadkill Beach, DE ¹
 Primehook Beach, DE ¹
 Slaughter Beach, DE ¹

 Alligator Point, FL
 Altoona, FL
 Apalachicola, FL
 Arran, FL ¹
 Astor, FL
 Astor Park, FL
 Auburn, FL ²
 Avalon, FL ²
 Avon Park, FL ²
 Avon Park Estates, FL ^{1 2}
 Avon Park Lakes, FL ^{1 2}
 Bagdad, FL ²
 Baker, FL ²
 Bald Point, FL
 Baxter, FL ¹
 Beacon Hills, FL
 Belview, FL ²
 Bethel, FL ¹
 Beverly Area, FL
 Big Cypress, FL ¹
 Big Pine Key, FL ¹
 Bloodybluff, FL ¹
 Bloxam, FL
 Blue Creek, FL
 Brevard County, FL ¹
 Brickyard, FL
 Brighton, FL ¹
 Bristol, FL
 Buckhead Ridge, FL

 Buckhorn, FL
 Buelah, FL ²
 Cape Canaveral, FL ¹
 Card Sound Area, FL
 Carrabelle, FL ¹
 Cedar Landing, FL
 Cedar Point, FL ¹
 Chason Area, FL
 Choceloskee, FL ¹
 City Of Parkland, FL
 Cocoa Beach, FL
 Copeland, FL ¹
 Crawfordville, FL ¹
 Crescent City, FL
 Crestview, FL ²
 Crestwood, FL
 Crooked River, FL
 Croom-A-Coochee, FL ^{1 2}
 Cutler Ridge, FL
 Deep Creek, FL ¹
 Deland, FL ¹
 Deleon Springs, FL
 Desoto City, FL ^{1 2}
 Destin, FL ^{1 2}
 Dorcas, FL ²
 East Everglades, FL ¹
 East Milton, FL ²
 East Naples, FL ¹
 Eastpoint, FL ¹
 Eldora, FL ¹
 Eureka, FL
 Everglades City, FL ¹
 Fellsmere, FL
 Flamingo, FL
 Florida City, FL
 Forest Corners, FL
 Fort Braden, FL
 Fowlers Bluff, FL
 Frostproof, FL ^{1 2}
 Ft. Pierce, FL ¹
 Ft. Walton, FL ^{1 2}
 Ft. Mccoy, FL
 Garden City, FL ²
 Georgetown, FL
 Glen St. Mary, FL ¹
 Golden Gate, FL ¹
 Golden Gate Estates, FL ¹
 Gulf Breeze, FL ¹
 Gulf Terrace, FL
 Half Moon Island, FL ¹
 Hampton, FL ²
 Harold, FL ²
 Highlands Park, FL ¹
 Highlands Ridge, FL ²
 Hilliardville, FL
 Hobe Sound, FL
 Holly, FL ²
 Homestead, FL
 Horseshoe, FL
 Hosford, FL
 Immokalee, FL ¹
 Istokpoga, FL ²
 Ivan, FL ¹
 Jerome, FL ¹
 Johnson, FL ¹
 Kuhlman, FL
 Kyler, FL ¹
 Lake City, FL ¹
 Lake Haven Estates, FL ^{1 2}
 Lake Josephine, FL
 Lake Kathrynne, FL ¹
 Lake Mack, FL ¹
 Lake Mystic, FL
 Lake Sebring Estates, FL ²
 Lakeport, FL
 Lakewood, FL ²

 Lanark Village, FL
 Laurel Hill, FL
 Lawtey, FL ²
 Lehigh Acres, FL ¹
 Leisure Lakes, FL ¹
 Lighthouse Point, FL ¹
 Little Chassahowitzka, FL
 Little Torch Key, FL
 Live Oak Island, FL ¹
 Looneyville, FL ¹
 Lorida, FL ²
 Lowry, FL
 Lulu, FL
 Lynne, FL
 Macclenny, FL
 Margaretta, FL ¹
 Mary Esther, FL ²
 McIntyre, FL
 Medart, FL ¹
 Mexico Beach, FL ^{1 2}
 Miccosukee Res., FL ¹
 Miccosukee Trail, FL ¹
 Midway, FL ^{1 2}
 Miles City, FL
 Mulat, FL ²
 Myrtle Grove, FL ²
 Naples, FL
 Narajana, FL
 Navarre, FL ²
 Newport, FL
 Niceville, FL ²
 North Cape Coral, FL ¹
 North Fort Myers, FL ¹
 North Naples, FL ¹
 Nw Dade County, FL
 Oak Hill, FL
 Oak Park, FL ¹
 Ocala, FL
 Ochlochonee, FL ¹
 Ochopee, FL
 Oklawaha, FL
 Olustee, FL ¹
 Orange, FL
 Orange Blossom Estates, FL ¹
 Orange Springs, FL
 Oyster Bay, FL ¹
 Ozello, FL
 Paisley, FL
 Palestine, FL ¹
 Panacea, FL ¹
 Panama City, FL ^{1 2}
 Pensacola, FL ²
 Pensacola Beach, FL
 Perrine, FL
 Pierson, FL
 Pine Island, FL ¹
 Pine Lakes, FL ¹
 Pioneer Plantation, FL ^{1 2}
 Pittman, FL
 Pleasant Grove, FL ^{1 2}
 Port Labelle, FL ^{1 2}
 River Sink, FL
 Roseland, FL
 Rosewood, FL
 Royal Trails, FL ¹
 Salt Springs, FL
 Sampson City, FL
 Sanborn, FL
 Sanderson, FL ¹
 Satsuma, FL
 Scottmoor, FL ¹
 Seaside, FL ^{1 2}
 Sebring, FL ²
 Sebring Country Estates, FL ^{1 2}
 Sebring Hills, FL ²
 Sebring Lakes, FL ²

Sebring Ridge, FL ²
 Sebring Shores, FL ²
 Seminole, FL ²
 Seminole Rest, FL
 Seville, FL
 Shadeville, FL ¹
 Shell Inland Fish Camp, FL
 Shell Point, FL
 Silver Fox, FL ¹
 Silver Springs, FL
 Silver Springs Shores, FL
 Smith Creek, FL
 Sopchoppy, FL ¹
 Southgate, FL ²
 Spring Creek, FL
 Spring Lake, FL ²
 St. George Island, FL
 St. James, FL
 St. Marks, FL
 St. Teresa, FL ¹
 Starke, FL ²
 Sugarmill Woods, FL ¹
 Sumatra, FL
 Summer Haven, FL
 Sun N' Lakes Estates, FL ^{1 2}
 Suncoast, FL ¹
 Surf, FL
 Suwannee, FL
 Tallahassee, FL
 Taylor, FL ¹
 Telogia, FL
 Theresa, FL ²
 Tilton Road Area, FL
 Titusville, FL ¹
 Tucker Area, FL ¹
 Umatilla, FL
 Vero Lake Estates, FL ¹
 Wakulla, FL
 Wakulla Beach, FL
 Wakulla Station, FL
 Ward, FL
 Warrington, FL ²
 Weirsdale, FL
 Welaka, FL
 Wellington, FL
 West Sebring Estates, FL ²
 Wetumpka, FL
 White Springs, FL ¹
 Wilma, FL
 Yent Bayou, FL ¹
 58 Crossing, GA ²
 Abbottsford, GA ^{1 2}
 Acree, GA ²
 Acworth, GA
 Acworth Beach, GA
 Adairsville, GA ^{1 2}
 Adams Park, GA
 Adamson, GA ²
 Adasburg, GA ^{1 2}
 Adel, GA ²
 Adgateville, GA ¹
 Aerial, GA ¹
 Afton, GA
 Ai, GA
 Airport, GA
 Akin, GA ²
 Alaculsy, GA
 Albany, GA ²
 Alcovy North, GA
 Alcovy Shores, GA
 Alexander, GA ²
 Allatoona, GA ²
 Allatoona Beach, GA ²
 Allendale, GA ²
 Allenhurst, GA ²
 Allenwood, GA ¹
 Alpine, GA
 Alta Vista, GA ²
 Altamaha, GA ²
 Altamaha Park, GA
 Alto, GA ¹
 Americus, GA
 Amicalola, GA ¹
 Amity, GA ^{1 2}
 Amos Mill, GA
 Anderson T.P., GA ²
 Andersons Corner, GA ²
 Andersonville, GA ²
 Angelville, GA
 Anguilla, GA
 Annadale, GA
 Ansley Mill, GA ^{1 2}
 Aonia, GA ²
 Apalachee, GA ¹
 Appling, GA ²
 Aquabella Subdivision, GA ²
 Archery, GA
 Arco, GA
 Ardick, GA
 Argyle, GA
 Aries, GA
 Arkwright, GA
 Armuchee, GA
 Arnoldsville, GA
 Ashintilly, GA
 Aska, GA
 Astoria, GA
 Atco, GA ²
 Atkinson, GA
 Atlanta Junction, GA
 Attapulugus, GA ²
 Aubrey, GA ²
 Audubon, GA
 Auraria, GA ^{1 2}
 Ausmac, GA ²
 Austell, GA
 Avalon, GA ²
 Avery, GA ²
 Avondale, GA ²
 Ayersville, GA ²
 Aylmer (Historical), GA ²
 Babcock, GA
 Bachlott, GA
 Back Landing, GA
 Bainbridge, GA ²
 Bairdstown, GA ¹
 Baker Village, GA ²
 Baldwin, GA
 Ball Ground, GA ²
 Ballew Mill, GA
 Bancroft, GA ²
 Barbour Island, GA
 Barkers Crossroads, GA ²
 Barneyville, GA ²
 Barretts, GA ²
 Barrettsville, GA
 Barrons Lane, GA
 Bartlett, GA
 Bass Crossroads, GA ²
 Batesville, GA ²
 Battle Creek, GA ²
 Baughs Crossroads, GA ²
 Baxley, GA ²
 Baxter, GA
 Beach, GA
 Beacon Heights, GA
 Beards Creek, GA ²
 Beasley Gap, GA ²
 Beatum, GA
 Beaumont, GA
 Beaverdale, GA
 Beaverdam, GA
 Beech Cove Vista, GA
 Belaire (Subdivision), GA ²
 Belfast, GA ²
 Bell, GA ²
 Belle Vista, GA
 Bellfast, GA ²
 Bellton, GA
 Bellville, GA ²
 Belmont, GA
 Belverdere, GA ¹
 Bemiss, GA ²
 Benefit, GA ¹
 Benning Hills, GA ²
 Benning Park, GA ²
 Benton, GA
 Berginville, GA ²
 Berner, GA
 Berryton, GA
 Berwin, GA
 Berzelia, GA ²
 Bethany, GA ²
 Bethesda, GA
 Bethlehem School, GA ²
 Beverly, GA ²
 Beverly Hills, GA
 Bibb City, GA ²
 Bickley, GA
 Big Ben, GA ²
 Big Canoe, GA
 Big Creek, GA ²
 Big Oak, GA
 Big Spring (Historical), GA
 Big Springs, GA ²
 Billyville, GA
 Bio, GA ²
 Bird Ford, GA ²
 Black Island, GA
 Black Jack, GA ²
 Blackshear Place, GA
 Blackwell, GA
 Blackwells, GA
 Blackwood, GA
 Bladen, GA
 Blairsville, GA
 Blakely, GA ²
 Blandy, GA
 Blanton, GA ²
 Blevins Acre, GA
 Blitchton, GA ²
 Bloodtown, GA ²
 Bloomingdale, GA
 Blount, GA
 Blountsville, GA ¹
 Blowing Spring, GA
 Blue Spring, GA
 Bluffton, GA ²
 Blunt (Historical), GA
 Blythe Community, GA ²
 Bobby Brown Park Vicinity, GA ²
 Bobo, GA
 Boggy, GA
 Boggy Bay, GA
 Bolen, GA
 Bolingbroke, GA
 Bolivar, GA ²
 Bonaire, GA ²
 Boneville, GA ²
 Booster Club, GA ²
 Boozeville, GA
 Bostwick, GA
 Bottsford, GA
 Bowersville, GA ²
 Bowls (Historical), GA
 Bowman, GA ²
 Box Ankle, GA
 Box Springs, GA ²

Boyd Highlands, GA	Carnesville, GA	Cobbtown, GA ²
Boydville, GA ²	Carnigan, GA	Coffee Bluff, GA
Boynton, GA	Caroline Park, GA ²	Coffinton, GA
Boys Estate, GA	Cartecay, GA	Cogdell, GA
Bradley, GA ¹	Carter Acres, GA ²	Cohentown, GA
Braganza, GA	Carters, GA	Cohutta, GA
Brantley, GA ²	Carter's Byte, GA ²	Cohutta Springs, GA
Brent, GA	Carters Lake Estates, GA ²	Cokesbury, GA ²
Brentwood, GA ²	Cartersville, GA ²	Cole City, GA
Briar Patch, GA	Cascade Hills, GA ²	Colerain, GA
Brice, GA	Cash, GA	Coles Crossing, GA
Briggston, GA ²	Cassandra, GA	Colesburg, GA
Brighton Mills, GA	Cassville, GA ²	Colima, GA
Brinson, GA ²	Catlett, GA	Collier, GA
Brisbon, GA ²	Cauthen, GA ²	Collins, GA ²
Brittany Harbour (Subdivision), GA ²	Cave Spring, GA	Collins Woods, GA ²
Broad, GA ²	Cecil, GA ²	Colman Bridge, GA ²
Broad River/Lbk Subdivisions, GA ²	Cedar Cliff, GA	Colomokee, GA ²
Broadfield, GA	Cedar Creek, GA ²	Colon, GA
Broadhurst, GA ²	Cedar Hill, GA	Columbus, GA ²
Brobston, GA	Cedar Point, GA	Colwell, GA
Bronco, GA	Cedar Springs, GA ²	Coniston, GA
Bronco Store, GA ²	Cedar Valley, GA	Conyers Estates Subdivision, GA ²
Brookhaven, GA ²	Celeste, GA ²	Cooksville, GA ²
Brooklyn, GA ²	Cenchat, GA	Cooper Creek, GA
Brookman, GA	Centennial, GA	Cooper Heights, GA
Brookton, GA	Center Post, GA	Coopers, GA
Brookvale Estates, GA	Central Avenue, GA	Coosa, GA
Brookwood, GA ²	Centralhatchee, GA ²	Coosawatee (Historical), GA
Broughton, GA	Chambers, GA	Copeland Crossing, GA
Brown Mill, GA	Charles, GA ²	Corbin, GA ²
Browns (Historical), GA ²	Chaserville, GA ²	Cords Bridge, GA
Browns Crossing, GA	Chatsworth, GA ²	Corinth, GA ²
Browntown, GA	Chattahoochee Plantation, GA	Cork, GA
Brownwood, GA	Chattoogaville, GA	Cornelia, GA
Brunswick, GA	Chelsea, GA	Cotton Hitll, GA ²
Bryan Mill, GA	Chennault, GA ²	Cottons Crossroads, GA ²
Buckhead, GA ¹	Cherokee, GA ²	Council, GA
Buckhorn Tavern, GA ²	Cherry Log, GA	Country Village Subdivision, GA ²
Buena Vista, GA ²	Cherryhog, GA	County Line Church, GA
Buena Vista (Subdivision), GA ²	Chestatee, GA ²	County Manor Subdivision, GA ²
Buff (Historical), GA	Chestnut Gap, GA	Cowford, GA ²
Buffington, GA ²	Chestnut Mountain, GA	Cox, GA
Buford, GA	Chickamauga, GA	Crandall, GA
Bullard, GA	Chicopee, GA	Crane Eater, GA
Bullhead Bluff, GA	Childs Place, GA ²	Crawford, GA
Bunker Hill, GA	Choestoe, GA	Crawley, GA
Burnett, GA ²	Chopped Oak, GA	Credit Hill, GA
Burning Bush, GA	Chubbtown, GA	Crescent, GA
Burnt Fort, GA	Chunn Estates, GA ²	Crews Crossing, GA
Burnt Hickory Hills Subdivision, GA ²	Church Hill, GA ²	Cromers, GA
Burnt Mt. Estate, GA	Cinderella Hills, GA	Cross Keys, GA
Burris Crossroads, GA ²	Circle East (Subdivision), GA ²	Crow Duck, GA ²
Burtsboro, GA ²	Cisco, GA	Croxton Crossroads, GA
Bussey, GA ²	City Village, GA ²	Crystal Springs, GA
Cabaniss, GA	Clark Place, GA	Crystal Valley, GA ²
Cabin Bluff, GA	Clarkdale, GA	Cuba, GA ²
Cadley, GA ²	Clarkesville, GA	Culloden, GA
Calhoun, GA	Clarking, GA	Cumming, GA ²
Callaway Mill, GA	Clarks Bluff, GA	Cumslo, GA
Calvin, GA	Claxton, GA ²	Cunningham, GA
Cameron Point, GA ²	Clay Hill, GA ²	Curry Hill, GA ²
Camp Mikell, GA ²	Clayton, GA	Curryville, GA
Campania, GA ²	Clearview, GA	Curtis, GA
Canal Lake, GA	Clearwater Acres, GA ¹²	Custer Road Terrace, GA ²
Candler, GA	Clermont, GA	Cutcane, GA
Cane Creek, GA ²	Cleveland, GA ¹	Cutoff, GA
Cannon Crossing, GA	Climax, GA ²	Cutting, GA
Cannonville, GA ²	Clinchfield, GA ²	Cypress Mills, GA
Canon, GA ²	Clinton, GA	Dacula, GA
Canton, GA ²	Cloudland, GA	Dahlonega, GA ²
Carbondale, GA	Cloverdale, GA	Daisy, GA ²
Carey, GA ¹	Clubview Heights, GA ²	Dallondale, GA
Carey Station, GA	Clyattville, GA ²	Dalton, GA
Carlan, GA	Coal Mountain, GA	Damascus, GA ²
Carmichael Crossroads, GA ²	Cobbham, GA ²	Dames Ferry, GA
Carnes Creek, GA ²	Cobbham Crossroads, GA	Danburg, GA ²
		Daniel, GA ²

Daniel Springs, GA	East Boxwood Estates, GA ²	Fishers Chapel, GA
Daniels, GA ²	East Boynton, GA	Fitzpatrick, GA
Danville, GA	East Edgewood, GA ²	Five Points, GA ¹
Darien, GA	East Ellijay, GA	Five Springs, GA
Dark Corner, GA	East Highlands, GA ²	Fivemile Still, GA
Dasher, GA ²	East Juliette, GA ¹	Flat Branch, GA
Davis Crossroads, GA	East Trion, GA	Flat Ford, GA ²
Davis Landing, GA ²	Eastanollee, GA ²	Flat Rock, GA ¹
Davis Road, GA	Eastville, GA	Flat Shoals, GA ²
Dawnville, GA	Eatonton, GA ¹	Flea Hill, GA
Dawsonville, GA	Ebo Landing, GA	Fleming, GA ²
Days Crossroads, GA ²	Echota, GA	Flemington, GA ²
Deans Crossing, GA ²	Edgewood, GA ²	Flintstone, GA
Dearing, GA ²	Edith, GA	Floral Hill, GA ²
Decora, GA	Edna, GA ²	Florence, GA ²
Deen's Landing, GA ²	Eightmile Still, GA	Flovilla, GA ¹
Deer Wood, GA ²	Elbert Co. Subdivision, GA ²	Flowery Branch, GA
Deerfield Estates Subdivision, GA ²	Elberta, GA ²	Floyd, GA
Deerwood, GA ²	Elberton, GA ²	Floyd Springs, GA
Delhi, GA ²	Elder, GA	Folkston, GA
Delmar, GA ²	Elders, GA	Folsom, GA ²
Delta Plantation, GA	Eldorado, GA ²	Folwstown, GA ²
Demorest, GA	Elery, GA ²	Ford (Historical), GA
Dennis, GA	Elim/Davenport, GA ²	Forge Mill, GA
Denver, GA ²	Elizabeth, GA	Forsyth, GA
Desser, GA ^{1, 2}	Elko, GA ²	Fort Mcallister, GA ²
Devils Pond, GA	Ella Gap, GA	Fort Mountain (Historical), GA
Dewey Crossroads, GA ²	Ellabell, GA ^{1, 2}	Fort Mudge, GA
Dewy Rose, GA ²	Ellijay, GA ²	Fort Oglethorpe, GA
Dial, GA	Elliotts Bluff, GA	Fort Screven, GA
Diamond, GA	Elmview, GA ²	Fort Smith, GA ²
Dickerson Mill, GA	Elrod Mill, GA	Fort Stewart, GA ²
Dicks Hill, GA	Emerson Park, GA	Fortsonia, GA ²
Dickson, GA	Emma, GA	Fortville, GA
Dillard, GA	Englewood, GA ²	Foster Hills, GA
Dinglewood, GA ²	Enon Grove, GA ²	Foster Mills, GA
District Path, GA	Ephesus, GA ²	Fouche, GA
Dixie Union, GA	Epworth, GA	Fountainville, GA
Dixon Crossroads, GA	Erastus, GA	Fowlertown, GA ²
Doctortown, GA ²	Ernest, GA	Franklin, GA ²
Dollar Sub, GA ²	Estelle, GA	Franklin Springs, GA
Donald, GA ²	Ethridge, GA ²	Franklinton, GA
Donalsonville, GA ^{1, 2}	Eton, GA	Frazers Crossing, GA
Doogan, GA	Euharlee, GA ²	Free Home, GA ²
Dorchester, GA ²	Eulonia, GA	Freeman, GA ²
Dorchester #2, GA ²	Evans, GA ²	Frolona, GA ²
Dorsey, GA	Evansville, GA ²	Fruitland, GA
Double Branches, GA ²	Ever Green, GA	Fry, GA
Double Springs (Historical), GA ²	Everett, GA	Ft. Gaines, GA ²
Dougherty, GA	Everett Springs, GA	Funkhouser, GA ²
Douglas Crossroads, GA ²	Eves (Historical), GA ²	Furniture, GA
Dove Creek, GA ²	Faceville, GA ²	Furniture City, GA
Dover Bluff, GA	Fain, GA	Ga. Bend, GA
Doyle, GA ²	Fair Oaks, GA	Gabbettville, GA ²
Draneville, GA ²	Fairfax, GA	Gaddistown, GA
Drew, GA ²	Fairhaven, GA ²	Gainesville, GA
Drone, GA ²	Fairhope, GA	Galloway, GA
Drum Point Landing, GA ²	Fairlawn Acres, GA	Galloway Mill, GA
Dry Branch, GA	Fairmount, GA	Garden City, GA
Ducker, GA ²	Falling Rocks, GA ²	Garden Valley, GA
Ducktown, GA ²	Fambro (Historical), GA	Gardi, GA ²
Duluth, GA	Fancy Bluff, GA	Garnersville, GA ²
Dumas, GA	Fancy Hall, GA ²	Gass, GA
Dungeness, GA	Fantasy Hills, GA	Gentian, GA ²
Dunn, GA	Fargo, GA	Georgetown, GA
Dupont, GA	Farmersville, GA	German Village, GA
Durham, GA	Farmington, GA ¹	Germany, GA
Durham Town, GA	Farmville, GA	Gill, GA ²
Dyas, GA	Farrar, GA	Gillis Place, GA ²
Dyke, GA	Fendig, GA	Gillsville, GA
Eagle Cliff, GA	Ferrell Crossroads, GA ²	Gilmore, GA
Eagle Grove, GA ²	Ficklin, GA ²	Girard, GA ²
Eagle Neck, GA	Fidelle, GA	Glades, GA
Eason Bluff, GA ²	Fields Landing, GA ²	Gladesville, GA ¹
East Albany, GA ²	Fighting Pine, GA ²	Glen Alta, GA ²
East Armuchee, GA	Fincherville, GA	Glen Arden, GA ²

Glencoe, GA	Harrisburg, GA	Hormony Church, GA ²
Glenloch, GA ²	Harrisonville, GA ²	Horse Stomp, GA
Glenmore, GA	Hartwell, GA ²	Horseshoe Cove, GA
Glenn, GA ²	Hartwell Shores (Subdivision), GA ²	Hortense, GA
Glenns, GA ²	Harvest, GA	Hothouse, GA
Glennville, GA ²	Harvest Estates (Subdivision), GA ²	Houston, GA ²
Glynn Camp, GA	Hassler Mill, GA	Houston Lake, GA ²
Glynn Haven, GA	Hasslers Mill, GA	Houston Valley, GA
Gober, GA ²	Hasty, GA	Howards Mills, GA ²
Godfrey, GA ¹	Hatcher, GA ²	Howell, GA
Goldmine, GA ²	Hatcher Store, GA ²	Huber, GA
Goolsby, GA	Hawkins, GA	Huffaker, GA
Goose Island, GA	Hayes Crossing, GA ²	Hunts Corner, GA
Gopher Ridge, GA ²	Haylow, GA	Hurst, GA
Gordon Springs, GA	Hayner, GA	Hutchings, GA
Gore, GA	Hayneville, GA ²	Hutchins Landing, GA ²
Goshen, GA ²	Haysville, GA	Ideal, GA
Gospel Light, GA	Haywood, GA	Idlewood, GA ²
Goss, GA ²	Hazard Neck, GA	Igo (Historical), GA
Gough, GA ²	Head River, GA	Imperial, GA ¹
Goulds Landing, GA	Heard Place, GA ²	Indian Springs, GA ¹
Graball, GA ²	Heardmont, GA ²	Indian Valley, GA ²
Graham, GA ²	Heardville, GA ²	Indianola, GA ²
Grassdale, GA ²	Hebardville, GA	Interchange Village (Subdivision), GA ²
Gray, GA ¹	Helen, GA	Iron City, GA ^{1 2}
Gray Hill, GA ²	Hemp, GA	Isle Of Hope, GA
Grayson, GA	Henderson, GA ²	Ivylog, GA
Graysville, GA	Hephzibah Community, GA ²	Jackson, GA ¹
Greely, GA ²	Hermitage, GA	Jacksons Crossroads, GA ²
Green Acres, GA ^{1 2}	Hiawassee, GA	Jakin, GA ²
Green Island Hills, GA ²	Hickory Bluff, GA	Jamaica, GA
Greenberry Crossroads, GA	Hickory Flat, GA ²	James, GA
Greenbriar (Subdivision), GA ²	Hickory Hammock, GA ²	Jarrett, GA ²
Greens Crossing, GA ²	Hickox, GA	Jarriel Bridge, GA ²
Greens Cut, GA ²	Hicks, GA	Jeff, GA ²
Greensboro, GA ¹	Hidden Hills, GA ²	Jeffersonville, GA
Greggs, GA ²	Higdon, GA	Jenkinsburg, GA
Gregory, GA	Higdon Mill (Historical), GA	Jennie, GA ²
Greshamville, GA ¹	High Falls, GA	Jesup, GA ²
Greyfield, GA	High Point, GA ¹	Jewelville, GA
Griswoldville, GA	High Shoals, GA	Jewtown, GA
Gross Still (Historical), GA	Highland Heights, GA ²	Johnston, GA
Grovania, GA ²	Highland Park, GA	Jones, GA
Grove Point, GA	Highland Pines, GA ²	Jones Creek, GA ²
Groveland, GA ²	Hill City, GA	Jones Crossroads, GA ²
Grovetown, GA ²	Hillsboro, GA ¹	Jones Heights (Subdivision), GA ²
Gum Branch, GA ²	Hilton, GA ²	Jones Lake, GA ²
Gum Cemetery, GA	Hilton Heights, GA ²	Jones Mill (Historical), GA
Gum Log, GA ²	Hilview Youth Camp, GA ²	Josephine Park, GA
Gum Springs, GA ²	Hilyer, GA ²	Joy Bluff, GA ²
Gumlog, GA	Hinesville, GA ²	Julienton, GA
Habersham, GA	Hinkles, GA	Juliette, GA
Habersham (Subdivision), GA ²	Hinson Crossing, GA	Juniper, GA ²
Haddock, GA	Hird Island, GA	Juno, GA
Hagan, GA ²	Hoboken, GA	Junta, GA ²
Hahira, GA ²	Hog Mountain, GA	Kartah, GA
Halfmoon Landing, GA ²	Hogan, GA	Kathleen, GA ²
Halifax, GA	Hogansville, GA ²	Keith, GA
Hall Mill, GA	Holbrook, GA ²	Keiths Mill, GA
Halls, GA ²	Holiday Hills (Subdivision), GA ²	Keithsburg, GA ²
Hallwood, GA	Holland, GA	Keller, GA ²
Hamilton Crossroads, GA ²	Hollingsworth, GA	Kelly, GA
Hancocklanding, GA ²	Holly Hill, GA ²	Kennesaw, GA
Haney, GA	Holly Isles, GA ^{1 2}	Kennesaw Crossing, GA
Happy Hollow, GA ²	Holly Spring, GA ²	Kensington, GA
Happy Landing, GA	Holly Springs, GA ²	Keysville, GA ²
Harbin, GA	Hollywood, GA	Kiker, GA
Harbour Shores (Subdivision), GA ²	Holmas Town, GA ²	Kilby Mill, GA
Hard Cash, GA ²	Homeland, GA	Kilkenny, GA ²
Hardwick, GA	Homer, GA	Kinderlou, GA ²
Hardys Crossroads, GA	Homerville, GA	King Wood, GA
Harlem, GA ²	Homestead Acres, GA ²	Kingsland, GA
Harmony, GA ¹	Honora, GA ²	Kingston, GA ²
Harper, GA ²	Hood, GA	Kinlaw, GA
Harrietts Bluff, GA	Hooker, GA	Kinseytown, GA
Harrington, GA	Hopkins, GA	Knott, GA ²

Krannert, GA	Lovers Lane, GA	Mendes, GA ²
K'ville, GA ²	Loving, GA	Menlo, GA
Kyle, GA	Lower Mill Creek, GA	Meridian, GA
La Grange, GA ²	Lower Sansavilla, GA ²	Meriwether, GA
Ladds, GA ²	Lowes Crossing, GA	Metasville, GA ²
Lafayette, GA	Lucile, GA ²	Mica, GA ²
Laffingal, GA ²	Lucius, GA	Middleton, GA ²
Lake Alapahp, GA ²	Ludowici, GA ²	Midland, GA ²
Lake Park, GA ²	Lula, GA	Midriver, GA
Lakeland, GA	Lulaton, GA	Midville, GA ²
Lakemont, GA	Lumpkin, GA ²	Midway, GA ^{1,2}
Lakeshore Estates, GA	Lundberg, GA ²	Midway (Historical), GA
Lakeside, GA	Lyerly, GA	Mill Creek, GA
Lamkin, GA ²	Lyn Hills, GA ²	Milledgeville, GA
Lance Mill, GA	Lynntown, GA ²	Millhaven, GA ²
Landings, The, GA	Lytle, GA	Millwood, GA
Landrum, GA	Mableton, GA	Mineola, GA ²
Lanier, GA ²	Machen, GA	Mineral Bluff, GA
Lanier Heights, GA	Macland, GA	Minneta, GA ¹
Lashley, GA ²	Macon, GA	Mission Estates (Subdivision), GA ²
Lathemtown, GA ²	Maddox, GA	Mission Hills (Subdivision), GA ²
Laurel Hills, GA ²	Madison, GA ¹	Mize, GA ²
Lavender, GA	Madola, GA	Mogul, GA
Lavonia, GA ²	Madray Springs, GA ²	Moniac, GA
Lawrenceville, GA	Mahailey Crossroads, GA ²	Monks Crossing, GA ²
Leaf, GA	Malbone (Historical), GA ²	Montego Bay, GA
Leah, GA ²	Manassas, GA ²	Montevideo, GA ²
Leathersville, GA ²	Manningtown, GA ²	Montezuma, GA
Leatherwood, GA	Manor, GA	Monticello, GA ¹
Lebanon (Toonigh Station), GA ²	Manson (Historical), GA	Moons, GA
Lees Crossing, GA ²	Maple Grove, GA	Morganton, GA
Leicht (Historical), GA	Marets, GA ²	Morganville, GA
Lela, GA ^{1,2}	Margret, GA	Morning Side Hills, GA
Leland, GA	Marietta, GA	Morris, GA ²
Lenox, GA ²	Mariners Landing, GA ¹	Morris Estates, GA
Leo, GA	Marion, GA	Morton, GA
Leverett, GA ²	Mars Hill, GA	Mosquito Crossing, GA
Lewis Corner, GA	Marsh Crossing, GA	Moss Oak, GA ²
Lewner, GA	Marshallville, GA	Mossy Creek, GA
Lexington, GA	Martin, GA ²	Mount Airy, GA
Liberty, GA	Martindale, GA	Mount Berry, GA
Licksillet, GA	Martinez, GA ²	Mount Calvary, GA
Ligon (Historical), GA ²	Mary Lane, GA	Mount Carmel, GA
Lilburn, GA	Mashburn Mill, GA	Mount Olive, GA
Lily Pond, GA	Mason, GA ²	Mount Olivet, GA ²
Limerick, GA ²	Massee, GA ²	Mount Pleasant, GA
Lincoln Hills, GA ²	Masseyville, GA	Mountain City, GA
Lincolnton, GA ²	Match, GA ²	Mountain Ridge Estates, GA ²
Lindale, GA	Matlock, GA ²	Mountain Scene, GA
Linden, GA ²	Matt, GA ²	Mountain Springs, GA
Line, GA	Mattox, GA	Mountaintown, GA
Linesville, GA ²	Maxeys, GA ¹	Mountville, GA ²
Linwood, GA	Maxim, GA ²	Mt. Pleasant, GA ²
Little Flock, GA ²	Maxwell, GA	Mud Creek, GA
Little Hope, GA ^{1,2}	Mayday, GA	Murchisons (Historical), GA ²
Little Miami, GA ²	Maynard, GA	Murphy Junction, GA
Little River, GA ²	Mays Bluff, GA	Murrayville, GA
Little River Landing, GA ²	Mays-Ford, GA ²	Myricks Mill, GA
Little River Park, GA	Maysville, GA	Myrtle Grove, GA ²
Little Spirit Creek Basin Community, GA ²	Mccallie, GA ²	N. Bobbyjones Exy. Community, GA ²
Livingston, GA	Mccaysville, GA	N. W. Gordon Hwy. Community, GA ²
Lizella, GA	Mccullough, GA	N. Spirit Creek Basin Community, GA ²
Loce, GA ²	Mcdade Rd./Mcbean Ga. Community, GA ²	Nacoochee, GA
Logan, GA ²	Mcdaniels, GA	Nahunta, GA
Long Branch, GA ²	Mcdonald Acres, GA	Nance Springs, GA
Long Cane, GA ²	Mcelheney's Crossroads, GA ¹	Nankipoo, GA ²
Long Shoals, GA	Mcintosh, GA ²	Naomi, GA
Lookout Mountain, GA	Mckee, GA	Naylor, GA ²
Lorane, GA	Mckinnon, GA ²	Neal Crossing, GA
Lost Mountain, GA	Mctier, GA ²	Needham, GA
Lotts (Historical), GA	Meadowdale, GA ²	Needmore, GA
Louise, GA ²	Meadowsville, GA ²	New Anderson, GA ²
Louvale, GA ²	Meda, GA	New England, GA
Louvale Station, GA ²	Meeksville, GA ²	New Franklin, GA
Love Hill, GA	Melrose, GA ²	New Holland, GA
Lovelace, GA ²	Melson, GA	New Lowell, GA ²

New Point, GA
New Prospect, GA ²
New Town, GA ²
Newell, GA
Newport, GA
Nickelsville, GA
Nickville, GA ²
Nimblewill, GA ²
Noble, GA
Nona, GA
Noonday, GA
Norcross, GA
Norman, GA ²
North Canton, GA ²
North Cohutta (Historical), GA
North Elberton, GA ²
North Highland (Subdivision), GA ²
North Highlands, GA ²
North Lake, GA ²
North Washington Rd. Community, GA ²
North West Point, GA ²
Northcutt, GA
Norton, GA
Notalee Orchards, GA
Note, GA ¹
Nuberg, GA ²
Oak Dale, GA ²
Oak Knolls, GA ²
Oak Level, GA ²
Oakdale, GA
Oakland Heights, GA ²
Oakland Park, GA ²
Oakman, GA
Oakton, GA
Oakview, GA ^{1, 2}
Oakwell, GA
Oakwood, GA
Oasis, GA
Odessa, GA ²
Odis Crossroads, GA
Odum, GA ²
Ogeechee Farms, GA
Oglesby, GA ²
Oglethorpe, GA
Old Clyattville, GA ²
Old Plantation, GA
Old Salem, GA
Old Tugaloo Town (Subdivision), GA ²
Ollie, GA
Omaha, GA ²
O'neals Crossroads, GA ²
Oostanaula, GA
Ophir, GA ²
Oran, GA
Orange, GA ²
Orchard Hills, GA
Oreburg, GA
Orsman, GA
Osborn, GA
Oscarville, GA ²
Osprey Cove, GA
Ousley, GA ²
Owensbyville, GA ²
Owltown, GA
Pabst, GA ²
Padena, GA
Palato, GA
Palmetto Place, GA
Pancras, GA
Pantertown, GA
Paradise Acres, GA ^{1, 2}
Paradise Park, GA ²
Pardue Mill, GA
Parhams, GA
Park City, GA
Parkchester, GA ²
Parkerosa, GA ²
Parkertown, GA ²
Parkertown Mill, GA ²
Parks Mill, GA
Parrett Crossing, GA
Patterson Island, GA
Paxton, GA
Payne, GA
Pearl, GA ²
Pebblebrook Estates, GA
Pecan City, GA ²
Pembroke, GA ²
Pendarvis, GA ²
Penfield, GA ¹
Penholloway, GA ²
Pennick, GA
Pennington, GA
Pennville, GA
Pepperton, GA ¹
Perennial, GA
Perkins Place, GA ²
Perry, GA ²
Persimmon, GA
Petersburg, GA ²
Pettigrew, GA
Phelps, GA
Philomath, GA
Phinizy, GA ²
Phoenix, GA
Piedmont Heights, GA ²
Pierceville, GA
Pin Point, GA
Pine Harbor, GA
Pine Lake, GA ^{1, 2}
Pine Log, GA ²
Pine Valley, GA
Pinefield Crossroads, GA
Pinesville, GA
Piney Bluff, GA
Piney Grove, GA ²
Pink, GA
Pinson, GA
Pirkle Woods, GA ²
Pisgah, GA
Pisgah (Po), GA
Plains, GA
Plainville, GA
Pleasant Valley, GA ²
Plentitude, GA
Plum Nelly, GA
Point Peter, GA
Pollards Corner, GA ²
Pond Spring, GA
Ponderosa Subdivision, GA ²
Pooler, GA
Popes Ferry, GA
Poppell Farms, GA
Popwellville, GA
Port Royal, GA ²
Port Wentworth, GA
Porter Springs, GA ²
Postell, GA
Potter, GA
Powder Springs, GA
Power Place, GA ²
Prater Mill, GA
Pratersville, GA
Prather, GA ²
Prather Bridge (Historical), GA ²
Prentiss, GA ²
Price, GA
Priester, GA
Prospect, GA
Prosperity, GA
Pumpkin Center, GA ²
Putnam, GA ²
Putney, GA ²
Pyles Marsh, GA
Pyne, GA ²
Quill, GA
Rabbit Hill, GA ²
Racepond, GA
Radio Springs, GA
Radium Springs, GA ²
Rains Landing, GA
Ramhurst, GA
Randall, GA ²
Ranger, GA
Raybon, GA
Rayle, GA ²
Raysville, GA ²
Recovery, GA ²
Red Clay, GA
Red Hill, GA
Redbud, GA
Redland, GA ²
Redwine Cove, GA
Reed Creek, GA ²
Reeseburg, GA
Reeves, GA
Refuge (Historical), GA
Reids, GA
Reids Crossroads, GA ¹
Reidsville, GA ²
Reka, GA ²
Relay, GA
Remerton, GA ²
Reo, GA
Resaca, GA
Resseaus Crossroads, GA ¹
Rest Haven, GA
Retreat, GA ²
Reynoldsville, GA ^{1, 2}
Riceboro, GA ^{1, 2}
Richland, GA ²
Richmond Hill, GA ²
Ridgeville, GA
Ridgeway Church, GA ²
Ridley, GA ²
Ringgold, GA
Ripley, GA
Rising Fawn, GA
Ritch, GA ²
River Bend, GA
River North, GA
River Oaks, GA
River Ridge, GA ²
Riverland Terrace, GA ²
Roberts Crossroads, GA
Roberts Dist., GA
Robertstown, GA
Robertsville, GA
Robinson, GA
Rock Branch, GA ²
Rock Creek, GA ²
Rock Hill, GA ²
Rock Spring, GA
Rockalo, GA ²
Rockridge, GA ²
Rockville, GA
Rocky Creek (Historical), GA
Rocky Face, GA
Rodgers, GA ²
Rogers Mill, GA
Rolston, GA
Rome, GA
Roosevelt, GA
Roosterville, GA ²
Ropers Crossroads, GA ²
Rose Hill Heights, GA ²
Rosedale, GA
Rosemont, GA ²

Rosier, GA ²	Shell Bluff, GA ²	Stock Hill, GA
Rossville, GA	Shellman (Historical), GA ²	Stockton, GA
Round Oak, GA ¹	Shellman Bluff, GA	Stones Crossroads, GA ²
Roundtop, GA	Shiloh (Historical), GA ²	Stoney Hill, GA ²
Rousseau Spring (Historic), GA ²	Shirley Grove, GA	Stovall Mill, GA
Roving Hills Estates (Subdivision), GA ²	Shoal Creek, GA ²	Strouds, GA
Rowena, GA ²	Shookville, GA	Subligna, GA
Rowland Spring, GA ²	Shorewood (Subdivision), GA ²	Suches, GA
Roy, GA	Shorts Mill, GA	Sugar Creek, GA
Royston, GA ²	Silco, GA	Sugar Hill (Historical), GA ²
Ruckersville, GA ²	Silk Mills, GA ²	Sugar Valley, GA
Rudden, GA	Siloam, GA	Sugarmill Plantation, GA
Ruskin, GA	Silver City, GA	Sugartown, GA
Russellville, GA	Silver Creek, GA	Sulphur Springs Station, GA
Rust Cemetery, GA ²	Silver Hill, GA	Sumac, GA
Rutland, GA	Simpson, GA ²	Summerville, GA
Rutledge, GA ¹	Simpson Crossroads, GA ²	Summit (Historical), GA ²
Rydal, GA ²	Sinclair Marina, GA	Summit Hill, GA
Rye Patch, GA ²	Sirmans, GA	Sunbury, GA ²
Ryo, GA	Six Mile, GA	Sunnyside, GA
S.E. 56 & Bennock Mill Community, GA ²	Skipperon, GA	Sunset Heights, GA
S.W. Blythe Community, GA ²	Skullhead, GA	Sunset Terrace, GA ²
Saddle Ridge Estates, GA ²	Sky Valley, GA	Surrency, GA ²
Sadlers Landing, GA	Slover, GA ²	Sutallee, GA ²
Saffold, GA ²	Smarr, GA ¹	Suttles Mill, GA
Saint Clair, GA ²	Smiley Crossroads, GA ²	Suttons Corner, GA ²
Saint George, GA ¹	Smiley Woods, GA ²	Suwanee, GA
Saint Louis, GA	Smithboro, GA	Swan, GA
Saint Marys, GA	Smithonia, GA	Swanson Mill, GA
Saint Marys Hills, GA ²	Smiths Crossroad, GA ²	Sweet Gum, GA
Saint Simons, GA	Smiths Mill, GA ²	Swords, GA ¹
Saint Simons Island, GA	Smithsonia, GA	Sybert, GA ²
Salacoa, GA ²	Smyrna, GA	Tails Creek, GA
Salter, GA	Snake Nation, GA ²	Talamanda, GA
Sand Bed, GA ²	Snead, GA ²	Tallulah Falls, GA
Sand Hills, GA ²	Snellville, GA	Talona, GA
Sandfly, GA	Snow Springs, GA ²	Tanner Mill, GA
Sandtown, GA ²	Soap Cr./Montigo Pt. Subdivisions, GA ²	Tarboro, GA
Sandy, GA	Soapstick, GA	Tarver, GA
Sandy Cross, GA	Sofkee, GA	Tarversville, GA
Sandy Hill, GA ²	Sonoraville, GA	Tate City, GA
Sandy Plains, GA	Sophia (Historical), GA ²	Tattnall Camp Ground, GA ²
Santaluca, GA	South Canton, GA ²	Tattnall Woods, GA ²
Sapelo Island, GA	South Newport, GA	Tatum (Historical), GA
Sappville, GA	South Rossville, GA	Tatum Corner, GA ²
Sarah, GA	Southern Junction, GA	Taylorsville, GA ²
Sardis, GA ²	Spalding, GA	Tazewell, GA ²
Satolah, GA	Sparks Mill, GA	Teeterville, GA
Sautee, GA	Spencer Hills, GA	Telfair Woods, GA ²
Savannah, GA	Spile, GA	Teloga, GA
Savannah Beach, GA ²	Spout Spring Crossroads, GA	Temperance Bell, GA
Sawatchee, GA ²	Spring Bluff, GA	Temple Grove, GA
Sawdust, GA ²	Spring Branch, GA ²	Tennga, GA
Scarlet, GA	Spring Creek, GA ²	Terra Cotta, GA
Scenic Hills, GA	Spring Lake, GA	Terrell Heights (Subdivision), GA ²
Schatulga, GA ²	Spring Place, GA	Tetlow, GA ²
Schlatterville, GA	Spring View Acres, GA	Texas, GA ²
Scotchville, GA	Springhill, GA ²	Thalean, GA
Scotts Corner, GA ²	Sprite, GA	Thalmann, GA
Scottsboro, GA	Stafford, GA	The Colony, GA
Screven, GA ²	Stage Coach, GA	The Meadows, GA
Screven Fork, GA ²	Stamp Creek (Historical), GA ²	Thirteen Forks, GA ²
Scuffletown, GA ²	Stanfield, GA ²	Thomas Mill, GA
Sea Island, GA	Stanfordville, GA ¹	Thompsonville, GA
Seabrook, GA ²	Stanley Mill (Historical), GA	Thomson, GA ²
Seals, GA	Star Mills, GA	Three Forks, GA
Sequoyah Estates, GA ²	Stark, GA ¹	Three Points, GA
Shadowlawn, GA	Statenville, GA	Thunderbolt, GA
Shady Dale, GA	Staunton, GA ²	Tibet, GA ²
Shady Lake (Subdivision), GA ²	Stephens, GA ¹	Tickanetley, GA
Shallwood (Subdivision), GA ²	Stephens Grove, GA	Tidings, GA
Shana, GA	Stephensville, GA	Tiger, GA
Shannon, GA	Sterling, GA	Tignall, GA ²
Sharp Top, GA ²	Stewart Mill, GA	Tillman, GA ²
Shawville, GA ²	Stewart Town, GA	Tilton, GA
Shell B.Landing, GA ²	Stilesboro, GA ²	Tioga, GA

Tippins Lake, GA ²	Waresville, GA ²	Yellow Dirt, GA ²
Titus, GA	Warfield, GA	Yonah, GA
Toccoa, GA ²	Waring, GA	York, GA
Toccoa Creek, GA ²	Warner Robins, GA ²	Young Harris, GA
Toccoa Falls, GA ²	Warren Terrace, GA	Youngs Island, GA
Toledo, GA	Washington, GA ²	Youngstown, GA
Tompkins, GA	Water Valley (Historical), GA	Yukon, GA
Toms Creek, GA ²	Waterville, GA	Zellobee, GA ²
Toonnerville, GA	Watkinsville, GA	Zetto, GA ²
Town Creek, GA	Waverly, GA	Zion, GA ²
Townsend, GA	Waverly Park, GA	Zuta, GA
Townsend Mill, GA	Wax, GA	
Traders Hill, GA	Waycross, GA	Apra Heights Area, GU ²
Traisville, GA	Wayfare Estates (Subdivision), GA ²	Asan Village, GU
Travelers Rest (Historical), GA ²	Waynesboro, GA ²	Mt. Santa Rosa, Yigo, GU
Treadwell, GA	Waynesville, GA	Nimitz Hill, Channel 10 Road, GU ^{1 2}
Trenton, GA	Wayside, GA ¹	Santa Rita, Js Borja Street, Route 5 & 12, GU ^{1 2}
Trickum, GA	Welch, GA	Sinajana, Pipeline Area, GU ^{1 2}
Trimble, GA ²	Welcome Hill, GA	
Trion, GA	Weracoba Heights, GA ²	Aiea, HI ²
Troutman, GA ²	Wesley Chapel, GA	Aliamanu-Salt Lake, HI ²
Trudie, GA	Wesleyan, GA	Ewa, HI
Tugaloo, GA	West Armuchee, GA	Fern Acres, HI
Tunnel Hill, GA	West Brow, GA	Fern Forest, HI
Turners Corner, GA ²	West Point, GA ²	Glenwood, HI
Turnerville, GA	West Summerville, GA	Hawaii Kai, HI ²
Turtle Cove, GA	West Valdosta, GA ²	Kailua-Kona, HI
Twin Lakes, GA ²	Westlake, GA	Kaneohe, HI ²
Tybee Island, GA	Westoak, GA	Kapoho, HI ²
Tyson, GA ²	Wheeler (Historical), GA	Kaupo, HI
Underwood, GA	Wheeler Heights, GA	Kawaihae, HI
Undine, GA ²	Whispering Pines, GA ²	Kekaha, HI ²
Union Point, GA	White, GA ²	Kilauea, HI
Unity, GA	White Oak, GA	Kipahulu, HI
Univeter, GA ²	White Path, GA	Kokee, HI ^{1 2}
Upatoi, GA ²	White Pines, GA ²	Koolauloa, HI
Upper Bradley Place, GA ²	White Plains, GA	Makakilo Mauka, HI ²
Uptonville, GA	White Sulphur, GA	Makakilo/Kapolei, HI ²
Urquhart, GA ²	Whitestone, GA	Mililani Mauka, HI
Vacuna (Historical), GA	Whitfield, GA ²	Mililani-Waipio, HI ²
Valdosta, GA ²	Whitworth, GA ²	Moanalua, HI ²
Valley Oak Acres (Subdivision), GA ²	Wildwood, GA	Mokapu, HI ²
Valley View, GA	Wildwood (Subdivision), GA ²	North Shore, HI ²
Valona, GA	Wiley, GA	Pearl City, HI ²
Vandiver, GA	Willard, GA ¹	Volcano, HI
Vanna, GA ²	Willett, GA ²	Wahiawa, HI ²
Vans Valley, GA	Williamstown, GA	Waianae Coast, HI ²
Varnell, GA	Willis Plaza, GA ²	Waimanalo, HI ²
Veazey, GA	Wilscot, GA	Waipahu, HI ²
Veribest, GA	Wilson Mill, GA	
Vernon, GA ²	Winchester, GA	Ankeny, IA, ^{1 2}
Vernonburg, GA	Windy Ridge, GA	Boone, IA ^{1 2}
Vesta, GA	Winfield, GA ²	Carlisle, IA ^{1 2}
Veterans Park, GA ²	Winfield Hill, GA ²	Coralville, IA ^{1 2}
Vickers Crossing, GA	Winokur, GA	Hartford, IA ^{1 2}
Victoria, GA ²	Winona Park, GA	Iowa City, IA ^{1 2}
Victoria Landing, GA ²	Withers, GA	Johnston, IA ^{1 2}
Vidette, GA ²	Wolfskin, GA	Knoxville Rural, IA ^{1 2}
Villanow, GA	Woodbine, GA	Madrid, IA ^{1 2}
Vinings, GA	Woodlawn, GA ²	Marquette, IA ¹
Viola, GA ²	Woodlawn Estates, GA ²	Mesquakie, IA
Vista Terrace, GA ²	Woodstation, GA	Mesquakie Indian Reservation, IA
Wagon Wheel, GA ²	Woodstock, GA ²	North Liberty, IA ^{1 2}
Wahoma, GA	Woodville, GA ¹	Pella, IA ^{1 2}
Walden, GA	Woollys (Historical), GA ²	Polk City, IA ^{1 2}
Waleska, GA ²	Worley Crossroads, GA ²	Prairie City, IA ^{1 2}
Walker, GA ²	Wormsloe, GA	Solon, IA ^{1 2}
Walker Hills, GA ²	Worthville, GA	Swan, IA ^{1 2}
Walker's Church, GA	Wrayswood, GA	Swisher, IA ^{1 2}
Walker's Crossing, GA ²	Wright Mill, GA	
Wallaceville, GA	Wrights Chapel, GA	Aberdeen, ID
Waltertown, GA	Wrightsboro, GA ²	Acequin, ID
Walthourville, GA ²	Wynnton, GA ²	Ahsahka, ID
Wards Creek, GA ²	Yarbroughs Mill, GA	Albeni, ID
Wares Crossroads, GA ^{1 2}	Yates Crossroads, GA ²	Albion, ID
Waresboro, GA	Yellow Bluff, GA ²	Almo, ID
		Alridge, ID

American Falls, ID	Darlington, ID	Hammett, ID
Ammon, ID	Dayton, ID	Hansen, ID
Arbon, ID	Deary, ID	Harpster, ID
Arco, ID	Declo, ID	Harrison, ID
Arimo, ID	Desmet, ID	Harvard, ID ¹
Ashton, ID	Dietrich, ID	Hauser, ID
Athol, ID	Dingle, ID	Hayden, ID ¹
Atlanta, ID	Dixie, ID ¹	Hayden Lake, ID ¹
Atomic City, ID ¹	Donnelly, ID	Hazelton, ID
Avery, ID	Dover, ID	Headquarters, ID
Avon, ID	Downey, ID	Heise, ID ¹
Baker, ID ¹	Driggs, ID ¹	Helmer, ID
Bancroft, ID	Drummond, ID	Henry, ID
Banida, ID	Dubois, ID	Heyburn, ID
Banks, ID	Eagle, ID	Hill City, ID
Basalt, ID	East Hope, ID ¹	Holbrook, ID
Bayview, ID	Eastport, ID ¹	Hollister, ID ¹
Bearpaw, ID	Eden, ID	Homedale, ID
Bellevue, ID	Edgemere, ID	Hope, ID ¹
Bennington, ID	Elba, ID ¹	Horseshoe Bend, ID ¹
Bern, ID	Elk Bend, ID	Houston, ID
Blackfoot, ID	Elk City, ID ¹	Howe, ID ¹
Blanchard, ID	Elk River, ID	Huetter, ID
Bliss, ID ¹	Elkhorn Village, ID	Humphrey, ID
Bloomington, ID	Ellis, ID	Idaho City, ID ¹
Bluebell, ID	Elmira, ID	Idaho Falls, ID ¹
Boise, ID ¹	Emida, ID	Indian Valley, ID
Bone, ID	Emmett, ID	Inkom, ID ¹
Bonnors Ferry, ID ¹	Enaville, ID	Iona, ID
Bovill, ID	Evergreen, ID	Irwin, ID
Bowmont, ID	Fairfield, ID ¹	Island Park, ID ¹
Bridge, ID	Fairview, ID	Jerome, ID ¹
Bruneau, ID	Featherville, ID ¹	Joel, ID
Bruneau Hot Springs, ID	Felt, ID	Juiliaetta, ID
Buhl, ID	Fenn, ID	Kamiah, ID ¹
Burke, ID	Ferdinand, ID	Kellogg, ID
Burley, ID	Fernan Lake, ID	Kendrick, ID
Butte City, ID	Fernwood, ID	Ketchum, ID ¹
Cabinet, ID	Filer, ID	Keuterville, ID
Calder, ID	Firth, ID	Kilgore, ID ¹
Caldwell, ID	Fish Haven, ID	Kimama, ID
Cambridge, ID	Fort Hall, ID	Kimberly, ID
Cape Horn, ID	Franklin, ID	King Hill, ID
Carey, ID ¹	Fruit Vale, ID	Kingston, ID
Careywood, ID	Fruitland, ID	Kleinschmidt, ID
Carmen, ID ¹	Gannett, ID	Kooskia, ID ¹
Cascade, ID	Garden City, ID	Kootenai, ID
Castleford, ID	Garden Valley, ID ¹	Kuna, ID ¹
Cataldo, ID	Gardena, ID	Laclede, ID
Cavendish, ID	Garfield, ID	Lake Fork, ID
Centerville, ID	Garfield Bay, ID	Lakeview, ID
Challis, ID ¹	Garwood, ID	Lamb Creek, ID ¹
Chatcolet, ID ¹	Gem, ID	Lane, ID
Chester, ID	Genesee, ID	Lapwai, ID ¹
Chubbuck, ID	Geneva, ID	Lava Hot Springs, ID ¹
Clark Fork, ID ¹	Georgetown, ID	Leadore, ID ¹
Clarkia, ID	Gibbonsville, ID	Lemhi, ID ¹
Clayton, ID ¹	Gifford, ID	Lenore, ID
Clearwater, ID	Gilmore, ID	Leonia, ID
Clifton, ID	Givens Hot Springs, ID	Letha, ID
Cobalt, ID ¹	Glenns Ferry, ID ¹	Lewiston, ID ¹
Cocolalla, ID	Golden, ID	Lewisville, ID
Coeur d'Alene, ID ¹	Gooding, ID ¹	Lincoln, ID
Colburn, ID	Grace, ID ¹	Lorenzo, ID
Conda, ID	Grandview, ID	Lost River, ID
Conner Creek, ID	Grangemont, ID	Lowell, ID
Coolin, ID	Grangeville, ID	Lowman, ID
Copeland, ID	Granite, ID	Lucille, ID
Corral, ID	Grant, ID	Lund, ID
Cottonwood, ID ¹	Grasmere, ID	Mackay, ID ¹
Council, ID	Greencreek, ID	Macks Inn, ID
Craigmont, ID ¹	Greenleaf, ID	Malad, ID ¹
Crouch, ID ¹	Greer, ID	Malta, ID ¹
Culdesac, ID	Hagerman, ID	Marion, ID
Cuprum, ID	Hailey, ID ¹	Marsing, ID
Dalton Gardens, ID	Hamer, ID	Marysville, ID

May, ID	Porthill, ID	Teton, ID ¹
Mayfield, ID ¹	Portneuf, ID	Tetonia, ID
Mccall, ID ¹	Post Falls, ID	Thatcher, ID
Mccammon, ID	Potlatch, ID ¹	Thorton, ID
Meadow Creek, ID	Prairie, ID	Three Creek, ID
Meadows, ID	Preston, ID ¹	Triangle, ID
Medimont, ID ¹	Priest Lake, ID ¹	Troy, ID
Melba, ID	Priest River, ID	Tuttle, ID
Menan, ID	Princeton, ID	Twin Falls, ID ¹
Meridian, ID	Pritchard, ID ¹	Ucon, ID
Mesa, ID	Raft River, ID	Victor, ID
Middleton, ID	Rathdrum, ID	Viola, ID
Midvale, ID ¹	Reubens, ID	Virginia, ID
Minidoka, ID	Rexburg, ID	Waha, ID ¹
Mink Creek, ID	Reynolds, ID	Wallace, ID
Mohler, ID	Richfield, ID	Wardner, ID
Monteview, ID	Riddle, ID	Warm Lake, ID ¹
Montpelier, ID	Rigby, ID	Warm River, ID
Moore, ID	Riggins, ID ¹	Warren, ID
Moravia, ID	Ririe, ID	Wayan, ID
Moreland, ID	Riverside, ID	Weippe, ID
Moscow, ID	Roberts, ID	Weiser, ID
Mount Idaho, ID	Robin, ID	Wendell, ID
Mountain Home, ID ¹	Rock Creek, ID ¹	Westmond, ID
Moyie Springs, ID	Rockford, ID	Weston, ID
Mud Lake, ID	Rockland, ID	White Bird, ID ¹
Mullan, ID	Rogerson, ID ¹	Whitney, ID
Murphy, ID	Rose Lake, ID	Wilder, ID
Murray, ID ¹	Roswell, ID	Wilderness Ranch, ID ¹
Murtaugh, ID	Rupert, ID	Winchester, ID
Myrtle, ID	Sagle, ID ¹	Woodland, ID
Naf, ID	Salmon, ID ¹	Worley, ID ¹
Nampa, ID	Samaria, ID	Yellow Pine, ID ¹
Naples, ID	Samuels, ID	Arrow, ID
New Meadows, ID	Sanders, ID	Bannock Creek/Arbon Valley, ID
New Plymouth, ID	Sandpoint, ID	Coeur D'alene Subagency, ID
Newdale, ID	Santa, ID	Hatwai, ID ¹
Nezperce, ID	Secesh Meadows, ID	Julietta, ID
Nordman, ID	Setters, ID	Kamiah, ID ¹
Norland, ID	Shelley, ID	Kooskia, ID ¹
Northfork, ID	Shoshone, ID	Lapwai, ID ¹
Notus, ID	Shoup, ID	Lenore, ID
Nounan, ID	Silver City, ID ¹	Lincoln Creek, ID
Oakley, ID ¹	Silverton, ID	North Lapwai, ID ¹
Ola, ID	Smelterville, ID	Orofino, ID
Oldtown, ID	Smiths Ferry, ID	Pauline, ID
Onaway, ID	Soda Springs, ID ¹	Plummer, ID ¹
Oreana, ID	South Mountain, ID	Pocatello Creek/Buckskin Area, ID
Orofino, ID	Southwick, ID	Riverside, ID ¹
Orogrande, ID	Spalding, ID	St. Maries, ID
Osburn, ID	Spencer, ID ¹	Stites, ID
Ovid, ID	Spirit Lake, ID	Sweetwater, ID
Owyhee, ID	Springfield, ID	Winchester, ID ¹
Oxford, ID	Springston, ID	Wolverine Canyon, ID
Palisades, ID	St Anthony, ID	Worley, ID ¹
Paris, ID	St Charles, ID	Deer Run Industrial Park, IL
Parker, ID	St Joe City, ID	Lincoln Nat Cemetery, IL ¹
Parkline, ID	St Maries, ID	Mobil Oil, IL ¹
Parma, ID	Stanley, ID ¹	Abydel, IN
Patterson, ID	Star, ID	Apalona, IN
Paul, ID	Starkey, ID	Arthur, IN
Pauline, ID	State Line, ID	Augusta, IN
Payette, ID ¹	Sterling, ID	Ayrshire, IN
Pearl, ID	Stibnite, ID	Bandon, IN
Peck, ID	Stites, ID ¹	Bartlettville, IN
Picabo, ID	Stone, ID	Bean Blossom, IN
Pierce, ID	Sugar City, ID	Beverly Shores, IN
Pine, ID ¹	Sun Beam, ID ¹	Birdseye, IN
Pinehurst, ID ¹	Sun Valley, ID ¹	Bloomington, IN
Pingree, ID	Swan Lake, ID ¹	Branchville, IN
Pioneerville, ID	Swan Valley, ID	Brownstown, IN
Placerville, ID	Sweet, ID	Bryantville, IN
Plummer, ID ¹	Tamarack, ID	Burns Harbor, IN
Pocatello, ID ¹	Tendoy, ID ¹	Butlerville, IN
Pollock, ID	Tensed, ID	Campbelltown, IN
Ponderay, ID	Terrenton, ID	

Canaan, IN
 Cannellton, IN
 Chambersburg, IN
 Chappel Hill, IN
 Chesterton, IN
 Chestnut Ridge, IN
 Dabney, IN
 Derby, IN
 Dexter, IN
 Dodd, IN
 Dudleytown, IN
 Dune Acres, IN
 Dupont, IN
 Elkinsville, IN
 English, IN
 Four Corner, IN
 Francisco, IN
 Freetown, IN
 Gary, IN
 Gatchel, IN
 Gerald, IN
 Hardinggrove, IN
 Hayden, IN
 Hazelton, IN
 Heltonville, IN
 Hobart, IN
 Holton, IN
 Houston, IN
 Huron, IN
 Ironton, IN
 Kriete Corner, IN
 Kurtz, IN
 Lacy, IN
 Lake Of Four Seasons, IN
 Lauer, IN
 Leavenworth, IN
 Leopold, IN
 Lilly Dale, IN
 Lost River, IN
 Madison, IN
 Magnet, IN
 Maumee, IN
 Moorsetown, IN
 Mt. Pleasant, IN
 Mt. Tabor, IN
 Natchez, IN
 New Farmington, IN
 New Marion, IN
 Norman, IN
 Oakland City, IN
 Odgen Dunes, IN
 Oriole, IN
 Paoli, IN
 Patoka, IN
 Pikeville, IN
 Pleasant Valley, IN
 Portage, IN
 Porter, IN
 Princeton, IN
 Prospect, IN
 Ranger, IN
 Rocky Point, IN
 Roland, IN
 Rome, IN
 Rusk, IN
 Seymour, IN
 South Haven, IN
 Spraytown, IN
 Spurgeons Corner, IN
 St. Croix, IN
 Stinesville, IN
 Story, IN
 Tell City, IN
 Terry, IN
 Tobinsport, IN
 Town Of Pines, IN

Waymansville, IN
 West Baden Springs, IN
 Westville, IN
 Windom, IN
 Winslow, IN
 Woodlawn Grove, IN
 Yenne, IN
 Zelma, IN
 Blue Rapids, KS²
 Carneiro, KS²
 Clinton, KS²
 Delia, KS
 Elkhart, KS
 Glade, KS
 Grandview Plaza, KS²
 Hartford, KS
 Hillsdale, KS²
 Junction City, KS²
 Kanopolis, KS²
 Kanwaka, KS²
 Keats, KS²
 Kickapoo, KS²
 Kirwin, KS
 Leavenworth, KS²
 Lebo, KS²
 Mayetta, KS
 Melvern, KS²
 Meriden, KS²
 Michigan Valley, KS²
 Milford, KS²
 Neosho Rapids, KS
 Ogden, KS²
 Olivet, KS²
 Oskaloosa, KS²
 Ottumwa, KS
 Ozawkie, KS²
 Perry, KS²
 Pleasanton, KS
 Powhattan, KS
 Randolph, KS²
 Reading, KS²
 Reserve, KS
 Riley, KS²
 Rock Creek, KS²
 Rolla, KS
 Spring Hill, KS²
 Strong City, KS
 Stull, KS²
 Trading Post, KS
 Valley Falls, KS²
 Vassar, KS²
 Wakefield, KS²
 White Cloud, KS
 Woodruff, KS²
 Cottonwood Falls, KS
 Hudson, KS
 Quivera Nwr Hq, KS
 Alexandria State Forest, LA¹
 Antonia, LA¹
 Arabi, LA
 Ashland, LA
 Atlanta, LA
 Bagdad, LA
 Bellwood, LA
 Bentley, LA¹
 Big Branch, LA
 Bogue Chitto, LA¹
 Brewton's Mill, LA¹
 Calvin, LA¹
 Caster Plunge, LA¹
 Chalmette, LA
 Chestnut, LA
 Coldwater, LA¹
 Couley/Saline Lake, LA
 Covington, LA¹

Cravens, LA¹
 Dry Prong, LA¹
 Eunice, LA
 Fairfield, LA¹
 Fishville, LA
 Flatwoods, LA
 Florida Parishes, LA¹
 Forest Hill, LA
 Ft. Polk, LA¹
 Fullerton, LA¹
 Gardner, LA
 Georgetown, LA
 Goldonna, LA
 Gorum, LA
 Grangeville, LA²
 Gretna, LA
 Hinston, LA
 Irish Bayou, LA
 Johnsonville, LA¹
 Jordan Hill, LA¹
 Lacombe, LA¹
 Lafayette, LA
 Mandeville, LA¹
 Marlow, LA¹
 Marrero, LA
 Melder, LA
 Melrose, LA
 Meraux, LA
 Montgomery, LA
 Mound, LA
 Natchez, LA
 New Orleans, LA
 Oak Hill/Elmer, LA¹
 Oden, LA
 Packton, LA¹
 Penial, LA
 Pickering, LA
 Pollock, LA¹
 Poydras, LA
 Provencal, LA
 Readheimer, LA
 Rock Hill, LA
 Slidell, LA¹
 Spring Creek, LA¹
 St. Maurice, LA
 Statewide, LA¹
 Sunset, LA¹
 Thibodaux, LA
 Venetian Isles, LA
 Verda, LA
 Vidalia, LA
 Violet, LA
 Vowels Mill, LA
 Wheeling, LA
 Willianna, LA¹
 Winnfield, LA
 Woodworth, LA
 Aquinnah, MA
 Bourne, MA^{1,2}
 Commonlands, MA
 Eastham, MA
 Mashpee, MA
 Nantucket, MA¹
 Plymouth, MA¹
 Provincetown, MA
 Truro, MA
 Wampanoag, MA
 Wellfleet, MA
 Aberdeen Proving Grounds, MD²
 Bishops Head, MD
 Bucktown/Green Briar Roads, MD
 Crocheron, MD
 Crystal Falls, MD¹
 Duckettsville, MD
 Garrison Hollow, MD

Halltown, MD
 Hilltop Lane, MD
 Horseshoe Bend, MD¹
 Little Orleans, MD
 Madison, MD
 Maple Dam Road, MD
 Montpelier Woods, MD
 Potomac Valley Farm, MD¹
 Robbins, MD
 Shorters Wharf, MD
 Smithville, MD
 West Fredrick, MD^{1 2}

Albany, ME
 Alder Stream Twp., ME
 Argyle, ME
 Bar Harbor, ME
 Baring, ME
 Benton, ME
 Bethel, ME
 Biddeford, ME
 Brunswick, ME²
 Calais, ME
 Cape Elizabeth, ME
 Caribou, ME²
 Caswell, ME²
 Connor, ME²
 Cooks Corner, ME²
 Cutler, ME
 Edmunds, ME
 Fort Fairfield, ME²
 Fowler, ME
 Gilead, ME
 Gouldsboro, ME
 Greenbush, ME
 Greenfield, ME
 Hall Quarry, ME
 Hollis, ME
 Hull's Cove, ME
 Indian Island, ME
 Indian Township, ME
 Isle Au Haut, ME
 Junior Lake, ME
 Kennebunk, ME
 Kennebunkport, ME
 Kittery, ME
 Limestone, ME²
 Lovell, ME
 Manset, ME
 Marion, ME
 Milford, ME
 Mt. Desert Island, ME
 Newfield, ME
 Northeast Harbor, ME
 Old Town, ME
 Otter Creek, ME
 Peter Dana Point, ME
 Pleasant Point, ME
 Princeton, ME
 Saco, ME
 Scarborough, ME
 Schoodic Point, ME²
 Seal Harbor, ME
 Seawall, ME
 Shapleigh, ME
 Southwest Harbor, ME
 Stoneham, ME
 T3 R1, ME
 T6 R8 Wels, ME
 Topsham, ME²
 Tremont, ME
 Trenton, ME
 Trescott, ME
 Waite, ME
 Waterboro, ME
 Waterford, ME
 Wells, ME

West Tremont, ME
 Whiting, ME
 Williamsburg, ME
 Winter Harbor, ME
 York, ME
 Alcona Township, MI
 Au Train Township, MI
 Baldwin, MI
 Baraga, MI
 Barton Township, MI
 Battle Creek, MI²
 Bay De Noc Twp., MI
 Beaver Creek Township, MI¹
 Big Creek Township, MI
 Big Prairie Township, MI
 Blue Lake Township, MI
 Branch Township, MI
 Brimley, MI
 Brooks Township, MI
 Cadillac, MI
 Cherry Grove Twp., MI
 Chippewa Township, MI
 Cleveland Township, MI
 Clinton Township, MI
 Comins Township, MI
 Covington Township, MI
 Croton Township, MI
 Curtis Township, MI
 Denver Township, MI
 Dublin, MI
 Duncan Township, MI
 Empire Township, MI
 Ensign Township, MI
 Forsyth Township, MI^{1 2}
 Frederick Township, MI¹
 Freesoil Township, MI
 Galesburg, MI²
 Garden Township, MI
 Germfask Township, MI
 Gladstone, MI
 Glen Arbor, MI
 Glen Arbor Township, MI
 Glennie, MI
 Grant Township, MI
 Grayling, MI^{1 2}
 Grayling Township, MI¹
 Greenwood Township, MI
 Gwinn, MI^{1 2}
 Holton, MI
 Holton Township, MI
 Home Township, MI
 Howard City, MI
 Hoxeyville, MI
 Interior Township, MI
 Iron River, MI
 Iron River Township, MI
 Irons, MI
 Lake Township, MI
 Lakewood, MI
 L'anse, MI
 Logan Township, MI
 Lovells Township, MI¹
 Luther, MI
 Luzerne, MI
 Mack Lake, MI
 Masonville Township, MI
 Mathias Township, MI
 Meade Township, MI
 Mentor Township, MI
 Merrill Township, MI
 Mikado, MI
 Mikado Township, MI
 Millen Township, MI
 Mio, MI
 Monroe Township, MI
 Montague, MI

Montague Township, MI
 Munising Township, MI
 Nahma Township, MI
 Newaygo, MI
 Newfield Township, MI
 Norwich Township, MI
 Oscoda, MI
 Oscoda Township, MI
 Plainfield Township, MI
 Platte Township, MI
 Racoon, MI
 Rapid River, MI
 Reynolds Township, MI
 Rockland Township, MI
 S. Branch Township, MI¹
 Saginaw, MI
 Saginaw Township, MI
 Saint Helen, MI
 Selma Township, MI
 Seney, MI
 South Branch, MI
 Springville Township, MI
 Stambaugh Township, MI
 Stannard Township, MI
 Stonington, MI
 Stronach, MI
 Stronach Township, MI
 Superior Township, MI
 Trenary, MI
 Trout Lake, MI
 Trout Lake Township, MI
 Troy Township, MI
 Twin Lake, MI
 Wakefield, MI
 Weidman, MI
 Wellston, MI
 White Cloud, MI
 Whitehall, MI
 Wilbur Township, MI
 Wise Township, MI
 Wolf Lake, MI
 Woodville, MI
 Aurora, MN
 Babbitt, MN
 Bagley, MN
 Ball Club, MN¹
 Becker, MN
 Bena, MN
 Bigfork, MN
 Biwabik, MN
 Blackduck, MN
 Bowstring, MN
 Boy River, MN
 Brimson, MN
 Britt, MN
 Brookston, MN
 Burnsville, MN
 Buyck, MN
 Cass Lake, MN
 Cass Lake/ Mission/ Pen, MN
 Cloquet, MN¹
 Cook, MN
 Crane Lake, MN
 Deer River, MN
 Eagan, MN
 East Lake, MN
 Elbow Lake, MN¹
 Ely, MN
 Embarrass, MN
 Federal Dam, MN
 Grand Portage, MN
 Gunflint Corridor, MN
 Hackensack, MN
 Hinckley, MN
 Hovland, MN
 Hoyt Lakes, MN

Indian Pt., MN
 Inger, MN
 International Falls, MN
 Isabella, MN
 Jessie Lake, MN
 Kabetogama, MN
 Kebish, MN
 Lake Itasca, MN
 Laporte, MN
 Longville, MN
 Marcell, MN
 McGregor, MN
 McKinley, MN
 Naytahwaush, MN
 Nett Lake, MN
 North Shore Communities, MN
 Onigum, MN
 Orr, MN
 Osage, MN
 Palmquist, MN¹
 Pine Pt., MN
 Ponemah, MN
 Ponsford, MN
 Princeton, MN
 Ranier, MN
 Red Lake, MN
 Redby, MN
 Remer, MN
 Rice Lake, MN
 Sawyer, MN¹
 Soudan, MN
 Squaw Lake, MN
 Talmoon, MN
 Taylor Falls, MN
 Two Inlets, MN
 Vermillion, MN
 Vineland, MN
 Virginia, MN
 Walker, MN
 White Earth, MN¹
 Whiteface Reservoir, MN
 Zimmerman, MN

Alley Spring, MO
 Alton, MO
 Annada, MO
 Bardley, MO
 Battlefield, MO¹
 Bennett, MO
 Big Piney, MO
 Big Spring, MO
 Bixby, MO¹
 Black, MO
 Blue Buck, MO
 Boss, MO
 Boydsville, MO¹
 Bradleyville, MO¹
 Brazil, MO
 Brownfield, MO
 Bunker, MO¹
 Centerville, MO
 Central, MO
 Chadwick, MO
 Cherryville, MO
 Collins Ridge, MO
 Delbridge, MO
 Diamond, MO
 Duke, MO
 Eastwood, MO
 Ellsinore, MO
 Eminence, MO
 Englewood, MO
 Evening Shade, MO
 Fairview, MO
 Falcon, MO
 Fremont, MO
 Garrison, MO

Greeley, MO
 Greenville, MO
 Greer, MO
 Handy, MO
 Hanna, MO
 Hendrickson, MO
 Hilda, MO
 Hill City, MO
 Huzzah, MO
 Ironton, MO¹
 Jadwin, MO
 Keltner, MO
 Killarney Shores, MO
 Kimberling City, MO
 Lampe, MO
 Lisbon, MO
 Longrun, MO
 Low Wassie, MO
 Lynchburg, MO
 Marquand, MO
 McClurg, MO
 Mill Spring, MO
 Mound City, MO
 New Liberty, MO
 Newburg, MO¹
 Owls Bend, MO¹
 Pine, MO
 Plato, MO
 Pomona, MO
 Puxico, MO
 Redmondville, MO
 Reynolds, MO
 Riverton, MO
 Rockhouse, MO
 Rombauer, MO
 Round Spring, MO
 Rueter, MO
 Seneca #1, MO
 Shell Knob, MO
 Siloam Springs, MO
 Sparta, MO
 Success, MO
 Sumner, MO
 Timber, MO
 Van Buren, MO¹
 Viburnum, MO
 West Fork, MO
 Wilderness, MO
 Williamsville, MO¹
 Winona, MO¹

Abbeville, MS
 Aberdeen, MS²
 Ackerman, MS
 Allen, MS
 Amory, MS²
 Anquilla, MS
 Arkabutla, MS²
 Ashland, MS
 August Landing, MS²
 Avent, MS
 Bacon Springs, MS²
 Barlow, MS
 Barton Ferry, MS²
 Baxter, MS
 Bay Springs, MS
 Be Welcome, MS
 Beat 4, MS
 Beaumont, MS
 Becker, MS²
 Belmont, MS
 Benndale, MS
 Berea, MS
 Betheden, MS
 Bethelam, MS
 Beulah Hill, MS
 Bigbee, MS²

Bigbee Valley, MS²
 Biloxi, MS¹
 Bissel, MS
 Blue Hill, MS
 Blue Mt., MS
 Bogue Chitto, MS
 Boguechitto, MS
 Boque Chitto, MS
 Brody, MS
 Brooklyn, MS
 Browning Creek, MS
 Buckatunna, MS
 Bud Price Camp, MS²
 Bude, MS
 Bugh, MS
 Bunkley, MS
 Burnsville, MS²
 Busy Corner, MS
 Butler, MS
 Bynum, MS
 Bywy, MS
 Cambridge, MS
 Camp Shelby, MS
 Canan, MS
 Carlisle, MS
 Carnes, MS
 Carthage, MS
 Cary, MS
 Caseyville, MS
 Chickasaw, MS
 Choctaw Indian Res., MS
 Clara, MS
 Clinton, MS
 Coffeeville, MS
 Coldwater, MS²
 Coles, MS
 College Hill, MS²
 Columbus, MS²
 Como, MS
 Conehatta, MS¹
 Corena, MS
 Corinth, MS
 Cornersville, MS
 Craigsprings, MS
 Crosby, MS
 Cross Roads, MS²
 Cumberland, MS
 Cypress Garden Cove, MS²
 Dancy, MS
 Darden, MS
 Dennis, MS
 Denton Roberts, MS²
 D'Iberville, MS
 Dick, MS
 Doskie, MS²
 Dossville, MS
 Eastport, MS²
 Eddiceton, MS
 Enid Shores, MS
 Ethel, MS
 Etta, MS
 Eupora, MS
 Falkner, MS
 Farmhaven, MS
 Fayette, MS
 Fontainebleau, MS¹
 Forest, MS
 Franklin, MS
 Freewoods, MS
 French Camp, MS
 Fruitland, MS
 Fulton, MS²
 Garden City, MS
 Garlansville, MS
 Gautier, MS¹
 Gholson, MS

Glade, MS	Mchenry, MS ¹	Sandersville, MS
Gloster, MS	Mckinnley Creek, MS ²	Sandy Land, MS ²
Goat Island, MS ²	Mclain, MS	Saucier, MS
Gravestown, MS	Mclaurin, MS	Scobey, MS
Green Acres, MS	Mcville, MS	Senatobia, MS ²
Gulfport, MS ¹	Meadville, MS	Shuqualak, MS ²
Gumbranch, MS	Millcreek, MS	Sialoam, MS ²
Guntown, MS	Mingo, MS	Signal Hill, MS
Halfloy Creek, MS ²	Monroe, MS	Silvercreek, MS ¹
Hamilton, MS ²	Montpelier, MS	Smithville, MS ²
Handaway Pond, MS	Montrose, MS	Snow Lake, MS
Hanson's Landing, MS ²	Moore's Mill, MS ²	Standingpine, MS
Harmontown, MS ²	Morton, MS	Starkville, MS
Harnerhill, MS	Moselle, MS	Strengthford, MS
Helena, MS ¹	Mosspoint, MS	Sturgis, MS
Hermanville, MS	Myrick, MS	Success, MS
Hickory Flat, MS	Myrtle, MS	Suffolk, MS
Higdon, MS	Natchez, MS	Sunset Point, MS ²
Hillsboro, MS	Natcheztracers, MS	Talking Warrior, MS
Holcut, MS ²	Naval Air Station, MS ²	Talley Land, MS ²
Holly Springs, MS	New Hamilton, MS ²	Taylor, MS ²
Hollybluff, MS	Newaugusta, MS	Teckville, MS ²
Homewood, MS	Newton, MS	Tibbee Bluff, MS ²
Homochitto, MS	Nicholson, MS ²	Tishomingo State Park, MS
Hopes Spur, MS ²	Oak Dale Park, MS ²	Trace Road, MS ²
Houlka, MS	Oceansprings, MS ¹	Troy, MS
Houston, MS	Ofahoma, MS	Tucker, MS
Humphrey's Cove, MS ²	Okatibbee Lake, MS	Tupelo, MS ¹
Ireland, MS	Oktoc, MS	Unionchurch, MS
Jackson, MS	Oldham, MS ²	Utica, MS
Janice, MS	Orange, MS	Valleypark, MS
John Kyle St Park, MS	Ovett, MS	Van Buren, MS ²
Kennolia, MS	Oxford, MS	Vancleave, MS ²
Kiln, MS ²	Paden, MS ²	Vanfleet, MS
Kings, MS	Palmetto, MS	Vestry, MS
Kings Circle, MS	Parkersburg, MS	Vicksburg, MS ¹
Kingston, MS	Pascagoula, MS	Walker Sideins, MS ²
Kinkaide Cove, MS ²	Passchristian, MS	Walnut Point, MS ²
Kirby, MS	Pearl River, MS	Waltersville, MS
Kirkville, MS	Pearlington, MS ²	Washington, MS
Knoxville, MS	Pecan, MS ¹	Waterford, MS
Kolola Springs, MS ²	Perkinston, MS	Waverly, MS ²
Kosciusko, MS	Perrytown, MS	Waverly Plantation, MS ²
Lake, MS	Philadelphia, MS ²	Waynesboro, MS
Lake Center, MS	Picayune, MS ²	Weir, MS
Lake Monroe, MS ²	Pinedale, MS	White Apple, MS
Larue, MS	Pineville, MS	White Cap, MS
Latimer, MS	Pittman, MS ²	Whitten Town, MS
Laws Hill, MS ²	Pleasant Hill, MS	Wiggins, MS ¹
Learned, MS	Plymouth Bluff, MS ²	Williamsville, MS
Leesdale, MS	Point Harbor, MS ²	Winborn, MS
Lena, MS	Polkville, MS	Wortham, MS
Little Springs, MS	Poor House, MS	Yocona, MS ²
Lizana, MS	Port Gibson Cliaborne, MS	
Loakfoma, MS	Potts Camp, MS	Agency, MT
Longbeach, MS	Pulaski, MS	Alberton, MT
Lorman, MS	Pumpkin Creek, MS ²	Anaconda, MT ¹
Louin, MS	Quentin, MS	Argenta, MT ¹
Louisville, MS	Raleigh, MS	Arlee, MT
Ludlow, MS	Ramseys, MS	Ashland, MT ¹
Lumberton, MS	Raymond, MS	Babb, MT
Lynn Creek, MS	Redwater, MS	Belfry, MT
Maben, MS	Redwood, MS ²	Benchmark, MT
Macedonia, MS	Reganton, MS	Big Arm, MT
Madden, MS	Ridgeland, MS	Big Fork, MT
Madison, MS	Ripley, MS	Big Sky, MT
Madisonville, MS	River Hills, MS	Billings, MT ¹
Mantachie, MS	River Oaks, MS ²	Birney, MT
Mantee, MS	Riverchase, MS ²	Birney Divide, MT
Mashulaville, MS	Rollingfork, MS	Blue Slide Corridor, MT
Mathiston, MS	Rosetta, MS	Boulder, MT ¹
Maxie, MS	Roxie, MS	Box Elder, MT
Mcadams, MS	Russum, MS	Boxelder, MT
Mcbride, MS	Sabougla, MS ²	Bridger, MT
Mccallcreek, MS	Sallies Cove, MS ²	Brockton, MT
	Saltillo, MS	Buffalo, MT
		Bull River Corridor, MT

Busby, MT	Lincoln, MT ¹	Wisdom, MT
Butte, MT ¹	Lodgegrass, MT ¹	Wolf Point, MT
Camas Prairie, MT ¹	Lodgepole, MT	Worden, MT ¹
Canyon Creek, MT	Loring, MT	Wyola, MT ¹
Charlo, MT	Maiden, MT ¹	Yaak, MT
Columbus, MT ¹	Malta, MT	Yellow Bay, MT
Condon, MT ¹	Marion, MT ¹	Zortman, MT ¹
Cooke City, MT	Marysville, MT ¹	Big Ridge Subdivision, NC
Crackerville, MT	Medicine Lake, MT	Deep Creek Hs, NC
Craig, MT	Miles City, MT ¹	Kitty Hawk, NC ¹
Crow Agency, MT ¹	Mission, MT	Manteo, NC ²
Dagmar, MT	Missoula, MT ¹	Sheperds Cr., NC
Darby, MT	Moiese, MT	Woodrun, NC
Deer Lodge, MT	Monarch, MT ¹	Abner, NC
Dillon, MT ¹	Monida, MT	Adams Branch, NC
Dixon, MT	Mosby, MT ¹	Adams Creek, NC ¹
Dodson, MT	Muddy Cluster, MT	Adams Creek Comm, NC
Drummond, MT ¹	N. Fk. Flatwillow, MT	Ahoe, NC
Duck Creek Drainage, MT	Neihart, MT	Alarka, NC
Dunmore, MT ¹	Ninepine, MT	Alleghy, NC
East Glacier, MT	Noxon, MT	Allen Gap, NC
East Glacier Little Badger, MT	Oswego, MT	Allison Creek, NC
East Shore Flathead Lake, MT ¹	Ovando, MT ¹	Almond Boat Park, NC
Ekalaka, MT ¹	Pablo, MT	Amos Creek, NC
Elmo, MT	Park City, MT	Andrews Watershed, NC
Ennis, MT ¹	Parker Canyon, MT	Appletree, NC
Essex, MT ¹	Philipsburg, MT	Aquone, NC
Eureka, MT ¹	Pinesdale, MT	Armstrong, NC
Evaro, MT	Plains, MT	Arrowood Glade, NC
Forest Green, MT	Pleasant Valley, MT	Ashford, NC
Forest Grove, MT ¹	Polebridge, MT	Auman's Crossroad, NC
Fort Kipp, MT	Polson, MT ¹	Avery Creek, NC
Fort Smith, MT	Pony, MT ¹	Avery Park, NC
Fortune, MT ¹	Poplar, MT	Avon, NC
Frazer, MT	Pryor, MT ¹	Bald Mtn., NC
Frenchtown, MT ¹	Rapelje, MT	Bald Rock, NC
Froid, MT	Ravalli, MT	Ball Gap Rd, NC
Gardiner, MT	Red Lodge, MT	Ball Town, NC
Garryowen, MT	Reed Point, MT ¹	Balsam, NC
Garryowen, MT	Rexford, MT	Balsam Grove, NC
Georgetown Lake, MT ¹	Rock Creek, MT ¹	Balsam Lake, NC
Geraldine, MT	Rocky Boy Townsite, MT	Barlow Fields, NC
Giltedge, MT ¹	Ronan, MT	Bates Creek, NC
Glen, MT	Roundup, MT	Bay Leaf, NC ²
Glendale, MT	Roy, MT	Bean Creek, NC
Grant, MT	Saint Mary, MT	Bear Creek Hs, NC
Grass Range, MT ¹	Saint Xavier, MT ¹	Bear Paw Estates, NC ²
Hamilton, MT ¹	Sapphire Village, MT	Beaverdam, NC
Hardin, MT	Seeley Lake, MT ¹	Bee Tree Ridge, NC
Hays, MT	Shepard, MT ¹	Beech Mtn Hunt Club, NC
Heart Butte, MT	Somers, MT ¹	Beechertown, NC
Helena, MT ¹	Square Butte, MT	Beig Creek, NC
Helmville, MT	St. Maries, MT	Ben Creek, NC
Heron, MT ¹	St. Mary, MT	Bender Road, NC
Highway 200 Corridor, MT	St. Regis, MT	Bent Creek, NC
Highway 93 Corridor, MT ¹	Stevensville, MT	Bent Creek Exper. Forest, NC
Hilger, MT ¹	Stryker, MT	Bent Creek Ranch, NC
Hindsdale, MT	Sula, MT	Betty's Creek, NC
Homestead, MT	Superior, MT ¹	Big Creek, NC
Hot Springs, MT ¹	Swan Lake, MT ¹	Big Ivey, Lump Rd, NC
Hungry Horse, MT	Thompson Falls, MT ¹	Big Laurel, NC
Huson, MT ¹	Tobacco Valley, MT	Big Pine, NC
Jocko River Corridor, MT	Townsend, MT ¹	Big Rock Creek, NC
Jordan, MT ¹	Trego, MT	Big Sheep Cliff, NC
Judith Gap, MT	Trout Creek, MT ¹	Bill King Branch, NC
Kalispell, MT ¹	Troy, MT ¹	Bill Top, NC
Kendal, MT	Turner, MT	Biltmore Estate, NC
Kila, MT	Two Medicine, MT	Black Bear Hollow, NC
Kiowa, MT	West Kootenai, MT ¹	Black Gap, NC
Lakeview, MT ¹	West Yellowstone, MT	Black Rock, NC
Lame Deer, MT	Westby, MT	Blackberry Inn, NC
Landusky, MT ¹	White Sulphur Springs, MT	Blanton Branch, NC
Laurel, MT ¹	Whitefish, MT	Blood River, NC
Lewistown, MT ¹	Whitehall, MT	Blowing Rock, NC
Libby, MT ¹	Whitewater, MT	Blue Ridge Lakes, NC
Lima, MT	Winnett, MT	

Bluff, NC
Bogue Community, NC
Boiling Spring Lakes, NC¹
Bolwens Creek, NC
Bowlen's Creek, NC
Boy Scout Camp, NC
Boyd Ridge, NC
Braden Mountain, NC
Bradley Branch, NC
Brandywood, NC²
Breeden Mt., NC
Brevard Music, NC
Bristol Road, NC
Broad Creek School, NC
Brooks Cove, NC
Brown Fork Gap, NC
Brown Gap School Road, NC
Brown Mountain, NC
Brown's Creek, NC
Brummet Creek, NC
Brummett's Creek, NC
Brush Creek, NC
Brushy Creek, NC
Brushy Fork, NC
Bryson City, NC
Buck Creek, NC
Buck Creek Estates, NC
Buck Mt, NC
Buckner Branch, NC
Bucks Corner Community, NC
Buff Creek, NC
Bull Pen, NC
Bullock, NC²
Burnett Cove, NC
Burrel Mtn., NC
Busick, NC
Butells, NC
Buxton, NC¹
Buxton Woods, NC
Buzzard Roost, NC
Cable Cove Church, NC
Cable Cove Shelter, NC
Caesar's Cove, NC
Calebs Branch Comm, NC
Calfpil Sp, NC
Calvin Creek, NC
Camp Buc, NC
Camp Carolina, NC
Camp Creek, NC
Camp Daniel Boone, NC
Camp Hope, NC
Camp Winding Gap, NC
Cane River Club, NC
Caney Creek, NC
Caney Fork, NC
Cape Village, NC
Carolina Forest, NC
Carolina Lakes, NC¹
Carolina Woods, NC²
Carson Cove, NC
Cary's Flat, NC
Cashiers, NC
Cat Creek Ridge, NC¹
Catfish Lake Wui, NC
Cathay's Creek, NC
Cattail, NC
Cedar Creek Estates, NC
Cedar Creek Woods, NC
Cedar Mtn, NC
Celo Community, NC
Chairmaker, NC
Chairmaker Branch, NC
Chastain Creek, NC
Chatooga Forest, NC
Cheoah Comm., NC
Cherokee, NC
Chesnut Ridge, NC
Chimney Ridge, NC¹
Chosatonga, NC
Cliff Of Neuse, NC¹
Cold Branch, NC
Cold Mtn. Estates, NC
Cold Mtn. Gap, NC
Cold Springs, NC
Cole Mtn., NC
Coleman Boundry, NC
Collettsville, NC
Commissioner, NC
Compass Creek, NC
Conleys Creek, NC
Connestee, NC
Connelly Creek, NC
Contentinal Cliffs, NC
Cook Town, NC
Coopers Creek, NC
Country, NC
Country Club Estates, NC
Cowee Bald, NC
Coweeta, NC
Coweeta Hydrologic Lab, NC
Coweeta Lands, NC¹
Crabtree Meadows, NC
Cradle Of Forestry In America, NC
Craig Mtn, NC
Crawford Cove, NC
Crawford Creek, NC
Creedmoor, NC²
Creek Run, NC¹
Crestview Pointe, NC
Crowder Farms, NC²
Crystal Bay, NC¹
Cullasaja Club, NC
Curso, NC
Cutshalltown, NC
Dabney Woods, NC²
Dave's Cove, NC
Davis Crossing, NC
Deals Gap, NC
Deep Creek, NC
Deep Gap, NC
Deep Gap Hollow, NC
Deer Lake, NC
Deer Park, NC
Deer Run, NC
Deercroft, NC¹, thnsp;2
Delvels Fork Gap, NC
Diamonds Creek Cove, NC
Dicks Creek East, NC
Dicks Creek West, NC
Dills Gap, NC
Dismal Cove, NC
Dix Creek, NC
Dobson Knob, NC
Dodgen Creek, NC
Doe Branch, NC
Doral Woods, NC¹
Double Gap, NC
Double Top, NC
Dryman Fork, NC
Duck Mill Creek, NC
Duggar, NC
Eagle Fork, NC
East Barkers Creek, NC
East Fork, NC
Eden Valley, NC¹
Edgemount, NC
Ekerd Camp, NC¹
El Shaddai, NC
Elk River, NC
Enka, NC
Eureka Springs, NC²
Fain Mountain, NC
Farlow Lake, NC
Ferry Road Comm., NC
Fines Creek Gap, NC
Fires Creek Cove, NC
Fires Creek Road, NC
First Step, NC
Fish Hatchery, NC
Fisher Branch, NC
Flat Creek, NC
Flat Rock, NC
Flatwoods, NC
Fleetwood Falls, NC
Fodderstack, NC
Forest Lake, NC
Forest Ridge, NC²
Forge Mountain, NC¹
Fort Raleigh, NC
Foster Creek, NC
Found Forest, NC
Frisco, NC
Galbraith Creek, NC
Garden Branch, NC
Garen Flow Gap, NC
Gaston Mtn. Es., NC
Gison Cove, NC
Glen Lake Subdivision, NC
Glen Ridge Subdivision, NC
Glen Shores Subdivision, NC
Glenn Alpine, NC
Globe, NC
Gold City, NC
Goldmine, NC
Golf Club Estates, NC
Goose Creek, NC¹
Gowans Cove, NC
Granny Squirrel, NC
Grape Vine Duggar, NC
Grassy Branch, NC
Greasy Branch, NC
Greens Creek, NC
Greensboro, NC
Grimshaws, NC
Grindstone, NC¹
Guntertown, NC
Hadnot, NC
Hammrick, NC
Hampton's Place, NC
Hamton Creek, NC
Hannah Mtn. Estates, NC
Harbor Gate, NC¹
Harmony Corner, NC
Hatteras, NC
Havelock, NC¹
Havelock Area, NC¹
Hawk Mountain, NC
Hawks Nest, NC
Hawthorne Estates, NC
Haywood Landing Comm, NC
Heady Mtn., NC
Healey Fields, NC
Heart Lake, NC²
Heavenly Mtn, NC
Hensley Branch, NC
Heritage Cabins, NC
Heritage Village, NC²
Hibbert Mountain, NC
Hibbs Road, NC
Hickey Fork, NC
Hickory Log Branch, NC
Hickory Ridge, NC
Hicks Branch, NC
High Hampton, NC
High Meadows, NC
High Pines, NC
High Rock, NC¹
High Rock Ac, NC

High Vista Estates, NC	Laurel Mountain, NC	Nickajack, NC
Highland Church, NC	LBJ CCC, NC	Nicks Creek, NC
Highlands, NC	Leatherwood, NC	Nmr Hunt Club, NC
Highlands Club, NC	Lee Creek, NC	North Cove, NC
Highlands Falls, NC	Lick Skillet, NC	North Fork, NC
Highlands Gates, NC	Lil' Switserland, NC	North Fork-Coweeta, NC
Highlands Subdivision, NC	Linville Heights, NC	North Mills, NC
Hiwassee Lake Vista, NC	Linville Mtn. Estates, NC ¹	North Mills River, NC
Hogback Mtn., NC	Linville Ridge, NC	Northridge Plantation, NC ^{1 2}
Hogback Subdivision, NC	Little Buck Creek, NC	Oakwood Acres, NC ¹
Hoke Loop Rd, NC ²	Little Canada, NC	Ocracoke, NC
Holden Subdivision, NC	Little Choga, NC	Ogle Meadows, NC
Holiday Shores, NC	Little Creek, NC	Old Beau, NC
Holly Berry Estates, NC	Little Elk Creek, NC	Old Fort, NC
Holly Forest, NC	Little Laurel, NC	Onion Mountain, NC
Holly Shelter, NC ¹	Little Switzerland, NC	Ophir, NC
Honey Mtn Estates, NC	Locust Creek, NC	Orchard Mtn., NC ¹
Horse Cove, NC	Long Arm Mtn., NC	Ore Knob, NC
Horse Creek, NC	Long Br.-Swan., NC	Otter Creek, NC
Horseshoe Rock, NC	Long Mtn., NC	Outward Bound, NC
Hot House, NC	Long Point Comm, NC	Outward Bound, NC
Hot Springs, NC	Lovejoy, NC	Ox Creek, NC
Houston Knob, NC	Low Gap, NC ¹	Paddy Creek, NC
Howard Branch, NC	Lower Nantahala Gorge, NC	Paint Rock, NC
Hughes Gap, NC	Lower Silvermine, NC	Panther Branch, NC
Hurricane Chapel, NC	Luck, NC	Panther Knob, NC
Hurricane Creek, NC	Macedonia Church, NC	Panther Mnt., NC
Hurricane Ridge, NC	Maggie Valley, NC	Panther Ridge, NC
Hwy 24/Hibbs Road, NC	Maguire Rd, NC	Pari, NC
Hwy 280 Corridor, NC	Maple Grove, NC	Partridge Creek, NC
Hwy191 Corridor, NC	Maplesprings, NC	Penley, NC
Indian Grave Gap, NC	Marble, NC	Pigeon Roost, NC
Indian Lake Estates, NC	Marion, NC	Pilot Mountain Subdivision, NC
Iotla, NC	Marion Watershed, NC	Pine Lakes, NC ¹
Iron Mtn., NC	Matlock Creek, NC	Pine Root, NC
Island Creek, NC	Max Patch, NC	Pinhook Gap, NC
Ivory Johnson Est, NC	Mayview Manor, NC	Pisgah Est., NC
Ivy Lane, NC	McClure Creek, NC	Pisgah Inn, NC ²
Jackie Cove, NC	McCraken Cove, NC ²	Pisgah Wildlife Education, NC
Jackrabbit, NC	Mcdougal Downs, NC ²	Pleasant Grove/Capelsie, NC
Jacks Branch, NC	Mcelrath, NC	Plesant Gardens, NC
Jackson Hole, NC	Meadow Fork, NC	Plum Nuttie, NC ²
Jacobs Branch, NC	Middle Creek, NC	Pond Mtn, NC
Jaoanna Tower, NC	Mill Brook, NC	Poplar, NC
Jarrett Creek, NC	Mill Creek, NC	Poplar Cove, NC
Johnnies Creek, NC	Mill Knob, NC	Portsmouth Village, NC ¹
Johns Creek, NC	Mill Wheel, NC	Potatoe Gap, NC
John's River, NC	Mine Mountain, NC	Pounding Mill Branch, NC
Johnson Branch, NC	Misty Mtn, NC	Powder Horn Mtn, NC
Jonathans Creek/Cove Creek, NC	Montreat, NC	Pressley Creek, NC
Jones Creek, NC	Morgan Hill, NC	Puett Cove Est., NC
Julie Knob, NC	Mortimer, NC	Pumpkintown, NC
Kawana, NC	Moses Creek, NC	Punchbowl, NC
Kees Forest, NC ²	Mother Vinyard/Nri, NC	Puncheon Fork, NC
Killian Park Subdivision, NC	Mount Mitchell Lands, NC	Quebec, NC
King Mtn., NC	Mountain Shadows, NC	Queen Mtn., NC
Kirklands Creek, NC	Mountain View, NC ¹	Queens Creek, NC
Kitty Hawk Woods, NC ¹	Mountain Waterfalls, NC	Rainbow Springs, NC
Knolls Of Cedar Creek, NC	Mt Pisgah Tower, NC	Rattler Ford, NC
Kuhns Comm, NC	Mt. Mitchell Lands, NC	Rattlesnake, NC
Lake James, NC	Mtn. Chalet, NC	Raven Knob, NC ¹
Lake Logan, NC	Mulberry, NC	Ray Creek, NC
Lake N The Pines, NC	Mull Road, NC	Reed's Cove, NC
Lake Road Community, NC	Muskrat, NC	Reese Cove, NC
Lake Sega, NC	Myers Chapel, NC ²	Reynolds Woods, NC
Lake Tahoma, NC	N Mills River, NC	Rhinehart, NC
Lake Toxaway, NC	Nantahala Dam, NC	Rice Knob, NC
Lakeview Gardens, NC	Nantahala Highlands Est., NC	Rice Pinnacle, NC
Lakewood Shores, NC	Nantahala River, NC	Rich Knob, NC
Lambs Creek, NC	Nantahala Shores, NC	Richland Ridge, NC
Lands Creek, NC	Nc Arboretum, NC	River Road/Dow Rd., NC ¹
Laural, NC ¹	Neal's Creek, NC	Riverdale Community, NC
Laural Springs, NC	Neddy Mtn., NC	Roan Valley, NC
Laurel Branch, NC	Needmore, NC	Roaring Creek, NC
Laurel Falls Subdivision, NC	Nelson Ridge, NC	Roaring Fork, NC
Laurel Lake, NC	Newberry, NC	Roaring Gap, NC

Roberdo, NC	Stony Point, NC ¹	Wayah Bald, NC
Roberts Road, NC	Straus Park, NC	Wayah Creek, NC
Rock Branch, NC	Strawberry Hills Subdivision, NC	Wayehutta, NC
Rock Creek, NC	Stumpy Point Comm., NC	Waynesville 2, Ltmb, NC
Rocky Mnt. Estates, NC	Sugar Cove, NC	Web Town, NC
Rose Creek, NC	Sugar Creek, NC	Wesser Creek, NC
Roseboro Ridge, NC	Sugar Loaf, NC	West Barkers Creek, NC
Roseborough, NC	Summit, NC ¹	West Wood, NC
Rough Branch, NC ¹	Sunburst, NC	White Oak Flats, NC
Round Hill, NC	Sutton Creek, NC	White Rock, NC
Round Hill Estates, NC	Swan Cabin, NC	Whiteoak Bottoms, NC
Round Mountain Estates, NC	Swansee Knob, NC	Whiterock Creek, NC
Roundhill, NC	Swiss Park, NC ²	Whiteside Cove, NC
Rowland Creek, NC	Table Rock, NC	Wiggins Creek, NC
S Mills River, NC	Tahala Shores, NC	Wilbar, Grindstone, NC
Salve, NC	Tallulah River, NC	Wild Acres, NC
Sams Gap, NC	Tanassee Gap, NC	Wild Cat Ridge, NC
Sandy Plains, NC ²	Tarheel, NC	Wildacres, NC
Saphire, NC	Tate City, NC	Wildcat, NC
Sapphire Lakes, NC	Tater Knob Subdivision, NC	Wildcat Cliffs, NC
Sassafras Gap, NC	Tellico, NC	Wildes Cove, NC
Saunook, NC	Temples Point Comm, NC	Wilkins Creek, NC
Saunooke Heights, NC ¹	Texana, NC	Willis Cove, NC
Saw Branch, NC	The Landings, NC	Willow Lakes, NC
Scaly Mtn., NC	The Springs, NC ¹	Wilson Creek, NC
Schnck Job Corp, NC	The Summit, NC ¹	Wilson Lick, NC
Scotsman Creek, NC	The Wilds, NC	Winding Gap, NC
Sean's Knoll, NC	Thumping Creek, NC	Winespring Bald, NC
Senairst Comm, NC	Thunder Hole, NC	Wisper Lake, NC
Seven Mile Ridge, NC	Thurmond, Hwy 21, NC	Wolf Creek Reservoir, NC
Sharkey Creek Comm., NC	Timber Lake Est., NC ²	Wolf Laurel, NC ¹
Shaver Road Comm., NC	Timber Ridge, NC	Woodesen Branch, NC
Shearer Creek, NC	Tipton Creek, NC	Woodlawn, NC
Sheepback Mtn., NC	Todd, NC	Yellow Mountain Subdivision, NC
Shelton Branch, NC	Tot Hill Farm, NC	Younce Creek, NC
Shelton Laurel, NC	Town Branch, NC	Young's Mtn, NC ¹
Shoal Creek, NC	Toxaway Mtn., NC	
Shootout Mtn., NC	Traphill, Greenstone, NC	4-Winds, ND
Shope Cr., NC	Trent Rd, NC	Belcourt, ND
Shortoff, NC	Trillium, NC	Cannon Ball, ND
Shut-In, NC	Trimont Estates, NC	Crow Hill, ND
Shutin Road, NC	Trust, NC	Dunseith, ND
Silver Run, NC	Tucker Creek, NC	Fort Yates, ND
Silver Slip Falls, NC	Turkey Branch, NC	Four Bears, ND
Silvermine, NC	Turkey Creek, NC	Ft. Totten, ND
Silverstein, NC	Turkey Mtn., NC	Mandaree, ND
Skeenah, NC	Turkey Pen, NC	Porcupine, ND
Sky Valley, NC	Turtle Pond, NC	St. John, ND
Sleepy Valley, NC	Tusquittee Landing, NC	St. Michael, ND
Slick Fisher Road, NC	Tusquittee Laurel, NC	Tokio, ND
Slickens Creek, NC	Twin Creek Estates, NC	Twin Butte, ND
Smith Branch, NC	Umstead, NC ¹	White Shield, ND
Smokey Falls, NC	Upper Burningtown, NC	
Smr Hunt Club, NC	Upper Nantahala Gorge, NC	Agate, NE
Soco Acres, NC	Upper Shutin, NC	Alma, NE ²
Sols Creek, NC	Upper Silvermine, NC	Andrews, NE
South Hominy, NC	Upton, NC	Beatrice, NE
South Mills, NC	Uwharrie, NC	Belmont, NE
South Shoal Creek, NC	Varner Estates, NC ¹	Bignell, NE ²
Spillcorn, NC	Village Of Flat Rock, NC	Blair, NE
Spring Creek, NC ¹	Vineyard, NC	Bodarc, NE
Spring Forest, NC	V-Z Top, NC	Bordeaux, NE ²
Spring Lake, NC ^{1, 2}	Wade Hampton, NC	Burge, NE
Stack House, NC	Wadeville, NC	Chadron, NE ¹
Stackhouse, NC	Walking Stick, NC	Cody, NE
Stamey Cove, NC	Wallace Branch, NC	Conterra, NE
Standhill Mtn, NC	Walnut, NC	Costin, NE
Staus Park, NC	Walnut Cove Farms, NC	Crawford, NE
Stephens Branch, NC	Walnut Ridge, NC	Desoto, NE
Stephenson Br., NC	Watauga, NC	Doughboy, NE
Stewart Cabin, NC	Waterfall Love Estates, NC	Dunning, NE
Stone Creek Crossing, NC	Waterford Place, NC	Eldorado, NE ²
Stone Hedge, NC ¹	Waterville, NC	Ft. Calhoun, NE
Stoney Fork, NC	Watia, NC	Gering, NE ¹
Stoney Spur, NC	Waucheeha Bald, NC	Glen, NE
	Waves, NC	Glenover, NE
		Haig, NE

Halsey, NE	Brick, NJ	Rio San Jose/Acoma, NM
Harrison, NE	Colts Neck, NJ ²	Rio San Jose/Laguna, NM
Hoag, NE	Dennis, NJ	Ruidoso, NM ¹
Hubbard Corner, NE	Eagleswood, NJ ²	San Felipe Pueblo, NM
James, NE	Egg Harbor Twp, NJ ²	San Ildefonso Pueblo, NM ¹
Joder, NE	Freehold, NJ ²	San Juan Pueblo, NM ¹
Kennedy, NE ¹	Galloway, NJ ²	Sandia Pueblo, NM ¹
Kilgore, NE	Hamilton, NJ ²	Santa Ana Pueblo, NM ¹
Long Pine, NE	Hardwick, NJ	Santa Clara, NM ¹
Macy, NE	Hardyston, NJ	Santa Fe Watershed, NM ¹
Macy, NE ¹	Howell, NJ ²	Santo Domingo Pueblo, NM
Marsland, NE	Jackson, NJ ²	Silver City Area, NM ¹
McGrew, NE	Jefferson, NJ ²	Tamaya, NM
Melbeta, NE	Knowlton, NJ	Taos Canyon/Shadybrook, NM ¹
Mintle, NE	Lacey, NJ	Taos Pueblo, NM ¹
Montrose, NE	Lakehurst, NJ ²	Tesuque Pueblo, NM
Naponee, NE ²	Little Egg Harbor, NJ ²	Three Rivers, NM
Nashville, NE	Lower, NJ	Toadlena, NM ¹
Natick, NE	Manchester, NJ ²	Vanderwagon, NM
Nenzel, NE	Marlboro, NJ ²	White Tail, NM
Niobrara, NE	Middle, NJ	Whitetail, NM
Norden, NE	Montague, NJ	Zia Pueblo, NM
Orella, NE	Pemberton, NJ ²	Zuni, NM ¹
Orleans, NE ²	Plumstead, NJ ²	
Pine Ridge, NE ¹	Port Republic City, NJ	Adobe Heights, NV
Ponca, NE	Rockaway, NJ ²	Adobe Ranchos, NV
Rackett, Mumper, NE	Sandyston, NJ	Alamo, NV
Republican City, NE ²	Stafford, NJ	Alpine View, NV
Riford, NE	Stillwater, NJ	Altamira Farms, NV
Santee, NE	Tinton Falls, NJ ²	Amargosa, NV
Santee, NE ¹	Upper, NJ	Antelope Valley, NV
Scottsbluff, NE	Vernon, NJ	Arden, NV
Simeon, NE	Wall, NJ ²	Ash Springs, NV
South Bayard, NE	Walpack, NJ	Austin, NV ¹
Sparks, NE	Wantage, NJ	Baker, NV
Stockham, NE ²	Warwick, NJ	Battle Mtn, NV ¹
Story, NE	Washington, NJ ²	Bean Flat, NV
Thatcher, NE	Woodbine, NJ	Beatty, NV
Thedford, NE	Woodland, NJ ²	Belmont, NV
Thomas, NE		Beowawe, NV ¹
Tiny Town, NE	Angel Fire/Black Lake, NM ¹	Black Mountain, NV
Valentine, NE ¹	Candy Kitchen, NM	Blue Diamond, NV
Verdel, NE	Capitan/Lincoln, NM ¹	Bodie Flats, NV
	Carrizo, NM ¹	Boulder City, NV
Amherst, NH ²	Catron County, NM ¹	Bunkerville, NV ¹
Bartlett, NH	Cloudcroft, NM ¹	Cactus Springs, NV
Bedford, NH ²	Cochiti Pueblo, NM ¹	Caliente, NV
Campton, NH	Crystal, NM	Calnevari, NV
Chatham, NH	Dulce, NM ¹	Carico Valley, NV
Conway, NH	East Mountains, NM ¹	Carlin, NV
Cornish, NH ¹	Elk, NM	Carson City, NV ¹
Dunbarton, NH ²	Espanola Bosque, NM ¹	Carvers, NV
Fracestown, NH ²	Fort Wingate, NM	Charleston, NV
Hopkinton, NH ²	Gallinas Watershed, NM ¹	Cherry Creek, NV ¹
Jefferson, NH	Isleta Pueblo, NM ¹	China Springs, NV
Lincoln, NH	Jemez Pueblo, NM ¹	City Of Fallon, NV
Lyndeborough, NH ²	Jemez/La Cueva, NM ¹	Clear Creek, NV
Madison, NH	Los Alamos, NM ¹	Clover Valley, NV
New Boston, NH ²	Manuelito, NM	Cold Creek, NV
Ossipee, NH	Manzano Mountains, NM ¹	Cold Springs, NV ¹
Plymouth, NH	Mayhill/Timberon, NM ¹	Contact, NV
Randolph, NH ¹	Mescalero, NM ¹	Cottonwood Cove, NV
Rumney, NH	Middle Rio Grande Bosque, NM	Crescent Valley, NV ¹
Salisbury, NH ²	Mora County, NM ¹	Crystal Bay, NV
Sandwich, NH	Moreno Valley, NM ¹	Currie, NV ¹
Tamworth, NH	Mount Taylor Game Ranch, NM ¹	Dayton, NV
Thornton, NH	Mt. Taylor Game Ranch, NM	Deeth/Starr Valley, NV
Weare, NH ²	Nambe Pueblo, NM	Denio, NV
Webster, NH ²	No. Rio Arriba, NM	Denio Junction, NV
Woodstock, NH	Paguate, NM ¹	Desert Creek Development, NV
	Pecos, NM ¹	Diamond Valley, NV
Absecon, NJ ²	Pescado, NM ¹	Double Springs, NV
Barnegat, NJ	Picuris Pueblo, NM ¹	Dresslerville, NV
Bass River, NJ ^{1, 2}	Pine Haven, NM ¹	Dunphy, NV
Bernards, NJ	Pine Hill, NM	Dyer/Fish Lake Valley, NV
Bernardsville, NJ	Pojoaque Pueblo, NM	Eagle Valley, NV
Blairstown, NJ	Red River, NM ¹	Eastern Washoe Valley, NV ¹

Eastgate, NV
 Elburz, NV
 Elko, NV
 Ely, NV ¹
 Empire-Gerlach, NV
 Eureka, NV
 Fallon Naval Base, NV
 Fallon Outskirts, NV
 Fallon Reservation, NV
 Fernely, NV
 Fish Springs, NV
 Fort Churchill, NV
 Fort McDermitt, NV
 Fredricksberg, NV
 Gabbs, NV
 Galena, NV ¹
 Gardnerville, NV
 Genoa, NV ¹
 Gerlach, NV
 Gilman Springs, NV
 Glenbrook, NV
 Glendale, NV
 Golconda, NV
 Gold Creek, NV
 Gold Hill, NV ¹
 Gold Point, NV
 Golden Valley, NV
 Goldfield, NV
 Good Springs, NV
 Goose Creek/East of Jackpot, NV
 Goshute, NV
 Grass Valley, NV ¹
 Grass Valley/Gund Ranch, NV
 Great Basin Nat'l Park, NV
 Hawthorne, NV
 Henderson, NV
 Hidden Valley/Coal Mine Canyon, NV
 Hiko, NV
 Hilltop, NV
 Holbrook Junction, NV ¹
 Horizon Hills/Anderson Acres, NV ¹
 Humboldt Ranchettes, NV
 I-80 Corridor West, NV
 Imlay-Humboldt, NV
 Incline Village, NV ¹
 Independence Valley, NV
 Indian Springs, NV
 Ione, NV
 Jackpot, NV
 Jacks Valley/Indian Hills, NV ¹
 Jarbidge, NV ¹
 Jean, NV
 Jiggs/Smith Creek, NV ¹
 Johnson Lane, NV
 Kings River, NV
 Kingsbury, NV
 Kingston Canyon, NV ¹
 Lackawana, NV
 Lake Tahoe Hwy 50 Corridor, NV
 Lamoille, NV
 Las Vegas, NV
 Las Vegas Paiute Reservation, NV
 Laughlin, NV
 Lee, NV
 Lemon Valley, NV
 Leviathan, NV
 Lida, NV
 Lockwood, NV
 Logandale, NV
 Lovelock, NV
 Lucky Nugget I & II, NV
 Lund, NV
 Luning, NV
 Maggie Summit Road, NV
 Manhattan, NV
 Marietta, NV

Mark Twain, NV
 Mason Valley, NV
 McDermitt, NV
 McGill, NV
 Mesquite, NV
 Midas, NV ¹
 Middlegate, NV
 Mill City, NV
 Mina, NV
 Minden, NV
 Minerva/Shoshone, NV
 Moapa, NV
 Moapa Paiute Reservation, NV
 Montello, NV
 Montgomery Pass, NV
 Moundhouse, NV
 Mount Rose Corridor, NV
 Mountain City, NV ¹
 Mt. Charleston/Kyle Canyon, NV ¹
 Mt. Charleston/Lee Canyon, NV ¹
 Mt. Springs, NV
 Mt. Wilson, NV ¹
 Nelson Landing, NV
 Nightingale, NV
 Nixon, NV
 North Foothill Rd Corridor, NV
 North Las Vegas, NV
 Northfork, NV
 Oasis, NV
 Odger's Ranch Indian Reservation, NV ¹
 O'Neil Basin, NV
 Oreana-Rochester, NV
 Orovida, NV
 Osino, NV
 Overton, NV
 Owyaae, NV
 Owyhee, NV
 Pahump, NV
 Palisade, NV
 Palomino Valley, NV
 Panaca, NV
 Paradise Ranchos, NV
 Paradise Valley, NV ¹
 Pilot Valley, NV
 Pine Valley, NV
 Pioche, NV
 Pioneer Pass, NV
 Pleasant Valley, NV
 Preston, NV
 Primm, NV
 Quinn River, NV
 Rancho Haven, NV
 Red Rock, NV
 Reese River Valley, NV
 Reno-Northwest, NV
 Reno-Southeast, NV
 Reno-Southwest, NV
 Round Mountain, NV
 Ruby Lake Estates, NV
 Ruby Valley, NV
 Ruhenstroth, NV
 Ruth, NV
 Rye Patch, NV
 Ryndon, NV
 Sand Harbor, NV
 Sandy Valley, NV
 Schurz, NV
 Searchlight, NV
 Shanty Town, NV
 Sheridan Acres, NV
 Silver City, NV
 Silver Peak, NV
 Silver Springs, NV
 Six Mile Canyon, NV
 Sloan, NV
 Smith Valley, NV

Smokey Valley, NV
 South Lake Tahoe, NV
 Spanish Springs, NV
 Sparks-Northeast, NV
 Spooner State Park, NV
 Spring Creek, NV ¹
 Stagecoach, NV
 Stead, NV
 Steamboat, NV
 Stewart, NV
 Strawberry, NV
 Summit Lake, NV
 Sun Valley, NV
 Sutcliffe, NV
 Sweetwater Summit Development, NV
 Ten Mile, NV
 Tenabo, NV
 Tonopah, NV
 Topaz Lake, NV
 Topaz Ranch Estates, NV
 Trout Canyon, NV ¹
 Tuscara, NV ¹
 Unionville, NV
 Valmy, NV
 Verdi, NV ¹
 Virginia City, NV ¹
 Virginia City Highlands, NV ¹
 Wabuska, NV
 Wadsworth, NV
 Walker Lake, NV
 Warm Springs Valley, NV
 Washoe City, NV
 Wells, NV
 West Wendover, NV
 Western Washoe Valley, NV
 Wildhorse Estates, NV
 Winnemucca, NV
 Yerington, NV
 Yomba, NV ¹
 Yomba Reservation, NV
 Alabama, NY
 Amagansett, NY ¹
 Antwerp, NY ²
 Atlantique, NY ¹
 Barneveld, NY ²
 Bemis Heights, NY
 Bennetsburg, NY
 Big Flats, NY ²
 Brant, NY
 Breezy Point, NY ^{1,2}
 Brookhaven, NY ¹
 Cardiff, NY
 Carrollton, NY
 Central Valley, NY ²
 Cold Spring, NY
 Cornwall, NY ²
 Cuba, NY
 Davis Park, NY ¹
 Deferiet, NY ²
 Dune Woods, NY ¹
 East Galway, NY ²
 Evans Mills, NY ²
 F. Bennett Field, NY ^{1,2}
 Fair Harbor, NY ¹
 Farnham, NY
 Felts Mills, NY ²
 Fort Montgomery, NY ²
 Fort Tilden, NY ^{1,2}
 Fowler, NY ²
 Ft. Hamilton, NY ^{1,2}
 Ft. Wadsworth, NY ^{1,2}
 Gowanda, NY
 Great Bend, NY ²
 Great Kills, NY ^{1,2}
 Greenwood, NY
 Griffins Corners, NY

Gwills Corners, NY
 Halsey Corners, NY
 Harrisville, NY ²
 Hector, NY
 Highbanks, NY
 Highland Falls, NY ²
 Huntington, NY ¹
 Hyde Park, NY
 Irvine Mills, NY
 Irving, NY
 Jimersontown, NY
 Kill Buck, NY
 Kismet, NY ¹
 Lawtons, NY
 Lido Beach, NY ¹
 Limestone, NY
 Logan, NY
 Mastic, NY ¹
 Model City, NY
 Montauk, NY ²
 Munson Corners, NY
 Natural Bridge, NY ²
 Nedrow, NY
 Newtown, NY
 Niagara Falls, NY ²
 Niskayuna, NY ²
 Ocean Bay Park, NY ¹
 Ocean Beach, NY ¹
 Oyster Bay, NY ¹
 Pawling, NY
 Perrysburg, NY
 Philadelphia, NY ²
 Plumb Beach, NY ^{1,2}
 Point O Woods, NY ¹
 Poughquag, NY
 Quaker Springs, NY
 Queens, NY ²
 Red House, NY
 Remsen, NY ²
 Reynoldsville, NY
 Ridge, NY ^{1,2}
 Rock City Falls, NY ²
 Sag Harbor, NY ¹
 Salamanca, NY
 Saltaire, NY ¹
 Savannah, NY
 Sayville, NY ¹
 Searsburg, NY
 Seaview, NY ¹
 Sentinel Heights, NY
 South Galway Corner, NY ²
 South Vandallia, NY
 Steamburg, NY
 Tyre, NY
 Vandallia, NY
 Versailles, NY
 Water Island, NY ¹
 West Corners, NY ²
 West Milton, NY ²
 Wocottsville, NY

Aid Twp., OH
 Bearfield Twp., OH
 Benton Twp., OH
 Bethel Twp., OH
 Bloom Twp., OH
 Buchtel, OH
 Carbon Hill, OH
 Center Twp., OH
 Coal Twp., OH
 Decatur, OH
 Dover Twp., OH
 Elizabeth, OH
 Fairfield Twp., OH
 Falls Gore Twp., OH
 Grandview Twp., OH
 Green Twp., OH

Greenfield Twp., OH
 Independence Twp., OH
 Jackson Twp., OH
 Jefferson Twp., OH
 Lawrence Twp., OH
 Lee Twp., OH
 Liberty Twp., OH
 Ludlow Twp., OH
 Madison Twp., OH
 Mason Twp., OH
 Monday Twp., OH
 Monroe Twp., OH
 Nelsonville, OH
 New Straitsville, OH
 Newport Twp., OH
 Perry Twp., OH
 Pleasant Twp., OH
 Salt Lick Twp., OH
 Shawnee, OH
 Starr Twp., OH
 Swan Twp., OH
 Symmes Twp., OH
 Trimble Twp., OH
 Union Twp., OH
 Upper Twp., OH
 Vernon Twp., OH
 Walnut Twp., OH
 Ward Twp., OH
 Washington Twp., OH
 Wayne Twp., OH
 Windsor Twp., OH
 York Twp., OH
 Achille, OK ¹
 Ada, OK ¹
 Akins, OK
 Albion, OK
 Alden, OK
 Alex, OK
 Anadarko/Riverside, OK ¹
 Antlers, OK ¹
 Apache, OK
 Apache, OK ¹
 Arapaho, OK ¹
 Arcadia, OK ^{1,2}
 Ardmore, OK ¹
 Arrowhead Estates, OK ²
 Barber, OK
 Barnsdall, OK
 Battiest, OK
 Bee/Butcher Pen, OK ²
 Bell, OK
 Belvin, OK ¹
 Bengal, OK
 Berryhill, OK ^{1,2}
 Bethel, OK ¹
 Big Cedar, OK ¹
 Binger, OK ¹
 Blackgum Mountain, OK ²
 Blanchard, OK ¹
 Bluff, OK
 Bokhoma, OK ¹
 Bokushe, OK
 Boley, OK ¹
 Boswell, OK ¹
 Boulanger, OK ²
 Bowlegs, OK ¹
 Bowring, OK ²
 Brent, OK ²
 Briartown, OK
 Bristow, OK ¹
 Bristow Point Property, OK ²
 Broken Bow, OK ¹
 Bromide, OK ¹
 Brooken, OK ²
 Brooksville, OK
 Brushy Mountain, OK ²

Brushy Ridge, OK
 Buckhorn, OK ²
 Buffalo, OK ¹
 Buffalo Valley, OK
 Bug Tussle, OK ²
 Buncombe Creek, OK ²
 Cabin Creek, OK ²
 Cache, OK ²
 Cairo, OK
 Calumet, OK
 Canadian, OK ²
 Canadian Shores, OK ²
 Caney/Soldier Creek, OK ²
 Canton, OK ¹
 Cardin, OK ¹
 Cardinal Cove, OK ²
 Carnegie, OK
 Carnegie, OK ¹
 Carters Corner, OK
 Cartwright, OK ²
 Castle, OK
 Catoosa, OK ^{1,2}
 Cedar Blue, OK
 Cement, OK ¹
 Center, OK
 Centerpoint, OK ¹
 Chattanooga, OK ¹
 Cherokee, OK ^{1,2}
 Cherokee Landing, OK ²
 Chicken Creek, OK ²
 Chili Flats, OK
 Chilocco, OK ¹
 Chiloch, OK
 Choleta, OK
 Clinton, OK ¹
 Cold Springs, OK ²
 Colony, OK ¹
 Comanche, OK ¹
 Commerce, OK
 Concho, OK ¹
 Connerville, OK ¹
 Cookson, OK ^{1,2}
 Cooperton, OK ¹
 Copan, OK ²
 Corrine, OK
 Corum, OK ²
 Cove Acres, OK ²
 Coweta, OK ¹
 Cowlington, OK ²
 Crawford, OK ¹
 Criner Hills, OK
 Cromwell, OK
 Crow Roost, OK ²
 Crowder, OK ²
 Cyril, OK ¹
 Dahlongah, OK
 Darwin, OK
 Davis, OK
 Delaware, OK ^{1,2}
 Devol, OK
 Dewey, OK
 Dixon, OK
 Dougherty, OK ^{1,2}
 Drumright, OK
 Dunbar, OK
 Duncan, OK ¹
 Durham, OK
 Dustin, OK
 Eagle City, OK
 Eagletown, OK ¹
 Earlsboro, OK
 Echota, OK
 Edgewater Park, OK
 Edmond, OK ^{1,2}
 Elm Point, OK ²
 Elohim City, OK

Enos, OK ²	Hominy Indian Village, OK ¹	Moffett, OK ²
Enville, OK ²	Honobia, OK	Moon/Amerca, OK
Eufaula, OK ¹	Hugo, OK	Morgan's Corner, OK ²
Fair Oaks, OK ¹	Hulah, OK ^{1 2}	Mountain View, OK ²
Fairfax, OK	Hulen, OK	Mt Herman, OK ¹
Falconhead, OK ²	Hunting Areas, OK	Muldrow, OK ¹
Fallis, OK	Idabel, OK ¹	Muse, OK ¹
Fame, OK ²	Ind. Elderly Housing/Durant, OK	Muskogee, OK ¹
Farmers Hill, OK	Ind. Elderly Housing/Hugo, OK	Nani-Chfto, OK
Faxon, OK ¹	Ind. Elderly Housing/Idabell, OK	Ne Lincoln County, OK
Felt, OK	Ind. Elderly Housing/Talihina, OK ¹	Nelagoney, OK
Finley, OK	Independent Elderly Housing Durant, OK	Nescatunga, OK
Fittstown, OK	Independent Elderly Housing Hugo, OK	New Alluwe, OK ^{1, 2}
Fitzhugh, OK ¹	Independent Elderly Housing Idabell, OK	New Prue, OK ¹
Five Lakes, OK	Independent Elderly Housing Talihina, OK ¹	Newcastle, OK ¹
Flat Rock, OK ²	Indiahoma, OK ²	Nicut, OK
Fletcher, OK ¹	Indianola, OK ²	Norman, OK ²
Fly Inn Resort II, OK ²	Iowa Tribal Complex, OK	North Shore, OK ²
Fort Cobb, OK ¹	Jay, OK ¹	Nowata, OK ²
Fort Coffee, OK ²	Jet, OK	Oakridge, OK
Fort Gibson, OK ²	Jimtown, OK	Oaks, OK ¹
Fort Sill, OK ²	Jones Academey, OK ¹	Octavia, OK ¹
Fort Washita, OK ²	Jones Academy, OK ¹	Oilton, OK ¹
Foss, OK ^{1 2}	Kansas, OK ¹	Okay, OK ²
Foss Lake, OK ^{1, 2}	Kent, OK	Okemah, OK ¹
Fox/Graham, OK	Kenwood, OK ¹	Oklmulgee, OK ¹
Geary, OK ¹	Keota, OK ^{1 2}	Onapa, OK ¹
Gerty, OK ¹	Keys, OK ²	Oolagah, OK ^{1 thnsp:2}
Glover, OK	Keystone, OK ^{1 2}	Orchard Hill, OK
Goddard, OK	Keystone State Park, OK ^{1 2}	Osage, OK ^{1 thnsp:2}
Golden, OK	Kiamichi Wilderness, OK ¹	Otoe, OK
Goldsby, OK	Kiefer, OK	Paden, OK
Goodwater, OK	Kingston, OK ¹	Page, OK
Gooseneck Bend, OK ²	Konawa, OK ¹	Paradise Hill, OK ²
Gore, OK	Kosoma, OK	Paradise Point, OK ²
Gotebo, OK ¹	Lakeside Village, OK	Paradise Valley, OK
Gowen, OK	Lakewood Ranchetts, OK ²	Pawhuska, OK ¹
Gracemont, OK ¹	Lamar, OK ¹	Pawhuska, OK ¹
Grainola, OK ¹	Latham-Dog Creek, OK ¹	Pawhuska Indian Village, OK ¹
Granite, OK ^{1, 2}	Lawrence Creek, OK ²	Pawnee, OK ¹
Grayhorse Indian Village, OK ¹	Lawton, OK ¹	Pennisula, OK ²
Grayhorse Village, OK ¹	Lebanon, OK ²	Peoria #1, OK ¹
Grayson, OK	Lee Creek, OK	Pettit Bay, OK ²
Greasy, OK	Leflore, OK ²	Picher, OK
Green Acres, OK ²	Leisure Land, OK ²	Pickens, OK
Greenfield, OK ¹	Lennox, OK ¹	Pickett Center, OK
Guy Sandy, OK ¹	Leon, OK ^{1 2}	Pierce, OK ²
Haileyville, OK ¹	Lequire, OK	Pine Creek, OK ²
Hanna, OK	Lewisville, OK	Pink, OK
Hardesty, OK ¹	Little Axe, OK ²	Plainview, OK
Harrah, OK ¹	Little Chief, OK	Pleasant Grove, OK
Harris, OK	Loco, OK	Pleasant Hill, OK
Hartshorne, OK ¹	Longdale, OK	Plunketville, OK
Hastings, OK ^{1 2}	Longdale, OK ¹	Pocasset, OK
Hauana Creek, OK ²	Lookeba, OK ¹	Ponca City, OK ¹
Haw Creek, OK ¹	Lotawatah, OK ²	Porter Hill, OK
Haworth, OK ¹	Lula, OK	Porum, OK ¹
Haywood, OK ²	Macomb, OK ¹	Porum Landing, OK ²
Healdton, OK ¹	Mangum, OK ^{1 2}	Prague, OK
Heavener, OK ²	Mannford, OK ^{1 2}	Pumpkin Center, OK ²
Hectoville, OK	Mannsville, OK	Quapaw, OK ¹
Henryetta, OK ¹	Maramec, OK ¹	Quartz Mountain, OK ²
Herd, OK ²	Marble City, OK	Quay, OK ¹
Hickory, OK	Marietta, OK ¹	Quinton, OK
Higgins, OK	Marland, OK	Ralston, OK ¹
High Hill, OK	Marlow, OK ¹	Randlett, OK ¹
Highway #9, OK ²	Mcalester, OK	Rattan, OK ^{1 2}
Highway 48 Bethel, OK	McBride, OK ²	Ravia, OK ²
Hitchcock, OK ¹	McComb, OK	Reagan, OK
Hitchita, OK ¹	Mclaughlin Creek, OK ²	Red Rock, OK
Hobart, OK ¹	Medicine Park, OK ¹	Redland, OK
Hodgen, OK ¹	Meers, OK	Reichert, OK
Hoffman, OK ²	Messer, OK ²	Ripley, OK ¹
Holdenville, OK	Miami, OK ¹	Rock Creek, OK
Holly Creek-Oak Hill, OK	Mill Creek, OK ¹	Roll, OK
Hominy, OK ¹	Millerton, OK ¹	Roman Nose Park, OK

Rufe, OK	Webbers Falls, OK ^{1,2}	Cascade Locks, OR
Sac & Fox Tribal Complex, OK	Weleetka, OK	Cayuse, OR
Saddle Mountain, OK ¹	West Bryan County, OK ²	Cedarhurst Park, OR
Salina, OK ^{1,2}	West End, OK	Charleston, OR
Sallisaw, OK ¹	Westport, OK ²	Chemult, OR
Sasakwa, OK ¹	Wetumka, OK	Chenoweth, OR
Savanna, OK ²	Wewoka, OK	Cherry Grove, OR
Sawyer, OK ²	White Eagle, OK ¹	Cherry Heights, OR
Schulter, OK ¹	Whitefield, OK ¹	Chiloquin, OR ¹
Sedan, OK	Whitehorn, OK ²	Christmas Valley, OR
Seiling, OK	Whitesboro, OK ¹	Clarno, OR
Seiling, OK ¹	Wichita Mountain Estates, OK	Clear Lake Resort, OR
Seminole, OK ¹	Wilburton, OK	Cloverdale, OR
Sequoyah Bay State Park, OK ²	Willis Powell, OK ²	Coburg, OR ¹
Shady Grove, OK ²	Wilson, OK ¹	Colestine, OR
Shamrock, OK ¹	Wister, OK ^{1,2}	Colton, OR
Shawnee, OK ¹	Wright City, OK ¹	Coos Bay, OR
Sherwood, OK ¹	Wyandotte, OK ¹	Cornucopia, OR
Shinewell, OK	Wynona, OK ¹	Cottrell, OR
Silo, OK ¹	Yale, OK ¹	County Line, OR ¹
Silver City, OK ²	Yanush, OK ²	Cove, OR
Skedee, OK ¹	Yeager, OK ¹	Crane, OR
Smithville, OK ¹	Yonkers, OK ¹	Crater Lake, OR ¹
Soper, OK ¹	Zafra, OK	Crescent, OR
Southside, OK	Zink, OK ²	Crescent Lake, OR
Sparrow Hawk, OK	Adel, OR ¹	Crooked River Ranch, OR
Spencerville, OK ²	Adrian, OR	Crowfoot, OR ¹
Stapp Zoe & Ouachita, OK	Agness, OR ¹	Culver, OR
Sterling, OK ¹	Alder, OR	Curtin, OR
Stigler, OK ¹	Alsea, OR	Cutsforth Park, OR
Stone Bluff, OK	Andrews, OR	Dairy, OR
Stonewall, OK ¹	Antelop Creek, OR	Danner, OR
Strang Community, OK ^{1,2}	Antelope, OR	Dawson, OR
Stratford, OK	Anthony Lakes Resort, OR	Days Creek, OR
Stroud, OK	Applegate, OR ¹	Dayville, OR
Summerfield, OK	Arock, OR	Dee, OR
Swan Lake, OK ²	Ash Valley, OR	Depoe Bay, OR
Tablerville, OK	Ashland, OR ¹	Detroit, OR
Tahlequah, OK ¹	Ashwood, OR	Dexter, OR ¹
Talala, OK ²	Austin, OR	Diamond, OR
Talihina, OK ¹	Azalea, OR ¹	Diamond Lake Composite, OR ¹
Tamaha, OK ²	Baker Valley, OR ¹	Diamond Lake Junction, OR
Taylor, OK	Bates, OR	Dickey Prairie, OR
Taylor's Ferry Area, OK ²	Bay City, OR	Dillard, OR
Tecumseh, OK	Bear Springs, OR	Dixonville, OR ¹
Tenkiller Lake, OK ²	Beatty, OR ¹	Dora, OR
Texoma, OK ²	Beaver, OR	Dorena, OR
Thackerville, OK ¹	Beaver Creek, OR	Drain, OR
The Point, OK	Beaver Marsh, OR	Drew's Gap, OR ¹
Thlopthlocco, OK ¹	Bend, OR ¹	Drewsey, OR
Thomas, OK ¹	Big Muddy Ranch, OR	Dry Creek, OR
Tiger Mtn, OK ¹	Black Butte, OR ¹	Dunes City, OR
Tishomingo, OK ¹	Blaine, OR	Durkee, OR
Tom, OK ¹	Blake's Addition, OR	Eagle Creek, OR
Tonkawa, OK	Blitzen, OR	East Metro, OR
Tri Community/Honey Hill, OK	Bly, OR ¹	Eden, OR
Tupelo, OK	Bly Mountain, OR	Elgin, OR
Tuskahoma, OK	Bohemia City, OR ¹	Elk City, OR
Tuttle, OK	Bonanza, OR ¹	Elk Creek, OR
Twin Oaks, OK ¹	Bonneville, OR	Elk Lake, OR
Valliant, OK	Bourne, OR	Elkton, OR
Vamoosa, OK	Breitenbush, OR	Elsie-Vinemapple, OR
Verden, OK	Bridge, OR	Estacada, OR
Vernon, OK	Brogan, OR	Fair Oaks, OR
Vian, OK ¹	Brookings, OR	Fairview, OR
Vining, OK	Brothers, OR	Falls City, OR
Vivian, OK ¹	Buell, OR	Fallsview, OR
Wagoner, OK ¹	Bull Run, OR	Fields, OR
Wainwright, OK ¹	Burns—Hines, OR	Firgrove, OR
Walnut Creek State Park, OK ²	Butte Falls, OR ¹	Florence, OR
Walters, OK ¹	Buxton, OR	Fort Clatsop, OR
Warner, OK ¹	Camas Valley, OR	Fort Hill, OR
Washita, OK	Camp Elkanah, OR	Fossil, OR ¹
Watonga, OK ¹	Camp Sherman, OR ¹	Freezeout Creek, OR
Watson, OK ¹	Canyon City, OR ¹	Frenchglen, OR
Webb City, OK	Canyonville, OR	Gales Creek, OR

Galice, OR ¹	Meacham Lake, OR	Seal Rock, OR
Gardiner, OR	Medford, OR	Seekseequa, OR
Gates, OR	Medical Springs, OR	Selma, OR
Gateway, OR	Merlin, OR ¹	Seneca, OR ¹
Gibbon, OR	Merrill, OR	Sf Lostine River Subdivision, OR
Gilchrist, OR	Metolius, OR	Shady Cove, OR
Glenbrook, OR	Midway, OR	Shady Pine, OR
Glendale, OR ¹	Mill City, OR	Sidwalter, OR
Glide, OR	Mill Creek, OR	Sidwalter Flats, OR ¹
Gold Beach, OR	Mission, OR	Silver Lake, OR ¹
Gold Hill, OR	Mission Highway Corridor, OR	Simmasho, OR
Government Camp, OR	Mitchell, OR	Siskeyville, OR
Grand Ronde Agency, OR	Molalla River, OR	Sisters-Cloverdale, OR ¹
Granite, OR	Monument, OR	Ski Run/Ski Run Road, OR ¹
Grants Pass, OR	Morgan Lake, OR	South Drews, OR ¹
Grass Valley, OR	Mosier/7mile Hill, OR	Sparta, OR ¹
Green Acres, OR	Mount Emily, OR	Spitzenberg, OR
Green Springs, OR	Mount Hood, OR	Sprague River Valley, OR
Greenhorn, OR	Mount Vernon, OR ¹	Spray, OR ¹
Halfway Valley, OR ¹	Mulino, OR	Springfield, OR
Hampton, OR	Murphy, OR	Springwater, OR
Harper, OR	Myrtle Creek, OR	Starkey, OR
Harriman, OR	Narrows, OR	Starkey Pnw Hqrs, OR ¹
Harrisburg, OR	Neskowin, OR	Steamboat, OR
Hebo, OR	New Idanha, OR	Stices Gulch, OR ¹
Hemlock, OR	New Pine Creek, OR	Stimson Mill, OR
Hilgard, OR	North Bend, OR	Summer Lake, OR
Hood River, OR	North Junction (Davidson), OR	Sumner, OR
Hoodland Corridor, OR	Oak Grove, OR	Sumpter City Of, OR ¹
Hurricane Grange, OR	Oak Springs, OR	Sumpter Valley, OR ¹
I-84 Corridor, OR	Oakland, OR	Sunny Valley, OR
Idanha, OR	Odell Lake, OR	Sunriver, OR
Idleyld Park, OR	Ontario Heights, OR ¹	Sutherlin, OR
Illinois Valley, OR	Oo (Double O), OR	Sweet Home East, OR
Imanaha River Woods, OR	Orchard View, OR	Sweet Home West, OR
Imnaha, OR	Oregon Caves, OR ¹	Swishhome, OR
Ironside, OR	Oretown, OR	Sycan Estates, OR
Jacksonville, OR	Pacific City, OR	Tadmor, OR
Jasper Point Resort, OR	Paisley, OR ¹	Taylorville/Sportsmans Paradise, OR
Jewell, OR	Palmer Junction, OR ¹	Tenmile, OR ¹
John Day, OR	Parkdale, OR ¹	Terrebonne, OR ¹
Jordan Valley, OR	Paulina, OR ¹	Thornhollow, OR
Juntura, OR	Penland Lake, OR ¹	Tidewater, OR
Kahneeta Hot Springs, OR	Pine Grove, OR	Tierra Del Mar, OR
Kah-Nee-Tah, OR	Pleasant Valley, OR	Tiller, OR ¹
Kamela, OR	Plush, OR	Timber Grove, OR
Keating, OR	Post, OR	Toketee, OR ¹
Keno, OR	Powder River, OR	Tollgate, OR ¹
Klamath Falls, OR ¹	Power City, OR	Trail, OR ¹
La Pine, OR ¹	Powers, OR	Tri City, OR
Lake Creek, OR ¹	Prairie City, OR ¹	Triangle Lake, OR
Lakeside, OR	Prairie Creek, OR	Trout Creek, OR
Lakeview Basin, OR ¹	Prineville, OR ¹	Twickenham, OR
Langlois, OR	Prospect, OR	Umatilla, OR
Lebanon, OR	Rattlesnake Estates, OR	Umpqua, OR
Lehman Springs, OR ¹	Redland, OR	Union, OR
Lemolo Lake Composite, OR ¹	Redmond, OR ¹	Union Creek, OR
Lincoln City, OR	Reedsport, OR	Union Gap, OR ¹
Little River, OR	Rice Hill, OR	Unity, OR
London Springs, OR	Richland, OR	Upper Applegate, OR ¹
Lookingglass, OR	Richmond, OR	Upper Mckenzie, OR
Lorane, OR	Riddle, OR	Upper Willamette, OR
Lostine, OR	Rockford, OR	Vale, OR ¹
Lower Columbia Gorge, OR	Rocky Point, OR	Valley Falls/Chandler, OR
Lower Mckenzie, OR	Rogue River, OR ¹	Viento, OR
Lower Willamette, OR	Rose Lodge, OR	Waldport, OR
Lyons, OR	Rosedale, OR	Wallowa Lake Basin, OR ¹
Madras, OR ¹	Rowena, OR	Walton, OR
Malin, OR	S.Fork Catherine Creek, OR	Wamic/Pinehollow/Sportsmans Park, OR ¹
Maple Grove, OR	Sams Valley, OR	Wapinitia, OR
Mapleton, OR	Sand Creek, OR	Warm Springs, OR ¹
Marcola, OR ¹	Sandlake, OR	Warrendale, OR
Marion Forks, OR	Saunders Lake, OR	West Valley, OR
Maupin, OR	Scappoose, OR	Weston Mountain, OR ¹
Mcdermitt, OR	Scotts Mills, OR	Westside, OR
Meacham, OR	Scottsburg, OR	Wilderville, OR

Williams, OR	Cordesville, SC	Enemy Swim, SD ¹
Wimer, OR	Cross Keys, SC ¹	Englewood, SD ¹
Winchester Bay, OR	Feasterville, SC	Erskine, SD
Winema Beach, OR	Feasterville, SC	Eureka, SD
Winlock, OR	Francis Marion, SC	Evergreen, SD ¹
Winston, OR	Gadsen, SC ¹	Finley Heights, SD ¹
Wolf Creek, OR	Germantown, SC ¹	Finley Hgts, SD
Wolf Creek Jcc, OR	Grapevine, SC ¹	Fox Ridge, SD ¹
Woods, OR	Honeyhill, SC ¹	Ft Thompson, SD
Wyeth, OR	Houser House, SC ¹	Ft. Thompson, SD ¹
Yachats, OR	Huffman Hill, SC	Galena, SD
Yoncalla, OR	Huger, SC ¹	Georgetown, SD ¹
Bushkill, PA ¹	Ivester, SC ¹	Grass Mountain, SD ¹
Dingman Ferry, PA ¹	Jackson, SC ²	Grass Mtn, SD
Echo Lake, PA ¹	Jamestown, SC ¹	Green Grass, SD ¹
Lehman, PA ¹	Joanna, SC ¹	Hayward, SD ¹
Marklesburg, PA	Johnson, SC ¹	Heckula, SD ¹
Milford, PA ¹	K.M. State Park, SC	Hermosa, SD
Shawnee, PA ¹	King Mtn. St. Park, SC	Hill City, SD
	Leeds, SC	Hisega, SD ¹
Aguas Claras, PR ²	Love Valley, SC	Hot Springs, SD ¹
Amuelas, PR ²	Macedonia, SC	Iron Lighting, SD ¹
Arenale, PR	Martin, SC ²	Iron Lightning, SD
Benitez, PR	Mcbee, SC ¹	Johnson Siding, SD
Caimito, PR	Mcclellanville, SC	Kenel, SD ¹
Ceiba, PR ²	Middendorf, SC ¹	Keystone, SD ¹
Chalets De La Reina, PR ²	Mill Creek Subdivision, SC	Kyle, SD ¹
Coco, PR ²	N/A, SC ²	La Plant, SD ¹
Colinas Del Yunque, PR	New Ellenton, SC ²	Lake Traverse, SD ¹
Corozo, PR	New Pleasant, SC	Lakeside, SD ¹
Cubuy, PR	North Santee, SC	Lead, SD ¹
Culebra City, PR	Pine Mountain, SC	Little Eagle, SD ¹
Daguao, PR ²	Polley Cantey, SC	Long Hollow, SD ¹
Florida, PR	Renno, SC	Lower Brule, SD ¹
La Placita, PR	Rock House, SC ¹	Maitland, SD ¹
Las Marias, PR ²	Rock House Rd, SC ¹	Manderson, SD ¹
Las Palmas, PR	Savannah Lakes, SC ¹	Marksville, SD ¹
Lujan, PR ²	Sedalia, SC ¹	Marty, SD ¹
Maizales, PR	Senard, SC ¹	Maurice, SD ¹
Monte Santo, PR ²	Shulerville, SC ¹	Minnekahta, SD ¹
Morovis, PR	Snelling Fire Dept, SC ²	Nemo, SD ¹
Pastillito, PR ²	St. Stephens, SC ¹	New Effington, SD
Pole Ojea, PR	Tibwin, SC	Number Six, SD ¹
Potala Pastillo, PR ²	Wando, SC ¹	Oglala, SD ¹
Quebrada Grande, PR	White Oak/Fairview Community, SC ¹	On The Tree, SD ¹
Quebrada Seca, PR ²	Whitmire, SC	Parade, SD ¹
Rio Chiquito, PR	Williston Fire Dept, SC ²	Piedmont, SD
Sabana, PR	Yesebehena, SC	Pine Ridge, SD ¹
Sabana, PR ²		Pluma, SD
Sabana Llana, PR ²	Agency Village, SD ¹	Porcupine, SD ¹
Sandoval, PR	Allen, SD ¹	Potatoe Creek, SD ¹
Santa Maria, PR ²	Argyle, SD	Potatoe Crk, SD
Such Court, PR ²	Astria, SD	Pringle, SD ¹
Tintillo Gardens, PR ²	Bear Creek, SD ¹	Promise, SD ¹
Tintillo Hills, PR ²	Bear Soldier, SD ¹	Rapid City, SD
Vasquez, PR ²	Belle Fourche, SD	Red Iron, SD ¹
Victors Braeggars, PR ²	Big Bend, SD	Red Scaffold, SD ¹
Vieques City, PR ²	Big Coulee, SD ¹	Red Shirt, SD ¹
Villa Caparra, PR ²	Black Hawk, SD	Reva, SD ¹
	Blackfoot, SD ¹	Ridgeview, SD ¹
Deep Pond, RI	Boulder Park, SD	Rochford, SD
Indian Church, RI	Bowdle, SD	Rock Creek, SD ¹
Narragansett Boy's Club, RI	Bridger, SD ¹	Rockerville, SD
Narragansett Trailer Site, RI	Buffalo, SD	Rockyford, SD ¹
	Camp Crook, SD ¹	Rosebud, SD ¹
Angelus, SC ¹	Cascade Springs, SD ¹	Savoy, SD
Antioch, SC	Central City, SD	Sharp's Corner, SD
Awendaw, SC	Cherry Creek, SD ¹	Sharp's Corner, SD ¹
Bay Springs, SC ¹	Cheyenne Crossing, SD	Silver City, SD ¹
Beech Island, SC ²	Custer, SD ¹	Sinia, SD
Bethera, SC ¹	Custer Highlands, SD	Soldier Creek, SD ¹
Blair, SC	Deadwood, SD ¹	Soldier Crk, SD
Brasstown, SC ¹	Deerfield, SD ¹	Spearfish, SD
Buckhall, SC	Desmet, SD	Spring Creek, SD ¹
Campbells Crossroads, SC ¹	Dewey, SD	Spring Crk, SD
Cherokee Creek, SC	Doty, SD	St. Francis, SD ¹
Chesnee, SC	Elmore, SD	

Sturgis, SD ¹	Dennis Cove, TN	Laurel Grove, TN ²
Summit, SD ¹	Denton, TN	Laurel Valley, TN
Swiftbird, SD ¹	Denton Valley, TN	Laurels, TN
Takini, SD ¹	Doakes Creek, TN ²	Leipers Fork, TN
Tea, SD	Doeville, TN	Limestone Cove, TN
Thunder Butte, SD ¹	Dog Town, TN	Little Cove, TN
Tilford, SD ¹	Dogwood Farms, TN	Little Milligan, TN
Two Strike, SD ¹	Dogwood Shores, TN ²	Long Creek, TN
Virgil, SD ¹	Dry Run, TN	Love Station, TN
Wakpala, SD ¹	Dry Valley Rd, TN	Lower Smithfield Rd, TN
Wanblee, SD ¹	Duckett Ridge, TN	Luciuda, TN
West Brule, SD ¹	Earnestville, TN	Marbleton, TN
Whispering Pines, SD	East Norris Point Subdivision, TN ²	Maymead, TN
Whitehorse, SD ¹	Edgar Evins, TN ²	Mccall, TN
Whitewood, SD	Edwina, TN	Mcglamery's Stand, TN
Wold Creek, SD ¹	Eighth District, TN ²	Meadow Creek, TN
Wolf Creek, SD	Elizabethton, TN	Midtown, TN ²
Wounded Knee, SD ¹	Elk Mills, TN	Millers Landing Subdivision, TN ²
A E D C, TN ^{1, 2}	Embreeville, TN	Milligan College, TN
Adkins Rd, TN	Emmett, TN	Moon Light Bay, TN ²
Allardt, TN	English Mtn Area, TN	Mountain City, TN
Alticrest, TN	Erwin, TN	Mountain Harbor, TN ²
Avery Branch, TN	Erwin, Town of, TN	Mt. City, TN
Ballplay, TN	Fish Hatchery Rd, TN	Mtn Laurel Way, TN
Barr, TN	Fish Springs, TN	Mtn View Estates, TN ²
Bear Branch, TN	Flag Pond, TN	Natty Branch, TN
Benton Springs, TN ¹	Flat Hollow, TN ²	Natures Way, TN
Big Sandy, TN	Floating Mill, TN ²	Neva, TN
Biltmore, TN	Forge Creek, TN	Nix Lane, TN
Bitter End, TN	Four Seasons, TN ²	Norris Shores, TN ²
Blevins, TN	Friendsville Area, TN ²	Northshores Area (Loud), TN ²
Bliar, TN ²	Furnace Creek, TN	Ober Gatlinburg, TN
Bloomington, TN ²	Gap Creek, TN	Offset, TN
Bluebird Lane, TN	Gatlinburg, TN ¹	Old Bald River Rd, TN
Bluff Point Subdivision, TN ²	Gatlinburg City, TN	Old Doc Rodgers Rd, TN
Boogertown Rd, TN	Gentry Creek, TN	Old Furnace Rd, TN
Briceville, TN ²	Gordonsburg, TN	Old Lee Hwy, TN
Bridgeport, TN	Grassy Creek, TN ¹	Oliver Springs Area, TN ²
Brown Branch, TN	Grassy Fork, TN	Onedia, TN
Buck Mountain, TN	Grey Stone, TN	Open Lake, TN
Buladeen, TN	Half Moon, TN ²	Ovilla, TN
Bumpass Cove, TN	Half Moon Shores, TN ²	Pandora, TN
Bunton Town, TN	Hammon Chapel, TN	Parksville, TN ¹
Burbank, TN	Hampton, TN	Pasquo, TN
Butler, TN	Hampton Creek, TN	Pate's Ford, TN ²
Camp Creek, TN	Happy Hollow, TN	Payne Mtn Rd, TN
Cape Norris, TN ²	Happy Valley, TN	Pewitt, TN
Carter, TN	Harriman Area, TN ²	Pierce Town, TN
Cedar Creek, TN	Hartford, TN	Pilroe Town, TN
Cedar Hill Lane, TN	Heath, TN	Pittman Center, TN
Centerview, TN	Heaton Branch, TN	Poga, TN
Charity Hill, TN	Hickory Hollow Subdivision, TN	Point Harbour Subdivision, TN ²
Chartersville, TN	Hickory Star Resort, TN ²	Powder Branch, TN
Cherokee, TN	Hickory Tree, TN	Powell Valley Shores, TN ²
Chestoa, TN	Hidden Harbor, TN ²	Ptttman Center, TN
Chinquapin, TN	Hidden Hollow Way, TN	Puckett's Point, TN ²
Chisolm Lake, TN	Hillville, TN	Puckett's Point, TN ²
Clark Town, TN	Holder Cemetery Rd, TN	Rafter, TN
Cobbly Knob Village, TN	Holiday Haven, TN ²	Ragland Bottom, TN ²
Coconut Ridge, TN ²	Honeycreek, TN	Range, TN
Coffee Ridge, TN	Horse Shove, TN	Raven Branch, TN
Coker Creek, TN ¹	Houston Valley, TN	Rich Mtn, TN
Collinwood, TN	Hummingbird, TN	Rich Mtn Estates, TN
Conklin, TN	Hunter, TN	Rich Mtn., TN
Corn Creek, TN	Hurricane Bridge, TN ²	Ridgeview Point, TN
Cosby, TN	Indian Fork, TN ²	Ripshin, TN
Cove Creek, TN	Ironsburg, TN	Ritter Town, TN
Cove Hollow, TN ²	Jim Davis Rd, TN	Roan Creek, TN
Cove Mtn Ridge, TN	Johnson's Chapel, TN ²	Roan Mt., TN
Crabtree, TN	Jones Chapel, TN ²	Rockwood Area, TN ²
Crackers Neck, TN	Keensburg, TN	Rosedale, TN ²
Cumberland Gap Area, TN	Kelly Knob, TN	Round Knob, TN
Cumberland Mtn, TN	King Branch, TN	Sadie, TN
Cypress Inn, TN	Kingston Area, TN ²	Samburg, TN
Damascus, TN	Koko, TN	Scioto, TN ¹
Del Rio, TN	Laurel Bloomery, TN	Sequoyah Landing, TN ²

Setterberg Rd, TN
 Shady Valley, TN¹
 Shell Creek, TN
 Shelton Laurel, TN
 Shelton Mission, TN
 Shepp, TN
 Shingle Town, TN
 Shirley, TN¹
 Shultz Hollow, TN²
 Siam, TN
 Simerly Creek, TN
 Sims Hill, TN
 Sink Mt, TN¹
 Sizlar Rd, TN
 Sky Harbor, TN
 Sligo, TN²
 Slyco, TN¹
 Snugglers View, TN
 South Central, TN
 South Holston Lk, TN
 Springtown, TN
 Sugar Hollow, TN
 Sunny Hill, TN
 Sunnyside, TN
 Sutherland, TN¹
 Swan Seymour, TN²
 Sweetwater, TN
 Sylco, TN
 Tallassee Area, TN²
 Taylor Valley, TN
 Teaberry, TN
 Tellico Plains, TN
 Tellico Village, TN²
 Temple, TN
 Thompson Rd, TN
 Three Mountain, TN
 Tiger Creek, TN
 Tiger Creek, TN
 Tiger Valley, TN
 Tolley Town, TN
 Top-O-World, TN
 Townsend, TN
 Townsend Area, TN
 Trade, TN
 Tumbler Run, TN²
 Turkey Creek, TN
 Turkey Pin, TN
 Twin Cove Subdivision, TN²
 Unaka Springs, TN
 Unicoi, TN¹
 Upper Shell Creek, TN
 Upper Smithfield Rd, TN
 Valley Forge, TN
 Viking Mountain, TN
 Vowell Mtn, TN²
 Wa-Floy Retreat, TN
 Watauga, TN
 Water Street Rd, TN²
 Water Valley, TN
 Waterville, TN
 Wears Valley, TN
 Wears Valley (Blount), TN
 West Hills, TN²
 West Millers Cove, TN
 Whaley Town, TN
 White Rock, TN
 White Sand, TN
 Whitehead Hill, TN
 Wilber Dam, TN
 Wills, TN
 Windrock, TN²
 Winfield, TN
 Winner, TN
 Woodnote, TN
 177 Lake Estates, TX
 2604 Community, TX²
 Abilene, TX²
 Adell, TX²
 Aguilares, TX²
 Alabama-Coushatta Tribal Community, TX¹
 Alamo, TX
 Aledo, TX²
 Alice, TX²
 Alpine Fly In, TX
 Alton, TX
 Aransas Pass, TX²
 Arbors At Dogwood, TX^{1, 2}
 Arlington, TX²
 Armstrong, TX²
 Arrowhead, TX
 Aston Park, TX
 Auga Dulce, TX²
 Austwell, TX
 Azle, TX²
 Baileyboro, TX
 Banquete, TX²
 Bar K, TX¹
 Bayside, TX
 Bear Creek Est., TX
 Bedford, TX²
 Beechwood 1234, TX
 Beeville, TX²
 Ben Bolt, TX²
 Benavides, TX²
 Benbrook, TX²
 Bevil Oaks, TX
 Big Spring, TX²
 Big Thicket Lake Est., TX
 Bishop, TX²
 Bishop Hills, TX
 Blanca, TX²
 Blue Mound, TX²
 Boerne, TX^{1, 2}
 Borger, TX
 Brock, TX²
 Brook Wood, TX
 Brownsville, TX
 Brownwood, TX
 Bruni, TX²
 Buffalo Springs, TX²
 Bula, TX
 Bull Creek Hollow, TX
 Bulverde, TX²
 Butlers Point, TX
 Canadian, TX
 Canal City, TX
 Canutillo, TX²
 Canyon, TX
 Canyon Ridge Springs, TX¹
 Cape Malibu, TX
 Caps, TX²
 Cedar Lake, TX
 Cedar Ridge, TX^{1, 2}
 Central Community, TX²
 Chasewood Forest, TX
 Cherry Hollow Estates, TX¹
 China Grove, TX²
 Cibola, TX²
 Circle D, TX^{1, 2}
 Clear Water Cove, TX
 Coleman, TX²
 Colleyville, TX²
 Converse, TX²
 Cool, TX²
 Coppers Cove, TX²
 Corinthian Point, TX
 Cougar, TX
 Country Meadows, TX
 Country Wood, TX
 Crestwood, TX²
 Crowley, TX²
 Crystal Forest, TX
 Cut—N—Shoot, TX
 Dalhart, TX
 Dalrock, TX²
 Dalworthington Gardens, TX²
 Dardin Village, TX
 Deer Haven, TX
 Del Rio, TX²
 Dell City, TX
 Den Marina, TX
 Dennis, TX²
 Dent Subdivision, TX
 Dixie Lane, TX
 Dobbin, TX
 Dodge, TX
 Donna, TX
 Dove Creek, TX²
 Drake Estates, TX
 Drake Shores, TX
 Driscoll, TX²
 Dyess Afb, TX²
 Eagle Lake, TX
 Edcouch, TX
 Edgecliff Village, TX²
 El Camino Bay, TX
 El Cenico, TX²
 El Paso, TX²
 Eldorado, TX²
 Elgin, TX^{1, 2}
 Elkins Lake, TX
 Ellison Estates, TX
 Elmendorf, TX²
 Elsa, TX
 Encino, TX²
 Enochs, TX
 Eules, TX²
 Evergreen Forest, TX
 Evergreen Heights, TX
 Everman, TX²
 Fair Oaks Ranch, TX²
 Falfurrias, TX²
 Farmersville, TX²
 Flamingo Lake, TX
 Flour Bluff, TX²
 Flower Mound, TX²
 Forest Heights, TX
 Forest Hill, TX²
 Forest Trails, TX
 Forest Woods, TX
 Fort Worth, TX²
 Freer, TX²
 Frick, TX
 Frontier Lake, TX
 Frontier Park, TX
 Ft. Davis, TX
 Fulton, TX
 Garner, TX²
 Gatesville, TX²
 Gateway Meadows, TX
 George West, TX²
 Glen Cove, TX²
 Gordon, TX²
 Graford, TX²
 Grand Prairie, TX²
 Granger Lake, TX²
 Grape Creek, TX²
 Grapevine, TX²
 Green Acres, TX
 Green Belt Estates, TX
 Gregory, TX²
 Haltom City, TX²
 Harbor Grove, TX²
 Harker Heights, TX²
 Harlingen, TX
 Hartburg, TX
 Haslet, TX²
 Hebronville, TX²

Helotes, TX ²	Mcclean, TX	River Oaks, TX ²
Hickory Creek, TX ²	Mcdade, TX ¹ , thnsp:2	Riviera, TX
Hickory Hills, TX	Mcgee Landing, TX	Roanoke, TX ²
Hicks And Lollar, TX	Mckinney, TX ²	Robstown, TX ²
Hidalgo, TX	Mcrae Lake, TX	Rockport, TX
Hidden Acres, TX	Meadow Brook, TX	Rockwall, TX ²
Hidden Forest, TX	Mercedes, TX	Roma, TX
High River Ranch, TX ¹	Millsap, TX ²	Roman Hills, TX
Highland Village, TX ²	Mineral Wells, TX ²	Round Mountain, TX ¹
Holiday Beach, TX	Mingus, TX ²	Rowlett, TX ²
Holiday Harbor, TX ²	Minton, TX ²	Royal Forest, TX
Holly Bay, TX	Mirando City, TX ²	Saginaw, TX ²
Hooks, TX ²	Mission, TX	Salineno, TX
Hoop & Hooer, TX	Monte Alto, TX	San Angelo, TX ²
Hopewell Cemetery, TX ¹	Montgomery, TX	San Antonio, TX ²
Hostetter Creek, TX	Mount Pleasant, TX	San Diego, TX ²
Hudson Bend, TX	Mount Zion Acres, TX	San Isidiro, TX
Hudson Oaks, TX ²	Mountain Creek Estates, TX ¹	San Marcos, TX
Hunters Point, TX	Mountain River, TX ²	San Perlita, TX
Hunters Run, TX	Muleshoe, TX	Sandia, TX ²
Hurst, TX ²	Nameless Hollow, TX ¹	Sanford, TX
Idle Acres, TX	Nameless Valley Ranch, TX ¹	Sansom Park, TX ²
Indian Hills, TX ²	Needmore, TX	Santa Maria, TX
Indian Mounds, TX	New Waverly, TX	Santa Monica, TX
Indian Springs, TX	Newark, TX ²	Santa Rosa, TX
Ingleside, TX ²	Nolanville, TX ²	Santo, TX ²
Jamestown, TX	Norias, TX ²	Sarita, TX ²
Jennifer Lane Trailer Park, TX ¹	Normanna, TX ²	Seagoville, TX ²
Johnson City, TX	North Richland Hills, TX ²	Sebastian, TX
Keller, TX ²	Oak Valley, TX ²	Security Forest, TX
Kennedale, TX ²	Oakwood, TX	Selma, TX ²
Kerrick, TX	Oatmeal Community, TX ¹	Serenity Woods, TX
Kerrville, TX ¹	Odem, TX ²	Sharon Acres, TX ²
Kickapoo Indian Res., TX	Oilton, TX ²	Shertz, TX ²
Killeen, TX ²	Olmito, TX	Silver Creek, TX ²
Kinard Estates, TX	Oran, TX ²	Sinton, TX ²
Kingsville, TX	Palmhurst, TX	Skidmore, TX ²
La Casita, TX	Palo Pinto, TX ²	Somerset, TX ²
La Feria, TX	Panhandle, TX ²	Sommerville, TX ²
La Grulla, TX	Panorama Village, TX	South Padre Island, TX
La Joya, TX	Pantego, TX ²	Southlake, TX ²
La Junta, TX ²	Papalote, TX ²	Spring Creek Ranch, TX ¹
La Rosita, TX	Pawnee, TX ²	Spring Lake Estates, TX
La Villa, TX	Peaseter, TX ²	Springtown, TX ²
Lagarto, TX ²	Pelican Bay, TX ²	Stillhouse, TX ²
Lago Vista, TX	Pendleton Harbor, TX	Stinnett, TX
Laguna Park, TX ²	Petronila, TX ²	Stonewall, TX
Lajitas, TX	Pettus-Tuleta, TX ²	Strawn, TX ²
Lake Bastrop Acres, TX ¹ , thnsp:2	Pharr, TX	Study Butte, TX
Lake Louise, TX	Pilot Point, TX ²	Sullivan City, TX
Lake Louise Terrace, TX	Pine Bush, TX	Sunland Park, TX ²
Lake Rolling Wood, TX	Pine Harbor, TX ²	Swinney Switch, TX ²
Lake Wildwood, TX	Pinewood, TX	Sycamore Falls Estates, TX ¹
Lake Worth, TX ²	Poolville, TX ²	Taft, TX ²
Lakeside, TX ²	Port Isabel, TX	Tall Timbers, TX
Lamar, TX	Port Mansfield, TX	Tealwood, TX
Laredo, TX ²	Portland, TX ²	Terlingua, TX
Lasara, TX	Powderly, TX ²	Texaba, TX
Lavon, TX ²	Premont, TX ²	Texas National, TX
Lazey Forest, TX	Princeton, TX ²	The Colony, TX ²
Lefors, TX	Promontory Park, TX ²	The Grove, TX ²
Liberty Grove, TX ²	Purmella, TX ²	Three Rivers, TX ²
Linn-San Manuel, TX	Quiet Village, TX	Tin Top, TX ²
Little Elm, TX ²	Rancho Nuevo, TX	Tivoli, TX
Little Mcacres, TX ¹ , thnsp:2	Rayburn, TX	Toledo Village, TX
Live Oak, TX ²	Raymondville, TX	Tri-Lake Estates, TX
Live Oak Resorts, TX ²	Rebel Ridge, TX	Trophy Club, TX ²
Loan Camp, TX ²	Redwater, TX ²	Twain Landing, TX
Lochness Cove, TX	Refugio, TX	Tye, TX ²
Los Fresnos, TX	Reno, TX ²	Tynan, TX ²
Los Indios, TX	Ricardo, TX	Umbarger, TX
Lyford, TX	Richland Hills, TX ²	Union Hill, TX ²
Macdona, TX ²	Rio Bravo, TX ²	Universal City, TX ²
Mansfield, TX ²	Rio Grande City, TX	Valera, TX ²
Mathis, TX ²	Rio Hondo, TX	Van Horn, TX
Mcallen, TX	River Bend, TX	View, TX ²

Waco, TX²
 Wadsworth, TX
 Walco Hills, TX
 Watauga, TX²
 Weatherford, TX²
 Weslaco, TX
 West Austin, TX²
 Westlake, TX²
 Westover Hills, TX²
 Westworth Village, TX²
 White Settlement, TX²
 Whitewater Springs, TX¹
 Whitney, TX²
 Whitt, TX²
 Wildwood, TX
 Wildwood Acres, TX
 Willis, TX
 Willow Park, TX²
 Woodcreek, TX
 Woodlawn, TX
 Woodsboro, TX
 Woodway, TX²
 Wylie, TX²
 Zapata, TX
 Accord Lakes, UT¹
 Adamsville, UT
 Alpine, UT
 Alta, UT
 Ant Flat, UT
 Antimony/Antimony Mining, UT
 Apple Valley, UT
 Area E. of Fillmore And Holden, UT
 Argyle Ridge/Canyon, UT
 Arrowhead, UT
 Aspen Academy, UT
 Aspen Highlands, UT
 Aspen Hills, UT
 Avon—Smithfield Bench, UT
 Baker Canyon, UT
 Bandanna Ranch, UT
 Bear River Lodge/Christmas Meadow, UT
 Bear River Nwr Hq/Facilities, UT
 Bear Valley Jct., UT
 Beaver, UT¹
 Beaver Dam—Sanpete, UT
 Beaver Mt., UT
 Beaver Springs/Aspen Meadows, UT¹
 Beryl, UT
 Best Friends, UT
 Big Cottonwood, UT
 Big Pine, UT
 Big Water/Church Wells/East Clark Bench, UT
 Black Hawk, UT
 Black Ridge Interface, UT¹
 Black Ridge Ranches, UT¹
 Blacksmith Fork, UT
 Blue Mountain Ranch, UT¹
 Blue Spring, UT
 Blue Springs, UT¹
 Bluff, UT
 Bonanza, UT
 Boulder Point, UT
 Boulder/Haws Pasture/King Pasture, UT¹
 Bountiful, UT
 Brianhead, UT¹
 Brigham—Collinston Bench, UT¹
 Brigham—Willard Bench, UT
 Brighten, UT
 Brooks Canyon, UT
 Brookside/Central, UT¹
 Brownie Lakes, UT
 Bryants Fork, UT
 Bryce Park Infrastructure, UT¹
 Bryce Woodlands/Long Valley/Canyon, UT
 Buckeye Resort, UT¹

Buckhorn, UT
 Bug Point, UT
 Bull Frog, UT
 Burrville, UT
 Cainesville, UT
 Callao, UT
 Cannonville, UT
 Canyon Meadows, UT
 Canyon Terrace/Blanding, UT
 Castle Valley, UT
 Castle Valley—Grand, UT
 Causey Estates, UT
 Cedar City, UT
 Cedar Fort, UT
 Cedar High Lands, UT¹
 Cedar Hill, UT
 Cedar Hills, UT
 Cedar Mountain, UT
 Cedar Point, UT
 Center Creek, UT
 Center Creek Youth Camp, UT¹
 Centerville, UT
 Chekshani, UT
 Citation Oil Transfer, UT
 Clear Creek—Box Elder, UT
 Cloud Rim, UT
 Cougar Canyon, UT
 Cove Fort, UT¹
 Covered Bridge, UT
 Cove-Richmond Bench, UT
 Currant Ck. Mt., UT
 Current Creek, UT
 Daniels Summit, UT
 Davis Point/Main Canyon, UT
 Deer Lodge, UT
 Deer Springs, UT¹
 Deer Valley, UT
 Defas, UT
 Derffie Creek, UT
 Dewey, UT
 Diamond Bar X, UT
 Diamond Mountain, UT
 Diamond Valley/Dammeron, UT
 Dimple Dell, UT
 Docs Beach, UT
 Doug Thorley, UT
 Dove Creek, UT
 Draper, UT
 Dry Fork, UT
 Duck Creek Area, UT
 Dugway, UT
 Dutch John, UT
 Eagle Estates, UT
 Eagle Mountain, UT
 East Carbon/Sunnyside, UT
 East Fork Bsa, UT
 East Hyrum, UT
 East Zion Estates, UT
 Eastside of Sevier Valley, UT
 Eden, UT¹
 Elk Meadow, UT¹
 Elk Ridge—Sanpete, UT¹
 Elk Ridge—Utah, UT
 Emigration Canyon, UT
 Ephraim Canyon Experiment Station, UT
 Escalante, UT
 Eskdale, UT
 Eureka/Tintic/Mammoth, UT¹
 Fairview Lakes, UT¹
 Farmington, UT
 Ferron Canyon Summer Homes, UT
 Fillmore, UT
 Fish Springs Nwr Hq/Facilities, UT
 Fishlake Summer Homes—Sevier, UT¹
 Flaming Gorge Acres, Pines, UT¹
 Forest Gardens, UT

Fort Duchesne, UT
 Garden City/ Bridgerland, UT
 Garden City/ Sweetwater, UT¹
 Garden City/Little Switzerland, UT
 Garden City/Swan Creek, UT
 Garrison, UT
 Genola, UT
 George Town, UT
 Glendale, UT
 Gold Hill, UT
 Gooseberry—Sanpete, UT
 Gooseberry—Sevier, UT
 Grafton, UT
 Grass Valley, UT
 Green Hills, UT
 Greenville, UT¹
 Gunlock, UT
 Hancock Cove/Cedarview, UT
 Hanksville, UT
 Happy Valley, UT
 Hardware Ranch, UT
 Harrisburg, UT
 Hatch, UT
 Haycock, UT
 Henrieville, UT
 Hideaway Valley, UT
 Highland, UT
 High-Low, UT¹
 Highway 56/Cedar To Pinto Jct., UT¹
 Highway 89 Corridor, UT
 Hilldale, UT
 Hobbie Creek, UT
 Holiday, UT
 Holiday Oaks, UT¹
 Holiday Park/Alpine Acres, UT
 Home Ranch, UT
 Horsehead, UT
 Hurricane, UT
 Ibapah, UT
 Indian Bench, UT
 Indian Canyon, UT
 Indian Creek, UT
 Indian Ridge, UT
 Indianola, UT
 Inholdings/Park Boundries, UT¹
 Ireland Meadow, UT
 Iron Springs, UT
 Iron Town, UT
 Island Park, UT
 Ivins, UT
 Johnson Canyon, UT
 Jones Hole, UT
 K & J Estates, UT
 Kanab, UT
 Kanaraville/Checkshani, UT
 Kanosh, UT¹
 Kaysville, UT
 Kelly Canyon, UT
 Kenilworth, UT
 Khoosharem Reservoir, UT¹
 Kodachrome, UT
 Kolob Terrace, UT¹
 Lake Point/Mills Jctn., UT
 Lasal, UT
 Laverkin, UT
 Layton, UT
 Lebaron, UT¹
 Leeds, UT
 Lidas Canyon, UT
 Lindon, UT
 Little Brush Creek, UT
 Little Cottonwood, UT
 Little Diamond Fk, UT
 Little Ponderosa, UT¹
 Little Res., UT
 Logan, UT¹

Logan Canyon, UT
 Long Flat, UT
 Lund, UT
 Mammoth Creek/Tommy Creek/Yellow Pine, UT¹
 Manderfield, UT
 Manning Meadows, UT¹
 Manti Canyon, UT
 Mantua, UT
 Maple Canyon—Huntsville, UT
 Maple Hills, UT
 Mapleton, UT
 Meadow, UT¹
 Meadow Lake, UT
 Meadowville, UT
 Mia Shalom, UT
 Milburn, UT
 Milford, UT
 Millers Flat, UT
 Mills, UT
 Mineral Wash Area, UT
 Minersville, UT
 Modena, UT
 Monroe Meadows, UT¹
 Monticello, UT
 Morgan, UT
 Motoqua, UT
 Mountain Green, UT
 Mountain Meadow, UT
 Mt. Carmel, UT
 Mt. Carmel Jct., UT
 Mt. Tabby Springs, UT
 Myton, UT
 Navajo Estates/Summer Homes, UT¹
 Neola/Whiterocks, UT
 New Castle, UT
 New Harmony/New Harmony Heights, UT¹
 Nordic Valley, UT¹
 North Creek, UT
 North Fork, UT
 North Fork Drainage/Cougar Canyon, UT
 North Ogden Bench, UT
 North Reservoir Subdivision, UT
 North Salt Lake, UT
 Oak City, UT¹
 Oaker Hills, UT
 Oaks Park, UT
 Ogden Canyon, UT
 Old Lasal, UT
 Olympus Cove, UT
 Ophir, UT
 Orderville, UT
 Orem, UT
 Ouray, UT
 Ouray Nwr Hq/Facilities, UT
 Pack Creek, UT
 Palisade, UT
 Panguich, UT¹
 Panguitch Lake/Beaver Dam/Clear Creek, UT¹
 Panorama Woods, UT
 Parawon Front I-15 Corridor/To Cedar City, UT
 Park Admin/Historic District, UT¹
 Park Admin/Park Boundry, UT¹
 Park City/Deer Valley, UT
 Park Valley, UT
 Paroganah, UT
 Parowan, UT
 Partoun, UT
 Pine Canyon, UT
 Pine Creek, UT¹
 Pine Hollow, UT
 Pine Valley, UT
 Pine View, UT
 Pines Ranches/Pine Mt., UT
 Pinto, UT
 Pinwillies, UT
 Pleasant Grove, UT
 Pleasant View, UT
 Pole Patch, UT¹
 Ponderosa Estates, UT
 Ponderosa Villa, UT
 Porterville, UT
 Poverty Flat, UT
 Provo, UT
 Puffer Lake, UT¹
 Quitchapah, UT
 Rabbit Gulch, UT
 Rainbow Meadow/Ireland Estates/Meadow, UT¹
 Ranch Canyon, UT
 Randlette, UT
 Red Canyon, UT
 Red Canyon—Dagget, UT
 Readers, UT
 Reese's Flat Subdivision, UT
 Reservation Ridge, UT
 Reservoir Road, UT¹
 River Forest, UT
 Rock Creek, UT
 Rockville, UT
 Rockwood, UT¹
 Rocky Ridge, UT¹
 Ruby's Inn/Bryce Canyon/Pines/Fosters, UT¹
 Rush Valley, UT
 Salt Gulch Ranch, UT¹
 Salt Lake City, UT
 Samak, UT
 San Pitch Canyon, UT
 Sandy, UT
 Santa Clara, UT
 Santaquin, UT
 Saratoga, UT
 Schofield Reservoir, UT
 Sevier River Estates, UT
 Sheep Creek, UT
 Shivwits, UT
 Silver Lake, UT
 Silver Reef, UT¹
 Silver Valley, UT
 Skull Valley, UT¹
 Skull Valley, UT
 Sky Haven, UT
 Skyline Mountain Resort, UT¹
 Snow Basin, UT
 Soldier Creek, UT
 Soldier Hollow, UT¹
 South Canaan, UT
 South Canyon, UT
 South Canyon—Avon, UT
 South Fork—Huntsville, UT
 South Fork Chalk Creek, UT
 South Ogden Bench, UT
 South Weber, UT
 Spencer Bench, UT
 Spencer Cliff Estates, UT
 Spirit Lake Lodge, UT
 Spring Canyon/Helper, UT
 Spring City Ranchero, UT
 Springdale, UT
 Springdell, UT
 Springville, UT
 St. George, UT
 Stillwater, UT
 Stockton, UT
 Storm Haven, UT
 Stout Canyon, UT
 Strawberry Pinnacles, UT
 Strawberry Valley, UT
 Sulpherdale, UT
 Summit, UT
 Summit Park/Pinebrook, UT
 Suncrest, UT
 Sundance, UT¹
 Swains Creek, UT
 Swens Canyon, UT
 Sylvan Canyon, UT
 Taylor Flat, UT¹
 Teasdale/Torrey, UT
 Terra, UT
 Thousand Peaks Ranch, UT
 Three Creek, UT
 Three Peaks, UT
 Tibble Fk, UT
 Timberlakes, UT¹
 Todd's Junction, UT
 Tooele, UT
 Toquerville, UT
 Trappers Loop, UT
 Tridell, UT
 Tropic, UT
 Trout Creek, UT
 Two Bears/Pine Plateau, UT
 Uintah Bench, UT
 Uintah Canyon, UT
 Upper Valley, UT
 Veyo, UT
 Virgin, UT
 Vivian Park, UT
 Washington, UT
 Wecco, UT
 West Hills, UT
 West Water, UT
 Whispering Pines, UT
 White Mesa, UT
 Whiterocks, UT¹
 Wide Hollow, UT
 Widsoe Jct./Steed Ranch, UT
 Willow Basin, UT¹
 Winchester Hills, UT
 Wolf Creek Ranch, UT
 Woodland Hills, UT
 Woodruff/Chournos, UT
 Woodruff/Eagle Springs, UT
 Yellowstone Canyon, UT
 Yost, UT
 Zion Lodge, UT¹
 Zion View, UT
 (South), VA
 (West), VA
 Abbot Ac 1, VA
 Abbot Ac 2, VA
 Abbot Ac 3, VA
 Acres Subdivision, VA
 Adams Hunt, VA²
 Adams St. Taz, VA
 Advance Mills V, VA
 Alden, VA²
 Algonquin Hills, VA²
 Allens Mill Rd., VA
 Allnut, VA²
 Alpine Acres, VA
 Alpine Farms, VA
 Alpine Rdg, VA
 Alpine Villag, VA
 Alps, VA²
 Alsop, VA
 Alst Heaven, VA
 Aluminum & Steel, VA
 Ancient Shores, VA
 Anderson Estates, VA
 Angel View, VA
 Anglor Cove, VA²
 Apomattox, VA
 Apple Mt. Lake, VA
 Aps Knob, VA

Aquia Harbour, VA ²	Beulah Church Rd, VA	Buck Mountain, VA
Aquia Hollow, VA ²	Beverly Town, VA	Buck Mt. Est., VA
Aquia Station, VA ²	Big Hill Acres, VA	Buckland, VA
Arbor Park, VA	Big Horn, VA	Buffalo Est., VA ²
Arnolds, VA ²	Big Reed, VA	Bull Yearling Run, VA
Arrowhead, VA	Big River Ranch, VA ²	Bunker Hill Estates, VA
Arrowhead 4, VA	Birchwood, VA ²	Burke's Shop, VA ²
Arrowhead 5, VA	Bishop's Manor, VA	Burlingame, VA
Arrowwood, VA	Bl. Ridge Forest, VA	Burma Rd Ad, VA
Artillery Ridge, VA	Bl. Ridge View, VA	Bushy Ridge, VA
Ashby Run Est., VA	Black Bear, VA	Butlers Bluff, VA
Ashland, VA ²	Black Creek Dev, VA	Caldwell Ln, VA
Ashley Oaks, VA	Black Meadow Road, VA	Caledon Road, VA ²
Aspen Hill Farm, VA	Blackstone, VA ²	Calmes Neck, VA
Aspen Hills, VA	Blackstone Canyon, VA ²	Calthrop Neck Rd, VA ²
Assawoman Dev, VA	Blackwt Cv, VA	Calvary Ridge, VA
Augustine, VA ²	Blair/Warfield, VA ²	Cambdge Est, VA ²
Austins Farm, VA ²	Bland Creek Farms, VA ²	Camelot, VA ²
Autumn Hill, VA	Blandemar, VA	Camp, VA
Autumn Pk, VA	Blockhouse Rd. S, VA	Camp Blue Ridge, VA
Autumn Wd, VA	Bloomsbury, VA	Camp New Horizon, VA ²
Bailey Creek Estates, VA	Blrd Mob Hp, VA	Campbell Ct, VA ²
Baileys Nexk, VA	Blue Mountain, VA	Campbell Hl, VA
Baird Est., VA ²	Blue Rdg Hts, VA	Camptown Dr, VA
Ballard Woods, VA	Blue Ridge 21, VA	Camptown/Alsoptwn, VA
Banbury Cross, VA ²	Blue Ridge Acr., VA	Candlewood, VA
Banner Plantation, VA	Blue Ridge Estates, VA	Candlewyck, VA
Barcroft, VA	Blue Ridge Lane, VA	Canham Rd., VA
Barester Et, VA	Blue Ridge Mountain Est., VA	Canterbury, VA ²
Bark Camp Trl., VA	Blue Ridge Pines, VA	Canwick Estates, VA
Barlow Rd., VA ²	Blue Ridge Subdivision, VA	Capt. John Smith, VA
Baron Woods, VA	Blue Wt Bay, VA	Captains Cove, VA
Barrington Oaks, VA ²	Bluestone Fort, VA ²	Cardinal Crest/Sedgewick Heights, VA ²
Bassett Hit, VA ²	Bobletts Gap, VA	Cardinal Forest, VA ²
Bath Alum Ridge, VA	Bolling, VA	Cardinal Heights/Belleauwood, VA ²
Battery Hills, VA	Bonniville Ln, VA	Carefree Acres, VA
Battle Creek Forest, VA	Booth, VA	Cargunn, VA ²
Battle Creek Subdivision, VA	Boswell's Corner, VA ²	Carodon, VA
Battle Park Lakes, VA	Boundry Run Dev., VA	Caroline Village, VA ²
Battlefield Estates, VA	Bowling Green, VA ²	Carter's Neck, VA ²
Battlefield Park, VA	Bowling Green Pk, VA ²	Cartersville Hghts., VA
Battlefield Park Farms, VA	Boydton, VA ²	Cascade Mt., VA
Bay Ridge, VA	Bradley Acres, VA	Castle Point, VA
Bayberry Estates, VA ²	Bradley Forest, VA ²	Castle Rock Mt., VA
Baynesville, VA	Brandermill, VA ²	Castleman's, VA
Beamers Knob, VA	Brandy Run, VA	Catharpin, VA
Bean Hollow, VA	Brandywine, VA	Catharpin Rd. Centr., VA
Bear Creek, VA	Brays, VA	Catharpin Rd. W, VA
Bear Hollow Ridge, VA	Breaks Int. Park, VA	Catlett, VA ²
Bear Ridge, VA	Breeden's, VA	Cavalier Farms, VA
Beattie Mill Rd, VA	Breezewood, VA	Cave Springs, VA
Beau Ridge Estates, VA ²	Bren Forest, VA ²	Caywoods, VA ²
Beauclaire Plantation, VA	Brentwood Lane, VA ²	Cedar Ck., VA
Beaver Lane, VA	Briar Ridge, VA	Cedar Cliff Area, VA
Beaver Lodge, VA ²	Briarwood, VA	Cedar Crk. Est., VA
Beavor Lodge, VA ²	Briarwood Blfd, VA	Cedar Grove, VA
Beckwood, VA	Brick Bat Rd., VA	Cedar Grove I, VA
Bedford Hills, VA	Brickey, VA	Cedar Grove Iii, VA
Beech Hill, VA	Bridlewood, VA	Cedar Knolls, VA
Belarispring, VA	Brills Rd, VA ²	Cedar Ridge, VA
Bellemeade, VA	Brittany, VA ²	Cedar Ridge, VA ²
Bellevista, VA ²	Broadhurst Acres, VA ²	Cedar Run, VA
Bells Hill Road, VA ²	Broadwater Bluff, VA	Cedar Run Estates, VA ²
Belmont Subdivision, VA	Brock Road N., VA	Cedarville Hgts., VA
Belvedere Heights, VA ²	Broken Back, VA	Celebrity Ct, VA
Benchmark, VA ²	Brookmill, VA	Celestial Ht, VA
Bennett Crossroads, VA ²	Brookwood, VA	Centennial Hgtsapt, VA
Benny's Beach, VA	Brookwood, VA	Central Point, VA ²
Berkeley Beach, VA	Brookwood, VA	Central Valley, VA
Berkshire, VA	Brown Rufus, VA	Chalet High, VA
Berry Hill, VA ²	Brunbridge, VA	Chamberlayne Rd, VA
Berry Hollow, VA	Brush Mt Es, VA	Champs Mill Estates, VA ²
Berry Plains, VA ²	Bryant Mountain, VA	Chancellor Area, VA
Bertha Farms, VA	Bryce Mt., VA	Chancellor Meadows, VA
Berthsville, VA ²	Bry-Lee Hill, VA	Chancellor West, VA
Bethlehem Fork, VA ²	Buck Hill, VA	Chancellor Woods, VA

Chancellorsville Est., VA	Countrywd, VA	Drovin Hill, VA
Chancos Grant, VA	Courthouse Common, VA	Duck Run, VA
Chapel Hills, VA	Courthouse Est., VA ²	Duff, VA
Chatham Square, VA	Courthouse Mountain, VA	Duffield-Sunbright, VA
Cheapside Dv, VA	Courthouse Rd. E., VA	Dunbar Drive, VA ²
Cherokee Hill, VA	Courthouse Rd. S., VA	Dungadin, VA
Cherokee Hl, VA	Courthouse Rd. W., VA	Dunlop Estates, VA ²
Cherry Blossom Ln, VA	Courthouse Rd. W., VA ²	Dunmore, VA
Cherry Hill, VA ²	Cow Knob, VA	Dunncroft, VA
Cherry Ridg, VA	Crawford, VA	Dunnsville, VA
Chesdin Rd, VA	Creekside, VA	E.Stafford Cthouse, VA ²
Chesser Village, VA	Creekwood, VA	Eagle Dr, VA
Chest Mt Es, VA	Crestv Pk, VA ²	Eaglebrook, VA
Chester Gap, VA	Crimora Min, VA	Eaglenest, VA ²
Chesterwood Comm., VA ²	Cromwell, VA ²	Eaglewood, VA
Chestnut Ck, VA	Crooked Run Farm, VA	Earlsville For., VA
Chestnut Grove, VA	Crookhorn, VA	Earlsville Hts., VA
Chestnut Hills, VA ²	Cropp, VA ²	East Danieltown Road, VA ²
Chestnut Knolls, VA ²	Cropp Rd. Comm., VA ²	Ebb Tide Beach, VA
Chestnut Mt, VA	Cross Creek, VA	Echo Hills, VA
Cheswick, VA	Cross Creek, VA	Eclipse, VA ²
Chevalle, VA ²	Crown Grant, VA	Eden Estates, VA ²
Chickahominy Bluffs, VA	Crown Hill Rd, VA	Edge Hill 1, VA
Chickahominy Branch, VA	Crown Hill Rd, VA	Edge Hill 2, VA
Chickahominyshores, VA ²	Crystal Sps, VA	Edgehill, VA
Chimney Hl, VA	Cs Willis, VA	Edgewood, VA ²
Chimney Lake, VA ²	Cty Est Mb H, VA	Edinburgh, VA
Chinuapin Es, VA	Cumberld Hl, VA	Edmund's Lane, VA ²
Chisel Run, VA ²	Currin, VA ²	Ednam Forest, VA
Christopher Fork, VA ²	Currituck Farms, VA	Edward Tull, VA ²
Church Hill Road, VA	Cuscowilla, VA ²	Edwards, VA ²
Clarke-Hawkins, VA	Dahlgren, VA ²	Egypt Bend, VA
Clarksville, VA ²	Daingerfield, VA	Elam Church, VA
Claytor Lke, VA	Daltons's, VA ²	Elk Horn Ac, VA
Claywood, VA ²	Dam Shores, VA	Elk Ridge, VA
Clearview, VA	Daniel Mountain, VA	Elko Station, VA
Cleveland Manor, VA ²	Daniel Property, VA	Elliott, VA ²
Cleydael, VA ²	Danner Road, VA	Elmwood, VA ²
Clopton Forest, VA ²	Darbytown Acres, VA	Ely's Ford Road, VA
Cloud Land, VA	Darbytown Estates, VA	Emerald Ridge, VA
Cloudcroft, VA	Davis, VA	Enderly Acres, VA
Clover, VA ²	Deane's, VA	Eppington Forest, VA ²
Cloverdale, VA	Decatur Store Comm, VA ²	Essex Hills, VA ²
Cloverdale, VA ²	Deep Run, VA ²	Essex Mill, VA
Coach/Buckboard Rd, VA	Deepwoods Estates, VA ²	Estates Of Elys Ford, VA
Cobblestone, VA	Deer Croft, VA	Ests Of Chancellorsvi, VA
Cobham Park, VA	Deer Flo, VA	Ethel, VA
Coburn, VA	Deer Lake Estates, VA	Eva Snowden, VA ²
Cold Cheer, VA	Deer Lick Rg, VA	Evans Td, VA
Cold Harbor, VA	Deer Rapids, VA	Evergreen, VA ²
Cole-Harbour, VA ²	Deer Run Farms, VA	Fair Estates, VA ²
Coleman Island, VA	Deerfield, VA	Fairfield Ct, VA
Collier Hills, VA	Deerfield, VA	Fairfield W, VA
Colonial Acres, VA ²	Deerfield Est., VA	Fairfield Woods, VA
Colonial Beach, VA	Deerhead, VA	Fairgrove 1&2, VA
Colonial Beach Dragway, VA	Deerwood Hills, VA	Fairlane Dr. Blfd, VA
Colonies, VA ²	Delawder, VA	Fairview, VA
Colony Creek, VA ²	Delbert Drive, VA	Fairview Acres, VA ²
Colts Neck, VA	Dellinger, VA	Fairview Acres, VA ²
Concord, VA ²	Desha, VA	Fairview Hills (Wttx), VA
Concord Estates, VA ²	Devonshire, VA ²	Fairway For, VA
Confederate Hills, VA	Diascund Woods, VA ²	Fairwy Acre, VA ²
Conifer Cove, VA ²	Dickerson'scorner, VA	Fairystone A, VA ²
Conquest Point, VA ²	Dixie, VA	Falcon Crst, VA
Cooktown, VA	Dodds Corner, VA ²	Falmingo Rd, VA ²
Corbin, VA ²	Doe Ln/Buck Ln, VA	Far Hills, VA
Corder Bottom Subdivision, VA	Doe Run, VA	Farm Colony, VA
Cornwall F, VA	Doe Run Estates, VA	Farm Country Estates, VA
Cotton Hl Et, VA	Dogwood Mtn., VA	Farmers, VA ²
Country Club Estates, VA	Dogwood Valley, VA	Farmers Fork, VA
Country Club Estates, VA	Dorset Woods, VA	Farmer's Fork, VA ²
Country Club Over, VA	Doswell Chapel Area, VA	Farmington, VA
Country Estates, VA	Doubletree, VA	Farmington, VA ²
Country Ridge, VA ²	Douthat Rd, VA	Farry Hill, VA ²
Country View, VA	Dr VI Camps, VA	Fawn Glenn, VA
Country Woods Est, VA ²	Draper Mt E, VA	Fawn Lake, VA

Fernbrook, VA ²
 Ferry Farm, VA
 Field Crest, VA
 File, VA ²
 Finchley, VA ²
 Firebaughcm, VA
 First Blue Ridge Mt. Est., VA
 First Colony, VA
 Fishers, VA
 Five Mile Fork, VA
 Five Mile Road, VA
 Flacon Rdg, VA
 Flanigans Mill, VA
 Flat Iron, VA
 Flat Top Mountain, VA
 Fleming Park, VA
 Flint Hill Station, VA
 Flippo Drive, VA ²
 Flordon, VA
 Flynn, VA ²
 Foneswood, VA
 For Shores, VA
 Fords Colony, VA ²
 Forest Ac Tr, VA
 Forest Acres, VA
 Forest Colony, VA
 Forest Hill, VA
 Forest Hills, VA ²
 Forest Manor, VA
 Forest Oaks, VA
 Forest Park, VA
 Forest Sps, VA
 Forest Trace, VA
 Forest Walk, VA
 Fork Mtn Est, VA
 Fort Gilmer, VA
 Fort Mason, VA
 Fort Pasage, VA
 Fort River, VA
 Foster Falls Mt., VA
 Foundry Run, VA ²
 Four Mile Creek, VA
 Four Mile Fork, VA
 Four Oaks, VA ²
 Four Winds, VA ²
 Fox Chase, VA
 Fox Fire, VA
 Fox Forest, VA ²
 Fox Point, VA
 Fox Ridge, VA ²
 Foxcroft, VA
 Foxmill, VA ²
 Foxridge Drive, VA
 Foxwood, VA
 Foxwood Village Mhp, VA ²
 Fqm, VA
 Fredericksburg, VA
 French Hills, VA ²
 Frey, VA
 Fringer Trail, VA
 Front Royal, VA ¹
 Fruit Hill, VA ²
 Ft Valley Forest, VA
 Ft. Fisher, VA
 Gaila Woods, VA ²
 Gains Mill Rd, VA
 Garfield Estates, VA ²
 Gargatha Estates, VA
 Garmon, VA ²
 Garrisonville, VA ²
 Garrisonville Estates, VA ²
 Garrisonville Mid., VA ²
 Garth Run Mountain, VA
 Gatling Subdivision, VA
 George Jones Est., VA ²
 George Spady, VA

Gibson Hollow, VA
 Gibson Rd, VA
 Gid Brown Hollow, VA
 Gil Cantrell, VA
 Gingerwood, VA ²
 Glass I, VA
 Glass II, VA
 Glenaire, VA
 Glenbrook Hills, VA
 Glendale Acres, VA
 Gobblers Knob, VA ²
 Golden Hills, VA
 Golden Oaks, VA
 Golden Pheasant, VA ²
 Good, VA
 Goodv Gard, VA
 Goose Crk., VA
 Gordon Rd. West, VA
 Governors Lnd., VA
 Gr Hill Ter, VA
 Graemont, VA
 Grafton Woods, VA
 Graham Park Shores, VA ²
 Grand View Est., VA
 Grandrose, VA ²
 Grandview, VA
 Grandview Estates, VA ²
 Grant's Hill, VA
 Grant's Hill, VA
 Grants Hollow, VA
 Granville, VA
 Graves Landing, VA ²
 Graves Mill, VA
 Gray Farm, VA
 Green Gables, VA ²
 Green Hil Forest, VA
 Green HI Hts, VA
 Green Meadows, VA
 Green Mtn, VA
 Green View, VA ²
 Green/Meeks, VA ²
 Greencroft, VA
 Greene Acres, VA
 Greene Land, VA
 Greene Lea, VA
 Greene Mountain Lake, VA
 Greene Valley, VA
 Greenfield Village, VA
 Greensprings, VA
 Greenwood Estates, VA
 Greenyard Estates, VA ²
 Grigsby, VA ²
 Grigsby, C. B., VA ²
 Grouse Point, VA ²
 Guinea, VA ²
 Guinea Station Rd., VA ²
 Guntery Hill Estates, VA
 Gunton Park, VA
 Guy H. Morgan, VA
 Guys Landing, VA
 H Harrison Tract, VA
 Hales Ford, VA
 Hales Pt, VA
 Halifax, VA ²
 Hamiltons Crossing, VA
 Hampton Manor Com, VA ²
 Han Hill, VA
 Hancock Rd., VA
 Hardwood Cove, VA
 Harmony, VA
 Harper Valley, VA
 Harris Hollow, VA
 Harrisburg Estates, VA ²
 Harrison Lake, VA
 Harrison Rd. Cent., VA
 Harrison Rd. E., VA

Harry Hoskins, VA
 Hartwood Road, VA ²
 Harwilll Acres, VA ²
 Haskingville, VA ²
 Hawksbill Pines, VA
 Headquarters F., VA
 Heather Greens, VA
 Hebron Rd, VA
 Heflin Road, VA ²
 Henly Mtn., VA
 Henry Cypress, VA
 Henry Hill, VA
 Herdman Hill, VA
 Heritage Woods, VA ²
 Hermleigh Ln., VA
 Herndon Rd, VA
 Hickman, VA ²
 Hickory Hill Estates, VA
 Hickory Hills, VA
 Hickory Ridge, VA
 Hickory Ridge Rd., VA
 Hicks Hill, VA ²
 Hidden Ac, VA
 Hidden Lake, VA ²
 Hidden Pass, VA
 Hidden Valley, VA
 Hidden Valley, VA
 Hidden Valley Est., VA
 Hidden Valley Mhp, VA ²
 Hideaway Lane, VA
 Hideway Lke, VA
 High Chaparrel, VA
 High Knob, VA
 High Point, VA
 High Valley, VA
 Highland Manor, VA
 Highland Park, VA
 Highlands, VA
 Highlands, VA ²
 Hightop Mountain, VA
 Hill, VA ²
 Hill & Dl Ac, VA
 Hill Ridge, VA
 Hill Top, VA
 Hite, VA
 Holbrook, VA
 Holdcroft, VA ²
 Holiday Shores, VA ²
 Holly Forest, VA ²
 Holly Hills, VA
 Holly Meade, VA ²
 Holly Oak, VA ²
 Holly Ridge, VA
 Holly Ridge Estates, VA ²
 Hollybrooke, VA
 Holmes Run, VA
 Homewood, VA
 Homewood Bowl, VA
 Hone Quarry, VA
 Hood Mountain, VA
 Hooes, VA ²
 Hoover, VA
 Hope Rd. Comm., VA ²
 Hopeland, VA ²
 Hords Hill, VA
 Horner's, VA
 Horner's Beach, VA
 Horntown Circle, VA
 Howertons, VA
 Huckelberry Mt., VA
 Hungrymother S.P., VA
 Hunt Club, VA
 Hunter Den, VA
 Hunter Dr, VA
 Hunters Grove Estates, VA ²
 Hunter's Lodge, VA

Hunters Ridge, VA ²
Hunting Hill, VA
Hunting Woods, VA
Huntington, VA ²
Huntington Hgts, VA
Hurst Ot Lke, VA
Hustle, VA ²
Idlewd Shor, VA
Ilex Dr., VA
Independent Hill, VA ²
Index, VA
Indian Acres, VA
Indian Cove, VA
Indian Point, VA
Indian Run, VA
Industrial Park, VA
Inglecress, VA
Island Farm, VA
Ivy Creek, VA
Ivy Meadows, VA
Ivy Ridge, VA
Ivy Woods, VA
Jackson Ponds Estates, VA ²
Jacksonville Hght., VA
James Fox, VA
Jarman Gap Est, VA
Jeff Davis Hwy, VA
Jeff. Hunting Est., VA
Jeffress, VA ²
Jeffson Wd, VA
Jenkins Hollow, VA
Jennings Pond, VA
Jewell Hollow, VA ¹
John Dickerson, VA ²
John H. Smaw, VA
Johnson, VA ²
Johnson Road, VA
Johnson's Corner, VA
Johnsontown, VA
Johnville, VA
Jones Corner, VA ²
Jonesboro Church, VA ²
Joplin Rd Oakridge, VA
Joplin Town Area, VA
Jourdan Brown, VA
Kawana Valley, VA
Keenland Subdivision, VA
Kentucky Forest, VA
Kenwood Farms, VA ²
Keyser Road West, VA ²
Kimberly Knolls, VA ²
King Acres, VA
King's Park, VA
Kings Wood, VA
Kingsmill, VA
Kingsmill, VA
Kingspoint, VA
Kingswood, VA
Kingswood, VA ²
Kingswood, VA ²
Kino, VA
Kire, VA
Knoll, VA
Knollwood Estates, VA
Koolin Sps, VA
La Bellevue, VA
La France Rd, VA
Lackey, VA ²
Laconia Estates, VA ²
Lafayette Blvd., VA
La-Go-Ha, VA
Lake Acres, VA
Lake Arrowhead, VA ²
Lake Catherine, VA
Lake Fr.Royal, VA
Lake Jackson, VA ²

Lake Kenedy Estates, VA
Lake Powell, VA
Lake Shore, VA ²
Lake View, VA
Lake View I, VA
Lake Vista, VA
Lake Wilderness, VA
Lakeland Forest, VA ²
Lakeridge Et, VA
Lakeside Forest, VA ²
Lakeview Est., VA ²
Lakeview Estates, VA
Lakeview II, VA
Lakewd Est, VA
Lakewood, VA
Lakewood, VA
Lamma, VA
Lancaster Gate, VA
Land Grant, VA
Land Of Luray, VA
Land Of Shenandoah, VA
Landview Estates, VA ²
Laney Cemetery, VA
Langford Farms, VA
Latamers Bluff, VA
Latanes, VA
Laural Mtn, VA
Laural Valley Est., VA
Laurel Hills, VA
Laurel Mountain, VA
Laurel Rdg., VA
Laurel Ridge, VA
Laurel Wd, VA
Laurel West, VA
Laurels, The, VA
Lawson Hills, VA
Lazy River, VA
Leavells Area, VA
Leavells Rd. N. Area, VA
Leavells Rd. S., VA
Lee Hill School Dr., VA
Lee Lake, VA ²
Leedstown, VA
Leedstown, VA
Lee's Acres, VA ²
Lee's Estates, VA ²
Lee's Headquarters, VA
Lee's Hill N., VA
Lee's Hill S., VA
Leftwich Road, VA
Lego Mar, VA ²
Leigh Haven, VA
Leonra East, VA
Lerty, VA
Lewis Hill, VA
Lewis/Walkin' Ln., VA
Lexington, VA
Liberty Fork, VA ²
Liles Court, VA
Liming Lane, VA
Limstrong, VA ²
Lindau Woods, VA ²
Lippingham, VA
Little Edge, VA
Little Florida, VA
Little Gun Mt., VA
Little North, VA
Little Stoney, VA
Livingston Farms, VA
Livingston Heights, VA
Livingston Village, VA
Lkot Mt Cmp, VA
Lndg. At J-Town, VA
Loch Linden, VA
Locust Hill, VA
Locust Hill, VA ²

Locust Lane, VA
Lodebar, VA
Loftlands Glen, VA
Log Cabin Es, VA
Logan Village, VA
Longhill Gate, VA ²
Longhill Stn., VA ²
Longist Forks, VA
Longview Dv, VA ²
Longwood, VA
Longwood Drive, VA ²
Loren's Camp, VA
Lost Mtn, VA
Lost Valley, VA
Lots Gap, VA
Lotz Ac. Est., VA ²
Lower Valley, VA
Lowery Point, VA
Lyells, VA
Lynmore Acres, VA
Macadonia Road, VA ²
Macedonia Church, VA
Machodoc, VA ²
Machodoc Estates, VA ²
Machodoc Harbor, VA ²
Mallard Hill, VA ²
Mallard Point Lane, VA
Mallard's Landing, VA ²
Mannboro Farms, VA ²
Manorwood, VA
Mansfield Park, VA
Mansfield South, VA
Manual Subv., VA
Maple Grove, VA ²
Maple Springs, VA
Marble Hills Estates, VA
Market Road, VA
Marlbank, VA
Marleigh Court, VA
Marshfield, VA
Maryfield, VA
Maryton, VA ²
Massanutten, VA
Massanutten Forest, VA
Massanutten Hghts., VA
Massanutten View, VA
Massaponax , VA
Massaponax Ch Rdw, VA
Massaponax Ch.Rd., VA ²
Massaponax Chrde, VA
Mathias Point Neck, VA ²
Matney Flats, VA
Maury Cliffs, VA
Maury Heights, VA ²
McClellan Rd, VA
Mccoy Subdivision, VA
Mcdonald, VA
Mcdowell, VA ²
Mcgruder Hill, VA
Mclaws Forest, VA
Md Pl Mb Hms, VA
Meadow Brook, VA
Meadow Brooks, VA
Meadow Ck 2, VA
Meadowbrook, VA
Meadowbrook Woods, VA ²
Meadows, VA
Meadows Hollow, VA
Meadows Oc, VA
Meadows, The, VA ²
Meadowview Est., VA
Mechanicsville Cent., VA
Mechanicsville East, VA
Mechanicsville Far W, VA
Mechanicsville West, VA
Mechum Banks, VA

Merifield, VA ²	Mt View, VA	Old Shore Rd, VA ²
Meriwether Hill, VA	Mt View, VA ²	Olde Greenwich, VA
Middle River Retreat, VA	Mt View Park, VA	Olde Kent Estates, VA
Midway Acres, VA	Mt. Falls Park, VA	Orange Plank Rdw, VA
Mile Ridge, VA	Mt. Home, VA	Orchard Acres, VA
Milford, VA ²	Mt. Olive, VA ²	Orchard Gardens, VA
Milford Heights, VA	Mt. Olive Church, VA ²	Orchard Hill, VA
Mill Branch, VA	Mt. Pleasant, VA ²	Out Post, VA
Mill Creek, VA	Mt. View, VA	Outback, VA
Mill Road, VA	Mtn Run, VA	Overlook Hl, VA
Millgarden South, VA	Mtn View Est, VA	Overlook Mt., VA
Millhaven Acres, VA	Mtn. Meadows, VA	Overview Drive, VA
Millpond Road, VA	Mudlick, VA	Owens, VA ²
Mills Drive, VA	Muses Beach, VA	Owensville, VA
Millwood, VA	Muskrat, VA	Owner's Club, VA
Millwood, VA	Mussel Swamp, VA	Oxford Dr, VA
Millworks, VA ²	Myers Addit, VA	Oxfordshire, VA ²
Mine Road, VA	Mystic Point, VA	Oyster Shell Lndg, VA ²
Mine Road, VA	N. Blockhouse Rd., VA	Page Valley Estates, VA
Mineral Spring Plant, VA	N. Fk. Farms, VA	Paige, VA
Mineral Springs, VA	N. Holly Hills, VA	Paiges, VA ²
Mineral Springs, VA	N. White Oak Lake, VA	Panorama Ac, VA
Mineral Springs For, VA	N. Bowling Green, VA ²	Paradice Haven, VA
Minitree Hill, VA ²	Nash Town, VA	Paris Heights, VA
Minneville Manor, VA ²	Nature Wake, VA	Parish Place Lane, VA
Miran Forest, VA	Naylors Beach, VA	Park Hq, VA
Mistover, VA	Neabsco Hills, VA ²	Parker, VA
Mitchell, VA	Nelsonia Acres, VA	Parkgate, VA ²
Mobile One, VA	Nelsonia Westgate, VA	Parkview, VA
Moccasin Gap, VA	Nethers, VA	Parkway Es, VA
Moccasin Hills, VA	New Market, VA ²	Parkwood, VA
Monacan Park, VA	New Market Hts, VA	Parrish Hill, VA ²
Monacan Subdivision, VA	New Post, VA ²	Parsley Mill Rd, VA
Monkey Run, VA	New Zion Church, VA	Passing, VA ²
Monroe Chapel, VA	Newland, VA	Patricia Lane, VA
Monroe Hall, VA	Newman Subdivision, VA ²	Patriots Colony, VA
Monroe Hall, VA ²	Ni River Landing, VA	Patterson Rd., VA
Monroe Inst., VA	Ninde, VA ²	Patterson's Store, VA ²
Montclair, VA ²	No Man's Corner, VA ²	Paul's Creek, VA
Montross, VA	North Bayshore Camp, VA	Paul's Cross Roads, VA
Moon's, VA	North Club, VA	Payne's Store, VA
Moor Green Farms, VA ²	North Cove, VA ²	Peach Orchard, VA ²
Moore, VA	North Littlemont, VA ²	Peacock Hill, VA
Mooreland, VA	North Mount Zion, VA ²	Pecht Tract, Rt 607, VA
Mooreland Farms, VA	North Pines, VA	Peleg's Point, VA
Mooreland West, VA	North Ridge, VA	Pella Lane, VA
Moorestville Est., VA ²	Nottingham Forest, VA ²	Peppertown Rd, VA
Moorestville Park, VA ²	Nottingham Road, VA	Perimeter Road, VA ²
Mooretown Rd, VA ²	Nottoway River Est., VA ²	Peters Est, VA
Morgan Circle, VA ²	Nyland, VA ²	Phillips Woods, VA
Morgans Ridge, VA	O.P. Elliott, VA	Pickle Run, VA
Morning Wd, VA	Oak Grove, VA	Piedmont Square, VA
Morris Creek Est., VA ²	Oak Grove, VA	Pine Knoll, VA
Morris Store, VA	Oak Hill, VA	Pine Ridge, VA
Mosby Hideout, VA	Oak Hill, VA ²	Pine Ridge, VA
Mosy Spring, VA	Oak Hill Estates, VA ²	Pine Slash Rd, VA
Motts Run Estates, VA	Oak Lake, VA ²	Pine Valley, VA
Mount Landing, VA	Oak Mannor, VA	Pinedale Forest, VA
Mountain Farms Subdivision, VA	Oak Ridge Estates, VA ²	Pineland, VA
Mountain Glen, VA	Oak Ridge Subdivision, VA	Piney Branch Rd., VA
Mountain Run, VA	Oak Row, VA	Piney Grove, VA
Mountain To, VA	Oakland Heights, VA	Piney Woods, VA
Mountain Valley, VA	Oakwood Est., VA	Pipe Run, VA
Mountain Valley, VA	Oakwood Forest, VA	Pk Ridge For, VA
Mountain View, VA	Old Cannon, VA	Pk View Acs, VA
Mountain View, VA ²	Old Church, VA	Placid Bay Est., VA
Mountain View Farm, VA	Old Colony Ests, VA	Plank Road West, VA
Mountain View Lake, VA	Old Concord Rd., VA ²	Plantation, VA
Mountain View Subdivision, VA	Old Farms, VA	Plantation Estates, VA ²
Mountain Walk, VA	Old Hollow, VA	Plantation Forest, VA
Mountainview Acres, VA ²	Old Memorial Dr., VA	Pleasant Ridge, VA ²
Mt Acres 1, VA	Old Mill Estates, VA	Pleasant Val. Rd, VA
Mt Acres 2, VA	Old Mill Ln, VA	Poages Ml E, VA
Mt Acres 3, VA	Old Neck, VA ²	Pobits Farm Rd, VA
Mt Breeze, VA	Old Quaker Est., VA ²	Pocosan, VA
Mt Est, VA	Old Quarter, VA ²	Point O' Woods, VA

Pole Green Rd, VA
Ponderosa, VA²
Ponderosa, VA²
Ponderosa, VA²
Popes Creek Ch., VA
Poplar Hall, VA²
Poplar Springs, VA
Port Royal, VA²
Port Tobacco Bay, VA²
Post Oak, VA
Post Oak Road, VA
Potato Hill, VA
Potomac Beach, VA²
Potomac Hills, VA²
Potomac Mills, VA
Potomac Shores, VA
Potts Mtn A, VA
Powell Cox Place, VA
Powell Division, VA
Powell Mountain, VA
Powell's Ridge, VA
Powhatan Plnt., VA
Powhatan Xing, VA
Prest For, VA
Prestige Manor, VA²
Prestwood, VA²
Prestwood II, VA²
Prim, VA²
Princeton Woods, VA²
Queen's Lake, VA²
Quinque Forest, VA
Quinque Woods, VA
R. B. Wharton, VA
Rag Mountain Estates, VA
Ragged Run, VA
Rainbow Acres, VA
Rainbow Land Company, VA
Raintree, VA
Raleigh Sq., VA
Ramblewood Drive, VA
Ramey Fork, VA
Ramothe Ch. Road, VA²
Range Road, VA
Rap. River Estates, VA
Rapidan Retreat, VA
Rappahannock Acad., VA²
Rawley Springs, VA
Rebel Rdg, VA
Red Brush, VA
Red Hill, VA
Red Hill, VA²
Relee Dr. Central, VA
Relee Drive W., VA
Reva Heights, VA
Reynard Woods, VA
Richards Hollow, VA
Richmond Beach, VA
Riddle Road, VA²
Ridge Drive, VA
Ridge Hollow, VA
Ridge Rd, VA²
Ridgewood Estates, VA²
Riles Run, VA
Rivanwood, VA
River Bend Ests, VA
River Bend Farms, VA²
River Bluff, VA
River Bluffs, VA
River Ck Est, VA
River Downs, VA
River Ed Ret, VA
River Junction, VA
River Oaks, VA²
River Park Subdivision, VA
River Ridge On Shen., VA
River Road East, VA
River Road Forest, VA
River Road W., VA
River Road Woods, VA
River View, VA
River Will, VA
Riverbend, VA²
Riverdale, VA
Riverdale, VA²
River's Bend, VA
Riverview Est., VA
Riverview Plnt., VA²
Rk Mb Hm Pk, VA
Rock Hill Church Rd., VA²
Rockbill Rd, VA
Rockhill Rd, VA
Rockland Farm, VA
Rolling Acres, VA²
Rolling Hills, VA
Rolling Hills, VA²
Rolling Wood, VA
Rollins Fork, VA
Rolly, VA
Rosecliff, VA
Roseville Commun., VA²
Roseville Plantation, VA²
Round Hill, VA
Roundhead Mt., VA
Royal View Est., VA
Rt 156, VA
Rt 642 (Country Ests.), VA
Rt. 155, VA²
Rt. 156, VA
Rt. 610, VA²
Ruby, VA²
Ruffins Pond, VA
Runaround, VA
Running Man, VA²
Rural Pt. Rd, VA
Rural Retreat, VA
Russell Point, VA²
Ruth/Settlers Rd., VA²
Ruthville, VA²
S. Bowling Green, VA²
S. White Oak Lake, VA
S. Briewood Fa., VA
Saddlebrk, VA
Sagun's Landing, VA
Salem Ch. Rd Area, VA
Salem Farm Estates, VA
Salem Fields, VA
Salem Heights, VA
Salem Station Blvd, VA
Salishan, VA²
Sam Buggs, VA²
Sand Mtn. Est., VA
Sand Place, VA
Sandbridge, VA²
Sandie Point, VA²
Sandy Hook, VA
Sandy Valley Rd, VA
Sanville Est, VA²
Satisfaction Ln, VA
Sawhill, VA
Scandia Lake, VA
Scandinavian V., VA
Scenic Green V, VA
Scenic Hills, VA
Schenck Est., VA²
Schladdt Subdivision, VA
Scott Ld, VA
Scottown, VA
Scottsburg, VA²
Seaford Rd., VA
Seals Road, VA²
Seaside Acres, VA
Seasons Trace, VA²
Seays Road, VA
Sec. Land Co., VA
Sedgewood, VA
Senger Mtn, VA
Serenity Ridge, VA
Settlers Lndg, VA
Settlers Mill, VA
Seven Fountains, VA
Seven Lakes, VA²
Seven Oaks, VA
Seven Oaks, VA²
Sexton Hills, VA
Shad Bake Ln, VA
Shadetree, VA
Shadetree, VA
Shady Acres, VA
Shady Forest, VA
Shady Grove, VA
Shady Oaks, VA
Shangri La Subdivision, VA
Shawnee Forest, VA²
Shelton Shop Rd., VA²
Shen. Farms, VA
Shen. Forest, VA
Shen. Gap, VA
Shen. Highlands, VA
Shen. Rapids, VA
Shen. Retreat, VA
Shen. Ridge, VA
Shen. River Est., VA
Shen. River Forest, VA
Shen. River Lke., VA
Shen. River Lodge, VA
Shen. Shores, VA
Shenandoah Mtn., VA
Shep Davis, VA
Sherwd For, VA
Sherwd For, VA²
Shiloh, VA
Shilow Lk Et, VA
Ship Point, VA
Shipwreck Farms, VA
Shooters Run, VA²
Simmonsville, VA
Sinclair Manor, VA
Singerly, VA
Single Oak Rd., VA
Six Lakes West, VA
Ski & Hunt, VA
Skimino Hills, VA²
Skimino Lndg., VA²
Skipwith, VA²
Skyland Est., VA
Skyland Lakes, VA
Skyline Crest, VA
Skyline Lakes, VA
Skyve & Br M, VA
Slate Mtn, VA
Sleepy Hol, VA
Sleepy Lake, VA²
Sleepy Lake West, VA²
Smith Hill, VA
Smith Hill, VA
Smokey Rdg, VA
Smoots, VA²
Snell, VA
Snow Hill, VA
Somerville, VA
Somerville Est, VA²
Songertow, VA
South Bluebird, VA²
South Boston, VA²
South Creek, VA
South Fork Ranches, VA
South Oaks, VA
South Red Oak, VA²

South River Estates, VA
 South Woods, VA
 Southard, VA
 Southbridge, VA²
 Sowego Forest, VA²
 Spady's Development, VA
 Spainville, VA²
 Sparkling Springs, VA
 Sparta, VA²
 Sparta Road Comm, VA²
 Spots. Mall Area, VA
 Spotslee, VA
 Spotswd Furnace Rd, VA
 Spotswood Estates, VA
 Spotswood Estates, VA
 Spotswood Trail, VA
 Spotsylvania Cthse, VA
 Spotted Tavern Rd., VA²
 Spotwood North, VA
 Spring Brook, VA
 Spring Creek, VA
 Spring Hill, VA
 Spring Hill, VA
 Spring Hill Subdivision, VA
 Spring Hollow, VA
 Spring Run Rd, VA
 Spring Valley, VA
 Springbrook, VA
 Springfield Rd., VA²
 St. Georges Hn., VA
 Stafford Cthouse, VA²
 Steeplechas, VA
 Stefangia Road, VA²
 Stephanie Trace, VA
 Stepping Stone, VA
 Steve Lowe, VA²
 Stillfield, VA
 Stone Glen, VA
 Stonebridge, Widew, VA²
 Stonewall Jack. Rd, VA²
 Stoney Ck, VA
 Stoney Fork Ret., VA
 Stoney Glen West, VA
 Stoneybrooke, VA
 Stony Hill Road, VA²
 Strath Road, VA
 Strawberry, VA²
 Strawby Mt, VA
 Studley Farm Dev., VA
 Studley Rd, VA
 Sturgeon Point, VA²
 Sugar Hill, VA
 Sugar Lf Mt, VA
 Sugar Mill, VA
 Summer Acres, VA
 Summer Pl, VA
 Summerfield, VA
 Summers Landing, VA
 Summit, VA²
 Suncrest Ht, VA
 Sundance, VA
 Sundance Crest, VA
 Sundance Mtn, VA
 Sundance West, VA
 Sundance (612), VA
 Sundance (620), VA
 Sundnce Retreat, VA
 Sunrise, VA
 Sunrise Acres, VA
 Sunset Heights, VA
 Sunset Ridge, VA
 Sunset View, VA
 Sunset Village, VA
 Sunvalley (Lower), VA
 Sunvalley (Upper), VA
 Supin Lick, VA
 Supply, VA²
 Swan Rig Est, VA
 Swift Run Estates, VA
 Swift Run Haven, VA
 Swiss Knob, VA
 Sycamore Lndg., VA²
 Sylvannia Heights, VA
 Syria Mountain Estates, VA
 T. H. Braxton, VA
 T.J. Sullivan, VA
 Tacketts Mill Estates, VA²
 Tacketts Mill Road, VA²
 Tall Oak, VA
 Tallent Town, VA
 Tanglewood, VA
 Tannery Hills, VA
 Tappahannock, VA
 Taylors Gap, VA
 Telegraph Rd, VA²
 The Barker Subdivision, VA
 The Bench, VA
 The Colony, VA
 The Forest, VA
 The Ledges, VA
 The Meadows, VA
 The Pines, VA
 The Pines, VA
 The Ridges, VA
 Thommason Crossing, VA²
 Thompson Hollow, VA
 Thornton Rolling, VA²
 Three Cedars, VA
 Thunderbird For., VA
 Thunderbird Ranch, VA
 Thunderbird Woods, VA
 Tidemill Est., VA²
 Tidewater Plains, VA
 Tidewater Trail, VA²
 Tidewater Trail N., VA
 Tiffany, VA
 Tillman, VA
 Timber Ridge, VA
 Timberlaine, VA
 Timberlake, VA
 Timberland, VA
 Tobacco Row Es, VA
 Todds Tavern, VA
 Todds Tavern Est., VA
 Toluca Rd, VA²
 Tower Hill, VA²
 Towles Mill Rd., VA
 Townfield, VA²
 Trails End, VA
 Tree Bank, VA
 Trey Brook, VA²
 Triangle Apts., VA²
 Tunstall Hills, VA²
 Turkey Run Est., VA
 Turner Run, VA
 Turner Woods, VA
 Turtle Rock Farms, VA
 Tuscarora, VA
 Twin Cedars, VA
 Twin Cedars, VA²
 Twin Chim, VA
 Twin Coves, VA
 Twin Creek, VA
 Twin Falls Subdivision, VA
 Twin Lakes, VA
 Twin Run Est., VA
 Tysen Meadows, VA
 U.S. Ford Rd, VA
 Ula Farm Dr, VA
 Umphlette, VA
 Union Run, VA
 US #21 North, VA
 Va Hills, VA
 Valihi, VA
 Vallee Viede, VA
 Valley Rd E, VA
 Valley View, VA
 Valley View Estates, VA
 Valley View Farms, VA
 Valley Vista, VA
 Valley Vue/Oak Hill Farm, VA²
 Varina Chase, VA
 Varina Gardens, VA
 Varina Meadows, VA
 Varina Oaks, VA
 Varina Place, VA
 Varina/Kingsland, VA
 Vestavia Woods, VA²
 Villboro, VA²
 Vineyards, VA
 Vista Brooke, VA²
 Vista Woods, VA²
 W. Garrisonville Rd, VA²
 Wakefield Corner, VA
 Walker Ck, VA
 Walkers Landing, VA
 Walnut Hill, VA²
 Walnut Hill Est., VA
 Walnut Ridge Ests., VA²
 Walthal Creek, VA
 Walthall Mill, VA
 Walton, VA²
 Ware Creek Mnr., VA²
 Wares Wharf, VA
 Warsaw, VA
 Waterford, VA
 Waterfords Est., VA²
 Watkins Forest, VA²
 Waymacks Road, VA
 Wayside, VA
 Wds Landing, VA
 Weakley Hollow, VA
 Weatherwd, VA
 Weber City, VA
 Wedgwood P, VA²
 Weedonville, VA²
 Welcome, VA
 West Brice, VA
 West End Area, VA
 West Leigh, VA
 West Studley Rd, VA
 West Woods, VA
 Westchester, VA²
 Westfield, VA
 Westham Rdge, VA
 Westmoreland, VA²
 Westmoreland Shores, VA
 Westover Estates, VA
 Westover Hills, VA
 Westwd Ac, VA²
 Westwood, VA²
 Westwood Rd, VA
 Wetsel Village, VA
 Wexford, VA
 Wexford Hills, VA²
 Wheaton Rd, VA
 Whetstone Crk, VA²
 Whip Por Ril, VA
 Whippoorwill, VA
 Whipporwill Hol, VA
 Whispering Pines, VA²
 White Oak Rge, VA
 White Oaks, VA
 White Pines, VA²
 Whitehouse Farm, VA²
 Whitlock Estate, VA
 Widewater Beach, VA²
 Widewater Road, VA²

Wilcox Neck, VA ²	Ferdinand, VT	Dayton (Maloney Mt. Homes & Recreation Sites), WA ¹
Wilderness Camping, VA	Goshen, VT ¹	Dayton (Tucannon Camp Ground), WA ¹
Wildwater, VA	Granville, VT ¹	Dayton (Tucannon Fish Hatchery), WA ¹
Wildwood, VA	Hancock, VT ¹	Dayton (Twin Buttes Recreation Area), WA ¹
Wildwood Ne, VA ²	Hartford, VT ²	Dayton (Wa State Campgrounds (Tucannon)), WA ¹
Wildwood Valley, VA	Hartland, VT ^{1 2}	Dayton (Wa State Fish & Wildlife Facilities (Tucannon)), WA ¹
Will, VA ²	Jamaica, VT ¹	Deming, WA
Willamson Farm, VA	Jerico, VT ²	Diablo, WA ¹
Williams Lane, VA	Landgrove, VT	Disautel, WA ¹
Williamsburg Colony, VA ²	Leicester, VT	East Wenatchee, WA
Williamsville Rd, VA	Lewis, VT	Elbe, WA
Wilson Lake Estates, VA	Lincoln, VT ¹	Ellensburg, WA ¹
Wilson Rd, VA ²	Manchester, VT	Eltopia, WA
Wilton Wood, VA	Mendon, VT ¹	Entiat, WA ¹
Wind Hills Est, VA	Middlebury, VT ¹	Enumclaw, WA
Wind Sweep, VA	Mount Tabor, VT ¹	Etueville, WA ¹
Winding Creek Dr., VA ²	Mt. Holly, VT ¹	Evans, WA ¹
Windrift, VA	Peru, VT ¹	Fairchild Air Force Base, WA ²
Windsor, VA	Pittsfield, VT ¹	Ford, WA ¹
Windsor Forest, VA ²	Quechee, VT ²	Ford Cluster, WA ¹
Windsor Forest, VA ²	Ripton, VT ¹	Fruitland, WA
Windy Gap Mtn, VA	Rochester, VT ¹	Ft. Simcoe Job Corp. Center, WA ¹
Winewood, VA	Salisbury, VT	Georgeville, WA ¹
Winnbrook, VA	Searsburg, VT	Highway 155 Corridor, WA
Winterberry, VA	Somerset, VT ¹	Highway 21 Corridor, WA
Wintergreen, VA	Stockbridge, VT ¹	Highway 97 Corridor, WA
Winterhaven, VA	Stratton, VT ¹	Hoodspport, WA
Wisman Ridge, VA	Sunderland, VT ¹	Hozomeen, WA ¹
Wood Creek, VA ²	Thetford, VT ^{1 2}	Hunters, WA
Wood Hills, VA	Underhill, VT ²	Ilwaco, WA
Woodard Estates, VA	Wallingford, VT ¹	Inchelium, WA
Woodbine, VA ²	Wardsboro, VT ¹	Inchelium Rural, WA ¹
Woodbine Forest/Oaks Of Shenandoah, VA ²	Warren, VT ¹	Inchelium Urban, WA
Woodbine Woods, VA ²	Wilmington, VT ^{1 2}	Ione, WA
Woodfield, VA	Winhall, VT ¹	Kahlotus, WA
Woodford, VA ²	Woodford, VT ¹	Keller, WA
Woodhaven, VA ²	Woodstock, VT	Kennewick, WA
Woodland Farms, VA ²	9 -Mile Rogers Bar, WA	Kettle Falls, WA ¹
Woodland H, VA	Addy, WA ¹	Kettle Falls (Boys), WA
Woodld, VA ²	Anatone, WA	Lake Roosevelt Corridor, WA
Woodridge, VA	Anatone (Big Butte Lookout), WA ¹	Laurier, WA
Woodridge, VA	Anatone (West Mt. Residences), WA ¹	Lilliwaup, WA
Woods Of Shenandoah, VA ²	Ariel, WA ¹	Long Beach, WA
Woods Of Tabb, VA ²	Ashford, WA	Long Island, WA
Woodshire, VA	Asotin, WA	Loomis, WA
Woodtown Qtrs., VA	Baring, WA	Malo, WA ¹
Woodview Hills, VA	Benton City, WA	Malott, WA
Woodward Hollow, VA	Bickleton, WA	Manson, WA ¹
Wright's Pond Area, VA	Bingen, WA	Marcus, WA
Wykehurst, VA	Bremerton, WA ²	Matlock, WA
Wyliesburg, VA ²	Brewster, WA	Mattawa, WA
Wynne/7 Hollies, VA	Brinnon, WA	Mazama, WA
Wynnes Grove, VA ²	Burbank, WA	Mesa, WA
Wynwood Dr., VA	Cameron Lake, WA	Metalline, WA
Yahley Mill, VA	Carlton, WA ¹	Metalline Falls, WA
Yahley Mill Rd, VA	Carson, WA ¹	Methow, WA
Yancey Mills, VA	Cashmere, WA ¹	Moses Meadows, WA
Yarnell Rd, VA	Cathlamet, WA ¹	Mossyrock, WA
Zeus Mills Estate, VA	Chelan, WA ¹	Naches, WA ¹
Christiansted, VI	Chesaw, WA	Naselle, WA
Coral Bay, VI	Chewelah, WA	Nespelem, WA
Cruz Bay, VI	Cle Elum (And Roslyn, Ronald), WA	Newport, WA ¹
Frederikstead, VI	College Place, WA	North Ahtanum, WA ¹
Moho Bay, VI	Colville, WA ¹	North Bend, WA
Reef Bay, VI	Connell, WA	Ocean Park, WA
Avery's Gore, VT	Cowiche, WA	Odessa, WA
Barnard, VT	Creston, WA	Okanogan, WA
Bloomfield, VT	Curlew, WA ¹	Olympia, WA
Bolton, VT ²	Cusick, WA	Omak, WA
Brighton, VT	Danville, WA	Omak Rural, WA
Bristol, VT ¹	Darrington, WA	Omak Urban, WA
Brunswick, VT	Davenport, WA ¹	Orient, WA
Chittenden, VT ¹	Dayton, WA	Oroville, WA
Dorset, VT ¹	Dayton (Camp Wooten Learning Center), WA ¹	
Dover, VT ¹	Dayton (Last Chance Resourt), WA ¹	

Othello, WA
 Owhi Lake, WA
 Packwood, WA ¹
 Pasco, WA
 Pateros, WA
 Patterson, WA
 Plymouth, WA
 Pomeroy, WA
 Pomeroy (Bakers Pond Recreation Area), WA ¹
 Pomeroy (Grouse Flat Residences), WA ¹
 Pomeroy (Rose Springs Recreation Area), WA ¹
 Pomeroy (Stenze Spring Recreation Area), WA ¹
 Port Angeles, WA
 Prosser, WA
 Quilcene, WA
 Randle, WA
 Rebbeca Lake, WA
 Republic, WA ¹
 Reservation Road, WA ¹
 Richland, WA
 Ridgefield, WA ¹
 Riverside, WA
 Riverside (Conconully), WA
 Royal City, WA
 Sequim, WA ¹
 Springdale, WA
 Stehekin, WA ¹
 Stevenson, WA ¹
 Tieton, WA ¹
 Timentwa Flats, WA
 Tonasket, WA ¹
 Toppenish, WA
 Touchet, WA
 Twin Lakes, WA ¹
 Twisp, WA
 Underwood, WA ¹
 Usk, WA
 Waitsburg, WA
 Waitsburg (Dixie), WA
 Walla Walla, WA ¹
 Walla Walla (Bluewood), WA
 Wallula, WA
 Wauconda, WA ¹
 Wellpinit, WA ¹
 West Richland, WA
 White Swan, WA ¹
 Wilbur, WA
 Winthrop, WA
 Yacolt, WA
 Alvin, WI
 Anvil Lake, WI
 Argonne, WI
 Armstrong Creek, WI
 Ashland, WI
 Atkinsing Lake, WI
 Babcook, WI
 Barber & Perch Lake, WI
 Barker & Hunter Lake, WI
 Barnes, WI
 Bass Lake, WI
 Bear Lake, WI
 Bear Paw, WI
 Bellevue Lake, WI
 Big Fork Lake, WI
 Big Sand Lake, WI
 Birch Hill, WI
 Black Lake, WI
 Blackwell, WI
 Blackwell Junction, WI
 Blaisdale Lake, WI
 Blockhouse Lake, WI
 Blue Wing, WI
 Bogbrook Lake, WI
 Boulder Lake, WI
 Boundary Lake, WI
 Bowler, WI
 Butternut Lake, WI
 Camp 4 Springs, WI
 Camp Douglas, WI ²
 Carter, WI
 Cavour, WI
 Cedar Rapids, WI
 Chelsea Creek, WI
 Chequamegon Waters Flowage, WI
 Chute Pond, WI
 Clam Lake, WI
 Clear Lake, WI
 Clearwater Lake, WI
 Cochram Lake, WI
 Conover, WI
 Crooked Lake, WI
 Dairyland, WI
 Danbury, WI
 Deerskin Lake, WI
 Dell Lake, WI
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 Drummond, WI
 Dry Town, WI
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 Topside Lake, WI
 Townsend, WI
 Trump Lake, WI
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[FR Doc. 01-20592 Filed 8-16-01; 8:45 am]

BILLING CODE 3410-11-P; 4310-70-P



Federal Register

**Friday,
August 17, 2001**

Part IV

National Skills Standards Board

**Partnership Organization; Sales & Service
Voluntary Partnership (S&SVP);
Solicitation of Comments; Notice**

NATIONAL SKILL STANDARDS BOARD

Partnership Organization; Sales & Service Voluntary Partnership (S&SVP); Solicitation of Comments

AGENCY: National Skill Standards Board.

ACTION: Solicitation of comments.

SUMMARY: The National Skill Standards Board (NSSB) is building a voluntary national system of skill standards, assessment, and certification that will enhance the ability of the U.S. to compete effectively in a global economy. The Sales & Service Voluntary Partnership (S&SVP) is an industry-based organization that has been recognized by the NSSB to develop proposed skill standards. As NSSB requires of Voluntary Partnerships, S&SVP seeks public comment to improve the product, receive input on potential uses of the skill standards in various organizations, and to assist in the design of associated assessment and certification systems related to the skill standards' full implementation and continuous improvement. Comments must be submitted in writing in order to be considered, and details on submitting comments via e-mail, fax, or regular mail are provided in the **ADDRESSES** section. Due to the complexity and length of the proposed skill standards, only a summary is published in this Notice. To obtain the full text of the proposed S&SVP Skill Standards, see the Supplementary Information section.

DATES: The Sales & Service Voluntary Partnership will accept written comments on the proposed Skill Standards on or before September 17, 2001.

ADDRESSES: Please send comments via regular mail to: Nicole Manning, S&SVP, c/o NRF Foundation, 325 7th Street NW, Suite 1100, Washington, DC 20004. To submit comments via fax, transmit to Nicole Manning, S&SVP, 202-737-2849. To submit comments via e-mail, send comments to ssvpinfo@nrf.com.

FOR FURTHER INFORMATION CONTACT: For further information regarding S&SVP's development of skill standards, assessment, and certification, contact JoEllen Carlson, S&SVP, 202-626-8196, carlsonj@nrf.org. For further information on the Voluntary National System of Industry Skill Standards, contact the National Skill Standards Board (NSSB): 1441 L Street, NW, Suite 9000/Washington DC 20005/200-254-8628/<http://www.nssb.org>.

SUPPLEMENTARY INFORMATION:

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- IX. Resolution of Comments

I. Contact Information

The full text of the proposed S&SVP Skill Standards may be obtained by submitting a written request to the following mailing address: Nicole Manning, S&SVP, c/o NRF Foundation, 325 7th Street NW, Suite 1100, Washington, DC 20004, or by faxed request to Nicole Manning, S&SVP, 202-737-2849. The full text of the proposed S&SVP Skill Standards is also available on the S&SVP website at <http://www.SSVP.org>. Proposed skill standards may be viewed on the web or downloaded (PDF files). Printed copies of the proposed skill standards may also be obtained from the downloadable PDF at <http://www.SSVP.org>.

II. Background

The S&SVP is a national body serving as the catalyst for skill standards development for the retail, wholesale, real estate and personal services industries. Participation is open to large and small employers, trade associations, labor organizations, employee associations, and public interest representatives from education, government, community and policy groups. The S&SVP is managed by the NRF Foundation under a grant from the National Skill Standards Board.

III. Authorizing Legislation

Public Law 103-227, Title V, National Skill Standards Act of 1994.

IV. National Skill Standards Board (NSSB)

The National Skill Standards Act of 1994 created "a National Skill Standards Board to serve as a catalyst in stimulating the development and adoption of a voluntary national system of skill standards and of assessment and certification of attainment of skill standards." Industry coalitions called Voluntary Partnerships are developing the skill standards, assessment and certification systems within fifteen NSSB-defined industry sectors.

V. Sales & Service Voluntary Partnership (S&SVP)

The National Skill Standards Board formally recognized the Sales & Service Voluntary Partnership on May 28, 1998 to develop a system of voluntary skill standards for the service industry. This system is industry-led with full partnership and full and balanced participation of representatives of employers, unions, education, civil rights organizations, and community stakeholders. The Sales & Service Voluntary Partnership (S&SVP) is staffed and managed by the NRF Foundation under a grant from the National Skill Standards Board.

VI. Mission of the Sales & Service Voluntary Partnership

The mission of the S&SVP is to develop a nationwide system of workforce skill standards for workers in the service sector. This nationwide Sales & Service Skill Standards System seeks to:

- Enhance productivity and global economic competitiveness of U.S.-based companies;
- Raise the standard of living and economic security of American workers by improving their access to high-skill, high-wage employment and career opportunities for those currently in, entering, or reentering the workforce;
- Encourage the use of world-class academic, occupational and employability standards to guide continuous education and training for current and future workers.

VII. Background for Proposed Standards Release

The S&SVP comprises the retail, wholesale, real estate, and personal services industries. Standards are expected to be used broadly to provide national credentials in the areas of customer service, sales, and others as appropriate, and in conjunction with industry, education, labor, government, and organizational partners. Completion of these proposed standards for submission to the National Skill Standards Board marks a major step towards developing a nationwide system of voluntary skill standards, assessments and certification, as envisioned in the National Skill Standards Act of 1994.

VIII. Proposed Standards

The S&SVP Proposed Standards include information on the work (*i.e.*, critical work functions, key activities, and performance indicators) as well as the knowledge and skills (academic, employability, and occupational/technical) needed in the service sector.

These standards are designed to benefit all stakeholders, including organizations, educational institutions, agencies, and businesses of all sizes, regardless of geographic location. They are intended to guide employees, job seekers, and students on the performance requirements for sales and service work in high-performance environments. For businesses, they provide a benchmark for evaluating their own work processes and building a professional, committed workforce.

IX. Resolution of Comments

The Sales & Service Voluntary Partnership shall review and take into consideration all comments; will respond in writing to comments as appropriate; and, with agreement from the National Skill Standards Board, will make revisions as deemed appropriate. At the end of the comment period the S&SVP will post a summary of comments on the S&SVP Web site, <http://www.ssvp.org>. A summary of the response to comments and a notice of

revision will be posted at a later date. The summary of responses may also be accessed at the NSSB website, <http://www.nssb.org>, via hyperlink to the S&SVP website.

Signed at Washington, DC this 13th day of August, 2001.

Eddie West,

Executive Director/National Skill Standards Board.

[FR Doc. 01-20778 Filed 8-16-01; 8:45 am]

BILLING CODE 4510-BF-P



Federal Register

**Friday,
August 17, 2001**

Part V

Department of Commerce

**National Oceanic and Atmospheric
Administration**

50 CFR Part 216

**Taking and Importing Marine Mammals;
Taking Marine Mammals Incidental to
Operation of a Low Frequency Sound
Source by the North Pacific Acoustic
Laboratory; Final Rule**

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 216**

[Docket No. 00801223–1204–03; I.D. 062000A]

RIN 0648–AO24

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Operation of a Low Frequency Sound Source by the North Pacific Acoustic Laboratory

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

ACTION: Final rule.

SUMMARY: NMFS, upon application from the University of California San Diego, Scripps Institution of Oceanography (Scripps), is issuing regulations to govern the unintentional take of a small number of marine mammals incidental to the continued operation of a low frequency (LF) sound source by Scripps. The sound source was previously installed off the north shore of Kauai by the Acoustic Thermometry of Ocean Climate (ATOC) project. Issuance of regulations governing unintentional incidental takes of marine mammals in connection with particular activities is required by the Marine Mammal Protection Act (MMPA) when the Secretary of Commerce (Secretary), after notice and opportunity for comment, finds, as here, that such takes will have a negligible impact on the species and stocks of marine mammals and will not have an unmitigable adverse impact on the availability of them for subsistence uses. These regulations do not authorize conducting the activity; such authorization is not within the jurisdiction of the Secretary. Rather, these regulations authorize the unintentional incidental take of marine mammals in connection with such activities and prescribe methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses.

DATES: Effective from September 17, 2001, through September 17, 2006.

ADDRESSES: Copies of the Scripps' application and NMFS' Biological Opinion may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West

Highway, Silver Spring, MD 20910–3226 or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**). A limited number of copies of the Final Environmental Impact Statement (final EIS), issued by the Office of Naval Research, Department of the Navy (ONR) for this activity, are available from Marine Acoustics Inc., 809 Aquidneck Ave., Middletown, RI 02842, attn. Kathy Vigness Reposa, 401–847–7508.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirements contained in this rule should be sent to the Chief, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713–2055, ext. 128.

SUPPLEMENTARY INFORMATION:**Background**

Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations governing the take are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will be small, will have no more than a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for Arctic Ocean subsistence uses, and if regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

Summary of Request

On May 21, 2000, NMFS received an application for an incidental, small take authorization under section 101(a)(5)(A) of the MMPA from Scripps to take a small number of marine mammals incidental to the continued operation of a LF sound source previously installed off the north shore of Kauai, HI as part of the ATOC project. The principal funding agency for the proposed action is ONR. A final decision on whether to use the acoustic sound source and its seabed power cable for the North Pacific Acoustic Laboratory (NPAL), in order to

combine a second phase of research on the feasibility and value of large-scale acoustic thermometry with long range underwater sound transmission studies and marine mammal monitoring and studies, will be made by Scripps and ONR based, in part, on their findings and determinations made under the National Environmental Policy Act (NEPA). Draft and final EISs have been prepared by the ONR. NMFS is a cooperating agency, as defined by NEPA, in the preparation of these documents.

Project Description

Acoustic thermometry is a method for obtaining information about the temperature field in the ocean from precise measurements of the travel times of sound pulses transmitted through the ocean. It is also a technique for acoustic remote sensing of the ocean interior, in which the properties of the ocean between the acoustic sources and receivers are determined, rather than the properties of the ocean at the instruments as is the case for conventional thermometers and current meters.

The basic principle behind acoustic thermometry is that, because sound travels faster in warm water than in cold water, sound travel time is a direct measure of the average temperature between source and receiver. The travel time of a sound pulse from a source near Kauai to a receiver in the western North Pacific Ocean, for example, will decrease if the ocean in between warms up and will increase if the ocean cools down. Measuring average ocean temperatures over time may answer questions related to global climate change.

The NPAL acoustic project takes advantage of an acoustic “waveguide” deep within the ocean that carries sounds over very long distances. This feature, known as the “sound channel” or sound fixing and ranging (SOFAR) channel, is at the ocean depth where the speed of sound is at a minimum. Above the SOFAR channel, sound travels faster because the water is warmer. Below the SOFAR channel, sound travels faster because the pressures are greater. Sounds that would otherwise spread to higher or lower depths are refracted (bent) back toward the SOFAR channel axis by this difference in speeds. The net effect is that the sound channel very efficiently transmits sounds for long distances. This effect also tends to limit sounds that are trapped in the SOFAR channel from being detectable at depths outside of the channel. The sounds to be produced by the NPAL source are digitally coded, low frequency rumbles

at a pitch comparable to the low notes of a cello. The same digital sequences are repeated a number of times and combined at the receivers. This allows a signal to be detected beneath the ambient background noise which, in turn, permits use of a less intense sound source. The receiving stations use advanced digital processing techniques similar to those used to retrieve data from deep space probes, to detect signals after traveling great distances through the SOFAR channel.

Long-range underwater sound transmission studies are needed: (1) To improve the understanding of the basic principles of LF, long-range underwater sound transmission (i.e., acoustic propagation) in the ocean; (2) to determine the effects of ocean environmental variability on acoustic signal stability and coherence; (3) to study the seasonal and annual variations in acoustic conditions in the North Pacific and the impact of environmental variability on acoustic propagation; and (4) to determine the fundamental limits to acoustic signal processing at long-range imposed by the ocean environment.

The original ATOC feasibility project demonstrated that acoustic thermometry is a powerful tool for making routine measurements of large-scale ocean temperature variability and heat content. The key results obtained to date are: (1) Acoustic travel times can be measured with a precision of about 20-30 milliseconds at 3000-5000 km (1620-2700 nm) ranges; (2) range- and depth-averaged temperature estimates made from the acoustic travel-time data are consistent with direct temperature measurements made with instruments lowered from ships (Worcester *et al.*, 1999); (3) the observed travel time changes can be clearly related to known ocean processes; and (4) the range and depth-averaged temperatures derived from ATOC are consistent with, and complementary to, related estimates derived from measurements of sea-surface height.

The purposes for conducting the proposed second-phase of large-scale acoustic thermometry research are: (1) To test the feasibility and value of large-scale acoustic thermometry; (2) to study the behavior of sound transmissions in the ocean over long distances; (3) to study seasonal and interannual ocean variability associated with ocean phenomena such as El Niño, La Niña, and the Pacific Decadal Oscillation; (4) to use acoustic thermometry data in combination with a variety of other data types, including satellite altimeter data, surface drifter data, surface mooring data, and others to test and constrain

computer models of ocean circulation in order to gain a better understanding of ocean variability and the earth's changing climate; and (6) to make an objective assessment of the value of acoustic methods for remote sensing of the ocean interior as one component of an integrated ocean observing system for ocean weather and climate. This second phase of acoustic research will require a long time series of acoustic measurements in order to determine whether the acoustically-derived time series of large-scale ocean temperature and heat content variability prove to be as valuable as anticipated in studying seasonal and interannual ocean variability.

Under the proposed action, which is for Scripps to operate the sound source previously installed off the north shore of Kauai by the ATOC project, the seabed power cable and sound source from the ATOC project would remain in their present locations offshore of Kauai, and transmissions would continue with approximately the same signal parameters and transmission schedule used in the earlier ATOC project. The typical schedule would consist of six 20-minute (min) transmissions (one every 4 hours), every fourth day, with each transmission preceded by a 5-min ramp-up period during which the signal intensity is gradually increased, representing an average duty cycle of 2 percent. With the possible exception of short duration testing with duty cycles of up to 8 percent, or equipment failure, this schedule would continue for a period of 5 years. In this context, short duration testing refers to a maximum of 2 months of testing per year at a duty cycle higher than 2 percent. The signals transmitted by the source would have a center frequency of 75 Hertz (Hz) and a bandwidth of approximately 35 Hz (i.e., sound transmissions are in the frequency band of 57.5-92.5 Hz). Approximately 260 watts of acoustic power would be radiated during transmission. According to Scripps, the signal parameters and source level in the ATOC project have been found to provide adequate, but not excessive, signal-to-noise ratios in the receiver ranges of interest. At 1 meter (m) (3.3 feet (ft)) from the source (at 807 m (2,648 ft) water depth), sound intensity (i.e., source level) would be about 195 decibels (dB) referenced to the intensity of a signal with a sound pressure level (SPL) of 1 microPascal (1 μ Pa).

Average ambient noise levels in the 60-90 Hz band offshore central Kauai can be 76-98 dB (with various degrees of shipping traffic) and are expected to be higher ($\sim$ 105 dB) when humpback whales are present. At the water's

surface above the NPAL source, the received level from the NPAL source is not expected to be louder than 137 dB when the source is on. The received level in the top 100 m (328.1 ft) from the water surface, when the source is on, has been measured to decrease to about 120 dB at 5 km (2.7 nm) shoreward of the source. The near-surface NPAL received level is predicted to decrease to about 120 dB at 7.5 km (4 nm) seaward of the source. Underwater sound levels in the area surrounding the NPAL source are expected to be: 140 dB at 245 m (804 ft) water depth (562 m (1844 ft) from the source); 145 dB at 491 m (1611 ft) water depth (316 m (1037 ft) from the source); 150 dB at 629 m (2064 ft) water depth (178 m (584 ft) range around the source); and 165 dB at 775 m (2543 ft) water depth (32 m (105 ft) range around the NPAL source (ONR/NMFS, 2000; ARPA/NMFS, 1995).

Comments and Responses

On December 22, 2000 (65 FR 80815), NMFS published a proposed rule to authorize Scripps to take small numbers of marine mammals incidental to the continued operation of a LF sound source previously installed off the north shore of Kauai, HI, and requested comments, information, and suggestions concerning the request and the regulations that would govern the taking by harassment of certain species of marine mammals. During the 45-day public comment period, NMFS received letters from one citizen, the Marine Mammal Commission (MMC), the Hawaii Department of Business, Economic Development and Tourism (State of Hawaii), the Humane Society of the United States (on behalf of itself, Earth Island Institute and the Natural Resources Defense Council)(HSUS), and from the Whale and Dolphin Conservation Society (WDCS). Some comments by the MMC regarding minor text edits modifications have been incorporated without further discussion in this document.

Activity Concerns

Comment AC1: The MMC notes that the term "short duration" should be described in reference to duty cycles of up to 8 percent.

Response: In the preamble to the proposed rule, NMFS stated: "[W]ith the possible exception of short duration testing with duty cycles of up to 8 percent, or equipment failure, this (NPAL transmission) schedule would continue for a period of 5 years." In this document, "short duration testing" refers to the maximum of 2 months of testing per year at a duty cycle higher than 2 percent. This increased duty

cycle would not occur during the humpback whale season (February through April), and would not have any single transmission longer than 2 hours in duration. For example, an 8 percent duty cycle might include 20-minute transmissions at 4-hour intervals every day, instead of every fourth day. Another example could involve transmitting the 20-minute signal on the hour for 24 hours followed by 72 hours with no transmissions, repeated up to 15 times over the 2-month 8-percent duty cycle period.

Comment AC2: The MMC notes that the discussion does not, but should, explain that received sound levels at different distances from the source are mean or modal estimates and that certain environmental conditions could cause sound focusing, thereby resulting in received levels greater than estimated at various distances from the source.

Response: NMFS agrees that SPLs at different distances may be affected slightly by water and bottom characteristics. This is especially likely for upslope propagation and is explained in some detail in ONR's final EIS. However, sound focusing is likely to occur only with surface ducting; with the NPAL source located at a depth of 807 m (2,648 ft), surface ducting is very unlikely to occur.

MMPA Concerns

Comment MMPA1: The MMC notes that, while any significant behavioral response by a marine mammal no doubt would constitute Level B harassment, it is not clear that other types of disturbance that cause disruption of behavioral patterns would not constitute harassment. As such, NMFS should more clearly explain how the distinction it seeks to draw between significant and other behavioral responses conforms to the statutory definition of Level B harassment. The MMC recommends also that NMFS more clearly describe what would constitute a significant behavioral response.

Response: NMFS clarifies that, for small take authorizations (as opposed to intentional takings), NMFS considers a Level B harassment taking to have occurred if the marine mammal has a significant behavioral response in a biologically important behavior or activity. The term "harassment" is defined in the MMPA as "any act of pursuit, torment, or annoyance which . . . (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing,

nursing, breeding, feeding, or sheltering."

In this context, a behavioral pattern means a composite of biological traits characteristic of an individual or of a species. Therefore, to disrupt a behavioral pattern, the activity would need to disrupt an animal's normal pattern of biological traits or behavior, not just cause a momentary reaction on the part of a marine mammal. Therefore, if the only reaction to an activity on the part of the marine mammal is within the normal repertoire of actions that are required to carry out the behavioral pattern for that species of marine mammal, NMFS considers the activity not to have caused an incidental disruption of the behavioral pattern, provided the animal's reaction is not otherwise significant enough to be considered disruptive due to length or severity. For example, if there is a short-term change in breathing rates or a somewhat shortened or lengthened diving sequence that is within the animal's normal range of breathing patterns and diving cycles but there is not a disruption to the animal's overall behavioral pattern (i.e., the changes are not biologically significant), then these responses do not rise to a level requiring a small take authorization or, if under a small take authorization, does not constitute an incidental take.

Examples of significantly disruptive or severe behavior would be where pinnipeds flee a haulout beach or rookery en masse due to a disturbance, or animals either leave an area of habitation for a period of time, or diverge significantly from their migratory path to avoid either an acoustic or a visual interference. For these two mentioned situations, non-significant behavioral responses would be when only a few pinnipeds leave the haulout or mill-about, but many pinnipeds alert to the disruption; or when marine mammals make minor course corrections that are not discernable either to observers or directional plotting, and which require statistical manipulation in order to determine that a course correction has taken place. For the action under consideration in this document, it is the behavioral response of the humpback and possibly sperm whale to the NPAL signal that is the biological response that is considered to be a taking by harassment.

Comment MMPAC2: The HSUS believes that NMFS has used the NPAL proposed rulemaking to establish a standard for Level B (acoustic) harassment, which appears to extend well beyond this project. This new standard, which NMFS has referred to

as "biological significance," would count as "takes" only those activities with the potential to affect the reproduction and survival of a protected species. The HSUS believes that NMFS is making discriminations that are non-conservative judgments in violation of the MMPA. NMFS is obligated to use the definition found in the MMPA (for Level B harassment) in calculating species take and must include in its tally any animal whose behavioral patterns might potentially be disrupted. The Agency's failure to do so here, and its extension of this failure to a broadly applied rule, represents a rewriting of law and an offense to the conservative intent of the MMPA.

Response: Reproduction and survival effects are used by NMFS to determine whether an activity is having a negligible impact on marine mammals, not whether an incidental take is occurring. Negligible impact determinations are based on the impact the activity might have on a species' or stocks' annual rates of recruitment (reproduction) or survival (50 CFR 216.103). Because negligible impact determinations are based, in part, on an activity's impact on a species' or stock's survival, this is far more significant to the conservation of marine mammal species and stocks than NMFS' consideration of what constitutes a significant behavioral response in a biologically important activity under Level B harassment. For Level B incidental harassment takings, NMFS will determine whether takings by harassment are occurring based on whether there is a significant behavioral change in a biologically important activity, such as feeding, breeding, migration or sheltering. All of these activities are potentially important for reproductive success of a marine mammal population.

Comment MMPAC3: The MMC notes that, in a previous rulemaking for taking marine mammals incidental to conducting a shock trial, the MMC expressed a concern that NMFS' proposal to define Level B harassment from explosive detonation events exclusively in terms of temporary threshold shift (TTS) was tantamount to concluding that behavioral changes not related to TTS are biologically insignificant and do not constitute harassment as defined in the MMPA. Such a conclusion, the MMC contends, seems inconsistent with the statutory definition of the term harassment and needs to be reconsidered or further justified.

Response: As stated in the final rulemaking for issuance of a small take authorization for the U.S. Navy

incidental to conducting the shock trial (66 FR 22450, May 4, 2001), NMFS clarified that the criterion limiting Level B harassment to behavioral responses that are possible as a result of receiving an impairment to hearing (i.e., TTS) was limited to single-event explosions, not multiple explosive events spaced over a relatively short period of time in the same vicinity, nor to impulse or intermittent/continuous noise sources such as seismic, Navy sonars, and oceanographic instrumentation. These other listed activities have at least the potential to cause significant behavioral responses on the part of marine mammals that are not related to behavioral disruptions caused by TTS. Because NPAL is considered an intermittent noise source, and has, therefore, the potential to result in non-TTS related behavioral responses, the comment is not relevant to the discussion in this rulemaking. Reviewers interested in NMFS' response to this concern of the MMC should review the previously mentioned rule, specifically NMFS' response to comment 3 in that document. For intermittent sounds, Level B harassment would include both TTS-related behaviors and behavioral responses resulting from noise levels lower than those that might potentially cause TTS. However, for the NPAL project, as mentioned elsewhere in this document, TTS is unlikely to occur.

Comment MMPAC4: The MMC recommends NMFS more clearly describe what is meant by "far exceed."

Response: The sentence referenced by the MMC states: "Few data on the effects of non-explosive sounds on hearing thresholds of marine mammals have been obtained; however, in terrestrial mammals, and presumably in marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any TTS." The statement is meant to apply to marine mammals in general since the difference between hearing threshold (level where one could hear the quietest sounds) and a level that might cause onset-TTS is expected to vary among marine mammal species and even among individual animals. However, the term "far exceed" is based on Richardson *et al.*'s (1991, 1995) conclusion, that, based upon studies on humans, SPLs of 80 to 100 dB and 130 dB over threshold are necessary in order to cause annoyance and for injury, respectively, in odontocetes (see response to comment MMPAC5 for more information).

Comment MMPAC5: The WDCS quotes Ketten (1998) that "sublethal impacts may ultimately be as devastating as lethal impacts, causing

death indirectly through behavioral reactions, such as panic, as well as impaired foraging or predator detection, but the potential for this type of extended or delayed impact from any sound source is not well understood for any mammal." The WDCS believes that temporary lack of predator avoidance skills may clearly lead to the death of an individual cetacean. This leads WDCS to conclude that TTS should be classified as a Level A harassment.

Response: For reasons provided in response to comment 26 in the **Federal Register** document for issuance of a small take authorization for shock testing the USS WINSTON S. CHURCHILL (66 FR 22450, May 4, 2001), NMFS does not believe the evidence warrants TTS being considered as Level A harassment (i.e., injury) due to the referenced secondary effects. Please refer to that document for additional information.

Comment MMPAC6: The HSUS quotes NMFS stating: "scientists have noted that a range of only 15-20 dB may exist between the onset of TTS and the onset of PTS . . ." With such a narrow safety margin, the HSUS considers it non-precautionary to consider TTS to be the upper portion of the Level B harassment zone, as does NMFS. With so little known about TTS, in mysticetes in particular, it seems more prudent and precautionary to consider TTS as the lower portion of the Level A harassment zone.

Response: The statement in the proposed rule that is quoted in the comment was incomplete. The 15-20 dB difference refers to the difference between the sound exposure levels (SELs) that cause the slightest TTS and the onset of PTS. As explained in more detail in response to comment PRC6 and in the response to comment 29 in the final rulemaking document for the shock trial of the USS WINSTON S. CHURCHILL (66 FR 22450, May 4, 2001), experiments on chinchillas have shown that this species experiences full recovery from up to 40 dB of TTS (Ahroon *et al.*, 1996) from impulsive noise. However, in the absence of comparable data for marine mammals, NMFS believes it is precautionary to define the onset of PTS for marine mammals to be 20 dB of TTS. This should not be interpreted to mean that the onset of PTS results when you add 20 dB to the dB level found to cause the onset TTS in an animal, but instead means that the onset of PTS is the SEL (in dB) that would cause 20 dB of TTS. This 20 dB level would be considered conservative for chinchillas, and would likely be conservative for marine mammals.

Because of this conservative approach, and because of the relatively low intensity of the NPAL source, and the depth of water in which the source is anchored (further attenuating the SPL), NMFS does not need to apply additional precautions, such as considering all, or a portion of, TTS to be Level A harassment.

Comment MMPAC7: The MMC notes that the reference in the proposed rule to "lower Level A" and "upper Level B" harassment are subdivisions not reflected in either the statutory definition of harassment or the NMFS' implementing regulations.

Response: The designations proposed by NMFS for "lower Level A" and "upper Level B" harassment have been replaced in this document by adoption of a standard that onset PTS, which is Level A harassment (injury), for marine mammals is 20 dB of TTS.

Comment MMPAC8: The MMC notes that the discussion on intentional taking of marine mammals by whale watching and recreational boating activities should be revised to note that both intentional and incidental taking for such purposes is prohibited, absent some authorization under the MMPA. Currently there is no such authorization.

Response: NMFS clarifies here that the whale watching industry is not authorized to "take" marine mammals, either intentionally or incidentally, therefore, harassment takings are illegal.

Proposed Rule Concerns

Comment PRC1: The MMC believes that the proposed rule relies to a significant extent on ONR's draft EIS for its interpretation and justification, and requests that previous comments by the MMC regarding the draft EIS be considered, incorporated by reference, and addressed in the NMFS final rule, as well as in ONR's final EIS.

Response: As stated in previous documents, NMFS incorporates into its decision-making process all comments submitted on the NEPA document that accompanies a NMFS proposed action and the responses made on any recommendations and concerns. NMFS also incorporates additional information and documentation by reference. Under this action, this includes the comments submitted by the MMC and other organizations and individuals on ONR's draft EIS, and the responses made by ONR to these recommendations and concerns as provided in ONR's recently-released final EIS. Because NMFS is adopting ONR's final EIS as its own on this matter, these responses can be considered to also reflect NMFS' responses. Where necessary, this document provides additional

clarification on certain issues raised by the MMC in its July 24, 2000, letter to Scripps. However, NMFS' procedures for addressing third party concerns in a NMFS final rule were provided previously (see 66 FR 22450, May 4, 2001). Please refer to that document for further information, especially response to comment 11 regarding the USS WINSTON S. CHURCHILL shock trial's small take authorization.

Comment PRC2: The MMC believes that NMFS should have addressed the private citizen's concern about the validity of assumptions inherent in the risk analysis and the Acoustic Integration Model (AIM). As noted by the MMC in comments on the ONR draft EIS, both the risk analysis and the AIM appear to be based on two assumptions, at least one of which likely is not valid. The first is that a received sound level below 120 dB will not disturb a biologically important behavior of any of the listed species. The second is that the listed species are distributed uniformly or randomly throughout their ranges in the North Pacific. Thus, researchers familiar with the seasonal distribution, abundance, and movement patterns of the various species in the Hawaiian Islands area should be consulted to obtain a more realistic estimate of the numbers of the various species that could be exposed to received NPAL sound levels between 120 and 180 dB.

Response: The only marine mammal species expected to be affected by the NPAL acoustic source are humpback whales, sperm whales and possibly Hawaiian monk seals. For a response regarding the assumption regarding marine mammal effects from SPLs of 120 dB or less, please refer to the response to comment MMIC6 later in this document.

In its final EIS, ONR responded to the MMC concern about random distribution by noting that the "incidental take" analysis did not include an assumption that animals are distributed uniformly or randomly throughout their range in the North Pacific, but that the best scientific data for each species was used to model their individual dive profiles and distributions in the modeled areas. This precludes homogeneously distributed animal densities in the three dimensions profiled. Therefore, animal distribution on the large scale reflects known concentrations of animals, and distribution on the small scale represents the patchiness that is observed in the field. In reviewing the available data and information, NMFS believes that the population assessments of marine mammals, that were provided

by ONR and Scripps, are the most realistic estimates available, as they are based on recent aerial surveys conducted by Hawaii-based marine mammal researchers, conducted over several years (see Mobley *et al.*, 1999, 2000), and other sources of information. In addition, Dr. Mobley was a technical editor in the preparation of the ONR's draft and final EISs.

Comment PRC3: The HSUS objects to the use of proposed rulemaking for specific projects as the regulatory avenue by which broadly applied acoustic harassment standards are being promulgated. Such proposed standards should be the subject of their own, separate rulemaking. Parties who might otherwise wish to comment on broadly applied standards may miss the import of a specific project's proposed rule.

Response: First, NMFS clarifies that no new acoustic criteria are being proposed here, only new methodology is being utilized to determine and refine estimates of levels of impact and takings. This methodology has been subject to review and comment previously under NEPA for the SURTASS LFA sonar (Navy, 1999) and NPAL (ONR, 2000). Second, the new methodology (i.e., incorporation of the AIM) is only one means NMFS is using to determine impacts on marine mammals. NMFS will also continue to assess impacts by a review of relevant research conducted on marine mammals. Finally, NMFS does not agree that separate rulemaking is needed before it can adopt criteria for acoustic harassment. This is explained in detail in response to comment 15 in the final rulemaking document for the shock trial of the USS WINSTON S. CHURCHILL (66 FR 22450, May 4, 2001). Please refer to that document for additional information on this issue.

Comment PRC4: The HSUS notes that NMFS appears to accept that the LOA application's use of the term "prolonged" is a clarifying element of its definition of harassment that is in compliance with, rather than a novel concept not found in the MMPA. The HSUS disagrees with this apparent acceptance and asks NMFS to clarify whether the concept of "prolonged" disturbance is in compliance with, or exceeds, the criteria of the MMPA.

Response: In response to comment 22 in the NPAL proposed rule (65 FR 80815, December 22, 2000), NMFS explained that the term "prolonged," as used in ONR's draft EIS and Scripps' small take application, implies an increase in time or duration beyond normal limits. This, NMFS stated in the response, exceeds the criterion used by NMFS that harassment must refer to a

reaction that is behaviorally significant on the part of the animal in the course of that animal's conducting a biologically important activity, such as breeding, feeding, or migrating. Therefore, the term "prolonged" is not used in this document, nor in ONR's final EIS. In this context, it is the impact of the activity on the animal, not the duration of the disturbance, that is critical. NMFS explained the use of the term "behaviorally significant" previously in response to comment MMPAC1.

Comment PRC5: The MMC notes that the NRC Report (NRC, 2000) states: "as a preliminary criterion, it seems reasonable to presume that any sound that produces a TTS of 10 dB or less in exposure episodes that are separated by nonexposure intervals that are ample to allow full recovery (at least 24 hours) does not constitute a major risk to the auditory system of a marine mammal." Therefore, the MMC questions the appropriateness of NMFS characterizing the NRC report as fully supporting that TTS does not constitute an injury.

Response: The sentence used by NMFS is found on page 67 of the NRC (2000) report. That sentence reads: "Animals that experience only low levels of TTS are not going to be injured, suggesting TTS as a conservative standard for prevention of injury." This sentence supports NMFS' statement in the proposed rule that TTS is not an injury. The statement quoted in this comment by the MMC is found on page 68. However, prior to the MMC quoted sentence, the NRC (2000) states: "For certain animal models it appears that TTS of 10 dB or less within 15 minutes after exposure is fully reversible and without obvious cochlear damage (Liberman and Dodds, 1987; Ahroon *et al.*, 1996) as long as the exposures are not continued for long periods of time. In both studies, cochlear damage was evident only after TTS exceeded 40 to 60 dB within 15 minutes after exposure." NMFS believes that the NRC used this quoted statement to support the statements quoted by both the MMC and NMFS.

NMFS believes however, that the NRC is overly cautious in its choice of 10 dB of TTS as being a safe level. NMFS' review of Liberman and Dodds (1987) and Ahroon *et al.* (1996) does not support a level as low as 10 dB of TTS for being an upper level for prevention of PTS as suggested by the NRC (2000). Contrary, Ahroon *et al.* (1996) and Liberman and Dodds (1987) indicate that the difference between an initial TS that results in slight TTS (onset TTS) and the initial TS that results in slight PTS (onset PTS) is about 40-60 dB. In

other words, from the lowest initial TS that recovers (i.e., TTS) to the level at which recovery is incomplete by several dB (i.e., PTS), the difference is routinely found to be 40-60 dB of TS. These values are found not only with longer duration stimulation, but with repeated application of impulsive stimuli as well (Ahroon *et al.*, 1996).

The problem of determining the same values for marine mammals with their marine-adapted ears remains to be solved. However, because the onset of PTS in marine mammals would be expected to be quite variable dependent upon the ear structure of the mammalian group (mysticetes, odontocetes, pinnipeds) and species-specific sensitivity, the health of the individual animal, and the characteristics of both the water and the acoustic source, there may not be a single value to establish for determining onset PTS. Therefore, in the absence of comparable data for marine mammals, NMFS believes it is precautionary to define the onset of PTS for marine mammals to be 20 dB of TTS. This level would be conservative for chinchillas, and would likely be conservative for marine mammals.

Comment PRC6: The HSUS continues to oppose the establishment of a received level of 180 dB (re 1 uPa (rms)) as the criterion (for low frequency, intermittent, or any other kind of sound) for onset TTS for all marine mammals.

Response: NMFS agrees, noting that Ridgway *et al.* (1997) and Schlundt *et al.* (2000) found TTS significantly higher than 180 dB (re 1 uPa rms) in two odontocete species at intense one-sec. tones of 0.4, 3, 10, 20, and 75 kHz, while Kastak *et al.* (1999) documented TTS, for octave band noise with frequencies from 100 to 2,000 Hz, at mean values of 137, 150, and 148 dB (re 1 uPa) for the harbor seal, sea lion and elephant seal, respectively, for 20- to 22-minute exposures. (However, these data also have variations around the mean on the order of -5 to +10 dB.) As described in the account of the test, these levels can be considered to represent the lower level for onset of TTS for a 20-minute signal. NMFS clarifies that because TTS may result from a prolonged exposure to a faint sound, a brief exposure to a loud sound, or an intermediate exposure to a sound of intermediate loudness, sound duration and intensity can be considered to trade off with each other in causing TTS, as is indicated by comparing the work of Kastak *et al.* (1999) with the work of Schlundt *et al.* (2000). This is one reason why NMFS advises caution in the widespread advocacy for the use of the 180 dB (re 1 uPa (rms)) standard for noise sources

other than impulse noise. For the NPAL action, ONR/Scripps prudently presume that 95 percent of the marine mammals exposed to a "single-ping equivalent" (SPE) of 180 dB (re 1 uPa (rms)) could incur "harm" or TTS. NMFS believes that this is cautious as TTS is unlikely at an SPL of 180 dB since several species of cetaceans have the ability to vocalize at 180 dB and greater (see Richardson *et al.*, 1995, Table 7.1).

To account for the longer duration NPAL signal however, ONR and Scripps use the 180-dB SPE as the level for the onset of "harm" or TTS. An SPE is defined as the summation of the intensities for all received brief acoustic sounds into an equivalent exposure from one ping, which is always at a higher level than the highest individual ping received. In other words, an animal exposed to a single 1-minute ping at 180 dB could incur TTS, an animal exposed to 10 1-minute pings at 170 dB could incur TTS, and an animal exposed to 20 1-minute pings (the length of the standard NPAL signal) at 167 dB could incur TTS. This, NMFS believes, is precautionary and, notes that for the first time, a small take applicant has taken into account the duration of the signal when calculating impacts on marine mammals.

Comment PRC7: The HSUS notes an inconsistency between the response to comment 5 and the response to comment 12 in the preamble to the proposed rule. In response 12, NMFS states "[T]here is no obvious connection between an annoying or harmful sound level for humans in air and an annoying or harmful sound level for a marine mammal in water." Either the human model is an appropriate one for marine mammals or it is not, NMFS cannot pick and choose which aspects of human hearing to consider as appropriate parallels with marine mammal hearing.

Response: In the response to comment 12 which made allegations of neurological damage in humans at 140 dB (re 201 uPa), NMFS was quoting from the reference provided in the **Federal Register** document (Chapman and Ellis, 1998). The conclusion of the Chapman and Ellis (1998) article is that it would be unwise to assume that the auditory experience of any animal would be the same as that of humans exposed to the same sound level. In response to comment 5, NMFS noted that "while recognizing that no empirical data have been collected to establish this relationship, and *there is no guarantee that marine mammal behavioral responses exhibit patterns similar to human hearing* (emphasis added), the human model is the best objective foundation for an assessment

and is consistent with Crocker (1997)." Reading both statements carefully indicates that they are not in disagreement. As scientific research on the effects of noise on marine mammals becomes available, the data from this research will be used by NMFS instead of using comparisons with human hearing.

Comment PRC8: The MMC believes the rule should be revised in paragraph 216.177(a) to clarify whether an LOA will be issued annually or once, to cover a five-year period.

Response: NMFS has clarified that the LOA will be issued annually.

Marine Mammal Impact Concerns

Comment MMIC1: The HSUS continues to be disturbed by NMFS' apparently broad application of low frequency acoustic harassment standards-for impulsive, intermittent, and continuous sounds, both narrow and broad-band in character, for all marine mammals and sea turtles-on the very limited results from a U.S. Navy project using single, pure tones at various frequencies on a small sample of only two species of odontocete cetaceans (Ridgway *et al.*, 1997; Schlundt *et al.*, 2000). The HSUS repeats its objections, expressed in comments on the shock trial of the USS WINSTON S. CHURCHILL of applying the limited results from Schlundt *et al.* (2000) to all marine mammals.

Response: While the small take authorization for the taking of marine mammals incidental to the use of the NPAL source by Scripps and ONR reference both Ridgway *et al.* (1997) and Schlundt *et al.* (2000) in its analysis for TTS impacts, it has not adopted the SPLs found by those authors for marine mammals incurring TTS. If it had, ONR/Scripps would have established the 95 percent risk value in the AIM at about 192 dB instead of the more precautionary 180 dB (see ONR, 2001 for an explanation of terminology). The previously referenced papers found that a masked TTS of 6 dB or larger, in bottlenose dolphins and beluga whales, occurred at between 192 and 201 dB (re 1 uPa (rms)) for intense one-sec. tones of 0.4, 3, 10, 20, and 75 kHz. However, the present action implements a TTS/harm zone at 180 dB, not 192 dB. An additional precaution provided by ONR/Scripps is through consideration of the 180-dB SPE, defined previously, to be "harm" or TTS. The 180-dB SPE is designed to take into account the longer duration of the NPAL signal (i.e., 20 min).

However, because the Ridgway *et al.* (1997) and Schlundt *et al.* (2000) research were conducted in the region

of greatest hearing sensitivity for bottlenose dolphins, it is believed that the levels identified for behavioral change and TTS at 3 kHz would be conservative for small odontocetes below 3 kHz (Ridgway S. pers. comm. as cited in ONR, 2001). Large odontocetes are considered as sensitive as mysticetes while pinnipeds are believed to be less sensitive than small odontocetes to underwater sound (ONR, 2001). Therefore, NMFS considers it very conservative to establish the threshold that 95 percent of the small odontocetes and pinnipeds, exposed to a single ping of LF sound at 180 dB could incur TTS.

There are no studies of TTS and PTS in mysticetes. However, studies of human hearing indicate that the normal process of hearing loss with age (presbycusis) can be accelerated by chronic exposure to sounds 80 dB above the absolute threshold of hearing (Richardson *et al.*, 1995). Here chronic is interpreted as about 8 hours/day for about 10 years. For odontocetes, Au *et al.* (1997) present data indicating that hearing thresholds are about 140 dB at 75 Hz. Hearing thresholds are not known in mysticetes, but the lowest value is speculated to be 80 dB (Ketten, 1998). This suggests therefore that 10 years of exposure to 160 dB RL for 8 hours per day would cause auditory damage. Therefore, estimating that 95 percent of mysticete and large odontocete whales will experience TTS after exposure to a 1-minute ping at 180 dB is also considered by NMFS to be conservative.

Comment MMIC2: The WDCCS does not consider the level(s) for TTS found by Ridgway *et al.* (1997) to be conservative for the prediction for onset TTS in odontocetes or mysticetes in the wild. A report by Croll *et al.* (1999) states that baleen whales could suffer temporary auditory damage at noise levels as low as 120 dB and that physiological effects could occur well before 180 dB.

Response: Please refer to the previous response. Although NMFS was unable to verify the statements directly to the Croll reference, the dB levels, quoted in the comment, apparently derive from Richardson *et al.* (1995) for effects on marine mammals extrapolated from human damage risk criteria (DRC) and from work done by Malme *et al.* (1983, 1984, 1988). For reasons explained previously in this document, one must consider duration of the signal and the type of noise (impulse or intermittent/continuous) before making generalities on impacts based solely on an SPL. NMFS believes that ONR/Scripps have

addressed the duration issue by establishing the 180 dB SPE criterion.

Comment MMIC3: The WDCCS believes that repeated exposure could lead to at least gradual hearing loss and PTS. Ketten (1998) stated: "It has been established that repeated exposures to TTS-level stimuli without adequate recovery periods can induce permanent, acute threshold shifts." Also, the MMC notes that as it is known that repeated exposure of terrestrial mammals to sounds capable of causing TTS increases the likelihood of PTS, there is the possibility that repeated exposure to sounds capable of causing TTS increases the likelihood that marine mammals would be injured.

Response: While there is some recent research indicating that there is no relationship between repeated TTS exposures and an animal incurring a PTS injury, the science to date indicates that PTS can occur with repeated exposures of TTS without allowing animals to completely recover, as stated by Ketten (1998). However, noting the behavior of marine mammals in the NPAL area, especially the migratory behavior of humpback whales and that the NPAL source is in a water depth that would prevent marine mammals from incurring a TTS impairment, a PTS injury is unlikely to occur. NMFS believes the SPLs in those areas of the water column that marine mammals inhabit are simply too low to cause TTS, let alone PTS.

In response to comment PRC6, NMFS concurred with ONR that a marine mammal exposed to 20 1-minute pings (the length of the standard NPAL signal) at 167 dB could incur TTS, or Level B harassment. The 167-dB isopleth is only 25 m (82 ft) around the NPAL source at its 807 m (2,648 ft) depth, meaning that a marine mammal would need to dive to a minimum depth of 782 m (2,565 ft) and remain within that small area for the entire 20-min transmission in order to theoretically incur a TTS impairment. Theoretically then, the marine mammal would need to do this dive repeatedly, time after time, year after year, to incur a PTS injury from the NPAL source. Therefore, NMFS believes that, considering the migratory behavior and transitory nature of those marine mammal species likely to be impacted, and other reasons including dive profiles, it would be very unlikely a marine mammal would incur a TTS impairment and virtually impossible for a marine mammal to incur a PTS injury from the NPAL source.

Comment MMIC4: The MMC agrees with NMFS that defining TTS as Level B harassment is reasonable only if the TTS does not make the affected animals

vulnerable to predation or otherwise affect their survival or productivity. In this regard, the MMC notes that it is not inconceivable that temporary hearing impairment over a period of one to a few days could increase the potential for injury or death of an affected animal, e.g., by increasing vulnerability to natural predation or ship strike. If such were the case, TTS would have the potential for injury and would constitute Level A harassment.

Response: First, in order for a marine mammal to incur TTS from the NPAL source, it would need to dive to water depths deeper than scientific knowledge indicates that humpback whales are capable of diving. Sperm whales and beaked whales, while capable of diving to those depths, are not expected to occur in the immediate vicinity of the source in any numbers, nor likely coincide a dive to those depths during the brief 2 percent (or 8 percent for non-migratory marine mammals) duty cycle of the NPAL source. For those marine mammal species capable of hearing the NPAL sound, TTS is unlikely considering the depth of the 167-dB isopleth (based on a SPE of 180 dB for the full 20 minutes) and the short duty cycle. For those marine mammal species unable to hear the NPAL source (75 Hz) well, TTS is simply not possible. For a response on considering all, or a portion of Level B harassment takings as Level A takings, please refer to the response to comment MMPAC1.

Second, NMFS does not agree that affecting a marine mammal's survival or future productivity would require a taking to rise to Level A harassment (injury), unless the activity directly affected in some injurious way, either the mammal's ability to reproduce, or it's newborn or unborn offspring. To the extent possible, what NMFS is evaluating under Level B harassment is the lost opportunity to mate, primarily as demonstrated by using the AIM.

Comment MMIC5: The HSUS continues to oppose NMFS rejection of the use of the preliminary results of the investigation into the March 2000 stranding of various cetacean species in the Bahamas, as cited in the MMPA Bulletin, yet NMFS applies its management decisions on the results from Schlundt *et al.* (2000) and the Low Frequency Active Scientific Research Program (LFA SRP) associated with the Navy's NEPA process for SURTASS LFA sonar.

Response: NMFS does not reject the preliminary findings of its joint investigation with the Navy on the Bahamian multi-species stranding, only the relevancy of the preliminary findings in the context of this

rulemaking. Issue 19/20 of the MMPA Bulletin noted that "the injuries to the five beaked whales were all consistent with an intense acoustic or pressure event. All five beaked whales showed some evidence of trauma to tissue associated with hearing, sound production, and/or airways. In particular, all had some hemorrhages in or around the ears. Other tissues related to sound conduction, or production such as the larynx and auditory fats, had minor to severe hemorrhages. The injuries revealed in the necropsies were not consistent with a nearby explosion (there were no bone fractures), but could have been caused by a distant explosion, or an intense acoustic event. Postcranial tissues showed minor lesions in heart muscle and minor hemorrhage in lung and kidney tissue that are less indicative of cause than the skull damage. In humans, injuries such as these would have caused extreme discomfort, but do not generally cause permanent hearing loss or death. Essentially, these animals died from actually stranding on the beach." This means that loud, intense sounds can cause injuries to marine mammals that are in the vicinity of loud, high intensity sound sources. A sound source such as NPAL's source is simply not of sufficient intensity to cause the impacts described in this response. That is the reason NMFS does not consider the Bahamian stranding incident relevant to a discussion of potential impacts by the NPAL source. Because the NPAL source is moored in 807 m (2,648 ft) water depth, and because this depth is approximately 550 m (1,804 ft) deeper than the deepest recorded humpback whale dive depth (the only deep-diving marine mammal species expected to be commonly found in the offshore NPAL waters), NMFS restricts its discussion of impacts to behavioral responses (Level B harassment), and not injury (Level A harassment) or mortality to marine mammals from the NPAL source. As a result, NMFS has incorporated into its determination the scientific findings of the California and Hawaii ATOC Marine Mammal Research Program (MMRP), and secondarily the scientific findings of the LFA SRP. Utilization of the findings of Schlundt *et al.* (2000) have been discussed previously in this document.

Comment MMIC6: The MMC requests NMFS provide the basis for the statement that a received level of 120 dB is presumed to have a zero potential for disturbing biologically important behavior of humpback whales. Apparently, both bowhead and beluga whales have shown strong avoidance

reactions at or below a received level of 120 dB, and some of the clearest individual cessations of humpback whale song to the Navy's LFA source have occurred at received levels of only 122 dB.

Response: As stated in ONR's final EIS, and adopted by reference by NMFS, science cannot establish zero risk. Therefore, the AIM cannot establish zero risk. However, given the shape of the risk function, 120 dB can be established as the point at which risk is so low, that it is pointless to calculate the risk below it. Changing this basement value for risk by as much as +10 dB (110-130 dB) would not affect the number of potential takings and would not alter the cumulative risk values. For humpback whales, the marine mammal most likely to be impacted by the NPAL source, some singers stopped singing and showed avoidance reactions at levels near 120 dB (re 1 uPa (rms)), while other singers continued singing when exposed to playbacks at levels as high as 150 dB (re 1 uPa (rms)). This, according to Clark *et al.* (1999), may be due to individual differences between singers. Observers had the distinct impression, often even before a LFA playback began, that certain singers had very stable behavioral patterns and were imperturbable whereas other singers were much more variable and responsive even to the vessel approach. This may represent two different types of singers, dominant and experienced singers, and younger, less experienced, singers. If these younger, less experienced singers are nondominant males, unlikely to successfully mate, this behavior would not be unexpected if the SURTASS LFA sonar transmitting waveforms similar to humpback whale songs at the same time.

While bowheads and belugas have been shown to have a behavioral reaction to received SPLs at or below 120 dB, NMFS would not characterize the avoidance reactions as being strong. For bowhead whales at least, it has been necessary to apply strong statistical analyses in order to determine that bowheads in the Beaufort Sea north of Alaska reacted to seismic pulses at distances where received levels were on the order of 120 dB. Richardson *et al.* (1995), summarizing the information available at that time, noted that initial behavioral changes were detected when received noise levels were 142-157 dB (re 1 uPa (rms)); active avoidance became evident at SPLs of 152-178 dB. More recently, bowheads have been detected, through statistical analyses, making minor course corrections at lower SPL levels, however, these course

corrections were not detectable visually from aircraft. NMFS has clarified several times that behavioral reactions appear to be context related, such as gray whales reacting to industrial noise when the source is located in its migration path, but showing greatly reduced responses when the acoustic source was located offshore of the migration path (Clark *et al.*, 1999). In the case cited by the MMC, bowheads and belugas inhabit waters frequented by ice and may require a low ambient noise level in order to navigate successfully through the ice, to locate leads and polynyas, and avoid ice keels. This type of environment is not found in Hawaii.

Comment MMIC7: The MMC recommends that the rationale should be provided for Scripps' determination that "only humpback whales that remain in the vicinity of the source for a full day of transmissions may potentially experience any effect from the source transmissions."

Response: The rationale relates to how the modeling was carried out. ONR/Scripps conducted the AIM under two conditions - one in which the animals were only exposed to one 20-min transmission, and another in which the animals were exposed to six 20-min transmissions (that is, a full day of transmissions). In both cases, ONR/Scripps modeled a milling movement pattern that kept the animals in the general vicinity of the sound source, rather than the movement pattern that was observed from the shore stations where the animals moved parallel to the coast (and thus would not remain in the general vicinity of the sound source for very long). Only for humpback whales under the second scenario (milling in the vicinity of the sound source for a full day of transmissions) was there a chance for humpback whales to experience a biologically important reaction to the sound source (see Table 4.2-5 in the ONR final EIS). The details of the modeling are described on p. 4-17 of the ONR final EIS.

Comment MMIC8: The WDCCS noted that while the studies noted in the NMFS' ANPR reported no significant changes in the abundance of humpback and sperm whales, Calambokidis *et al.* (1998) found that humpbacks and sperm whales were generally seen farther from the sound source during experimental versus control surveys.

Response: While NMFS concurs with the WDCCS' synopsis of the work by Calambokidis *et al.* (1998) during ATOC studies off Pioneer Seamount, NMFS does not equate a shift in local distribution of humpback whales with a change in abundance near the NPAL source. NMFS hopes that the findings

by these scientists will soon be published and become available. NMFS understands that humpback and sperm whales were displaced approximately 0.6 km (0.3 nm, 1,823 ft) between times when the source was on and when it was off. However, NMFS notes that this displacement was noted by later statistical analysis and was not apparent to the observers. The findings of Calambokidis *et al.* (1998) are consistent with the findings of Frankel and Clark (1998, 2000). Frankel and Clark (2000) found that humpback whales within 12 km (6.5 nm) of the source showed only subtle, short-term effects on their surface behaviors. The whales did not show any immediately obvious response to the ATOC signal at received levels less than 130 dB and they did not abandon their coastal habitat adjacent to the offshore ATOC source. Frankel and Clark (2000) concluded that the present operation of the ATOC source off Kauai is not sufficient to cause biologically significant changes in behavior for the humpback whale population wintering off Hawaii, but that this conclusion cannot be generalized to the effects of cumulative impacts from other anthropogenic sources of noise in the marine environment. Essentially this is the reason for ONR/Scripps requesting a five-year small take authorization and having a monitoring program to better assess potential long-term cumulative impacts.

Comment MMIC9: The MMC notes that the list of deep-diving species of marine mammals commonly found off Kauai in response to comment 12 of the proposed rule document should be revised to include sperm whales, another deep-diving marine mammal commonly found in the referenced offshore waters.

Response: While sperm whales are found in the offshore waters of Kauai and are included in the list of species expected to be taken by harassment, information available to NMFS does not indicate that this species is commonly found in the area of NPAL operations. This is explained in the proposed rule and in ONR's draft EIS, and clarified in the response to the following comment.

Comment MMIC10: The MMC notes that the statement that no statistically significant shifts in distribution were found for species other than humpback whales (and possibly sperm whales) does not diminish the fact that shifts in distribution were observed, especially since these two species have the ability to detect, and are more likely to occur at depths where they would be exposed to, the sound source. NMFS should more clearly explain the basis for the belief that sperm whale distributions

may have been affected and should also include information on such confounding factors as small sample sizes etc.

Response: Shifts in sperm whale distribution were not observed at the Kauai site due to small sample sizes. However, shifts in distribution were observed at the ATOC site at Pioneer Seamount, off California, and, therefore, can be presumed to occur at Kauai. NMFS notes that few sperm whales (about 100) were detected during the Hawaii-wide aerial surveys from 1993 to 1998 that detected 2,773 humpback whales. Although some sperm whales may have been missed because they were diving at the time of the survey, these numbers provide support that sperm whales are more than an order of magnitude less abundant than humpback whales off Hawaii. Also, while the avoidance was statistically significant in California, the actual distance of displacement was small. Therefore, NMFS agrees that sperm whales could be affected if they were in the vicinity of the source during the 2 percent time that the source is on. However, there is no evidence on record to indicate that sperm whales are seasonal residents offshore of Kauai, and thus no individual animal is expected to receive more than a single transmission. Based on this information, NMFS believes that no more than a few sperm whales may pass through the NPAL source's zone of influence during the year when the source is on, and may have a minor avoidance reaction to the NPAL source.

Comment MMIC11: The WDSC asks whether the statement that "no significant shifts in distribution were found for any other species of marine mammal" is valid because these other species were not the focus species of the survey or because the sample size was not large enough?

Response: As stated in ONR's draft EIS, only humpback whales were seen in sufficient numbers (i.e., large enough sample size) around the Kauai site to permit quantitative assessments of distributional changes from 1994 (source off) to 1998 (source on).

Comment MMIC12: The MMC believes the statement that humpback whales in Hawaii show an "almost statistically significant increase in population size", is not convincing support for maintaining that the observed shift should not be considered important. The MMC believes that given the ambiguities associated with the data, it is particularly important that the monitoring program be designed to detect possible longer term biologically

significant changes that may be produced by the sound source.

Response: The monitoring program has been designed to detect long-term changes in the distribution and abundance of humpback whales and is discussed later in this document.

Comment MMIC13: Although the WDSC possibly agrees with NMFS that the best scientific information to date is provided by the ATOC MMRP and the SURTASS LFA SRP, these are still not complete studies. WDSC understands that the final analysis is not available from the LFA SRP.

Response: The final analyses for the SURTASS LFA sonar SRP are found in the Technical Report # 1 (Clark *et al.*, 1999). Some of this research remains under peer review prior to publication in scientific journals. Other research has already been published (Miller *et al.*, 2000). Scientific research under the ATOC MMRP includes Frankel and Clark (1998, 2000).

Comment MMIC14: The WDSC, noting that both sperm and beaked whales are known to be deep divers and that sperm whales were shown to be affected by previous ATOC experiments, asks again whether research has been conducted on the depths that these animals reach around the proposed NPAL area.

Response: Research on the diving depths of sperm whales and beaked whales in the waters offshore of Kauai is not practical due to the low abundance of these species in these waters. Research on depth of dive for these species in other areas indicates that they are capable of diving to the depth of the NPAL source. This was described in ONR's draft and final EISs.

Comment MMIC15: One citizen noted that he does not know what acoustic devices the Allied forces may have employed around the time of the strandings, but we do know that LFAS was scheduled to operate in the region a short time earlier. One large balaenopterid live-stranded following that scheduled deployment, and it should be further investigated for evidence of trauma.

Response: NMFS presumes the commenter is referring to the multi-species stranding event in the Bahamas on March 16, 2000. The single minke whale that stranded during this event was released off the beach alive. Therefore, a necropsy was not conducted on that animal. Also, NMFS is unaware of what "LFAS" operation the commenter is referring to; however, NMFS understands that no LFA sonar operations were conducted during the referenced time period.

Comment MMIC16: One citizen pointed out that the evidence of hemorrhage in acoustic fats and tissues adjacent to the ears, and in the brain (Rowles *et al.*, 2000) are not strictly speaking, auditory traumas. They are barotraumas, for which determination of TTS or PTS levels, and the assumed "safe" level of 180 dB RL are irrelevant. The commenter states he has investigated the information available on the Bahamas and 1996 Greek strandings (D'Amico (ed), 1998). He has calculated that damage to the tissues probably occurred in the range of 143-157 dB RL of the offending acoustic energy. This damage could be exacerbated by resonance phenomena, such as that reported in the Navy's 1999 Technical Report 13, in concert with the enormous pressure at the normal diving depths for beaked whales (500-1500 m (1,640-4,921 ft)).

Response: As NMFS has not been provided with any scientific information by the commenter to support his calculations that tissue damage could occur in the range of 143-157 dB RL, NMFS cannot respond further on this statement. NMFS notes however, that in order to incur an SPL of 143 dB, an animal would need to dive to a depth of at least 400 m (1,312 ft) during the 2 percent time that the NPAL source is active, and not react to the source transmissions during ramp-up.

Comment MMIC17: If resonance phenomena are implicated in tissue damage observed in the beaked whales, it should be noted that the resonant frequency of airspace in *Ziphius cavirostris* is reported to be 75 Hz at 100 m (328 ft) depth (derived from D'Amico, 1998), which happens to be the center ATOC frequency. Theoretically, beaked whales could be damaged somewhere between 100 m (328 ft) and many kilometers from the source depending upon the signal and the propagation characteristics.

Response: NMFS is charged by the MMPA to make negligible impact determination based upon the best scientific information available. As the commenter has not provided any scientific information to support his hypothesis, NMFS cannot respond further on this statement. However, NMFS would appreciate this information at the commenter's earliest opportunity.

Comment MMIC18: The HSUS urges NMFS to consider the potential impact of loud, low frequency sound on other physiological processes and body organs of marine mammals. There is a growing body of literature that suggests such impacts can have long-term debilitating effects, at least in terrestrial species.

Response: To NMFS' knowledge, other than pacinian corpuscles, which are believed to be sensitive to vibration, the only other physiological impacts to marine mammals would be due to high intensity sources that might impact marine mammal lungs or the fat pad sound channel (which conducts sounds to the middle ear) in the lower jaw of certain odontocetes. However, the NPAL source with a maximum SPL of 195 dB (re 1 uPa (rms)) has neither sufficient intensity nor rise time to cause this type of injury.

Mitigation Concerns

Comment MC1: The HSUS, while agreeing that ramp-up should be incorporated as a mitigation measure even if there is no evidence that it is effective, believes that calling ramp-up precautionary is inappropriate. If ramp-up is not effective, the animals will potentially suffer for it. The MMC believes that it is reasonable to assume that most marine mammals will move away from the sound source as it is ramped up. However, studies necessary to validate this assumption have not yet been done.

Response: As noted in response to comment 17 in the proposed rule, NMFS recognizes that ramp-up may not be effective as a mitigation tool. However, ramp-up has been recommended to be employed in offshore seismic activities by the participants at the High-Energy Seismic Survey (HESS) panel. Moreover, based on observational data showing that humpback and sperm whales actively avoid noise from the NPAL source, ramp-up should be at least partially effective as a mitigation measure for the NPAL activity.

Comment MC2: One citizen noted that the AIM referred to for mitigation is theoretically elegant, but woefully inadequate zoogeographically (Navy, 1999 SURTASS LFA Sonar Technical Report 2). The species abundance and distribution for cetaceans modeled for LFA sonar around the Bahamas (site 29) were obviously erroneous, and it appears likewise for areas around Hawaii (sites #6 and #12).

Response: The AIM is a model used to estimate the levels of taking of marine mammals by harassment; it is not a mitigation measure. The ONR draft and final EISs on NPAL explain in detail the inputs into the AIM for the location of the NPAL source. When information becomes available to the Navy the AIM can be, and will be, improved. For the NPAL action, however, NMFS concludes that the information contained in the ONR draft and final EISs and the Scripps' small take

application contain the best scientific information available on the subject, since additional information has not been provided to it, or the Navy.

Comment MC3: The MMC believes that the mitigation measures should specify that the sound source will operate on a duty cycle of 2 percent and a power level no greater than 230 watts. The MMC also believes the authorization would appear to authorize transmissions exceeding 195 dB.

Response: Both of these recommendations have been addressed as alternatives in ONR's draft and final EISs. The proposed action by Scripps and ONR is to operate the NPAL source on a duty cycle an average of 2 percent during the period February through April with any increases in the duty cycle beyond the nominal 2 percent (with a maximum of 8 percent) not occurring during the humpback whale season (January-April). The 2-percent duty cycle does not include the ramp-up period. However, there is no evidence in the record to support the MMC's recommendation to limit the transmissions to 2 percent year-round. For reasons detailed in the ONR draft EIS, there are valid scientific reasons for needing to exceed a 2 percent duty cycle at certain times of the year.

Also, there is no evidence in the record to support limiting the NPAL power source to 230 Watts, as opposed to the stated operating power of 260 Watts. The NPAL sound source has been designed to operate at the minimum power level necessary to support large-scale acoustic thermometry and long-range sound transmission objectives. It should be recognized that signal length and power trade off with each other; a shorter signal length would require increased power to accomplish the project's objectives. Mitigation measures are also described under "Mitigation" in the preamble to both the proposed rule, and this document.

Monitoring and Reporting Concerns

Comment MRC1: The MMC believes that, if NMFS has concluded that long-term monitoring studies are necessary only if the project's duration extends beyond 5 years, NMFS should explain why it believes that such long-term monitoring studies to identify the potential cumulative impacts of the currently proposed 5-year program are not currently warranted. The WDCS, while concurring with NMFS' statement (in response to comment 1 in the ANPR) that long-term studies should be initiated if the project were to continue beyond 5 years, believes such monitoring should start now, not after

the program has been in operation for more than 10 years.

Response: NMFS clarifies that it considers the aerial monitoring program that was conducted between 1993 and 1998 off the north shore of Kauai as part of the ATOC MMRP to be part of a long-term monitoring program. Data were collected during the humpback whale winter breeding season (February-April) for a total of 3 baseline years when the Kauai ATOC source was not transmitting (1993, 1994 and 1995) and for 1 year when it was transmitting (1998). An additional year of baseline surveys (source off) were conducted in the area off the north shore of Kauai during the 2001 humpback breeding season. The earlier years' information is summarized in Mobley *et al.* (1999), which will be available upon request from NMFS, until formal publication. With 5 years of data, NMFS believes that continuing this monitoring program during the next 5 years (when the source is expected to be on) will provide NMFS and others with information on long term trends. NMFS believes that the aerial monitoring program described in this document provides the best practical method for assessing long term effects of the NPAL source.

Comment MRC2: The MMC believes that available data are insufficient to conclude with confidence that there will be no long-term effects on distribution, size, or productivity of any of the potentially affected marine mammal stocks. Given that there is uncertainty as to whether the taking could have biologically significant long-term effects, the MMC considers it essential that Scripps' monitoring program be designed to enable NMFS to detect any such possible project-related changes. The MMC, therefore, recommends NMFS consult with Scripps and scientists familiar with the demography and behavior of marine mammals that could be affected by the proposed action to determine the baseline information and kinds of monitoring that would be required to detect possible long-term population-level effects.

Response: See response to comment MRC1. NMFS has determined that the long-term monitoring program designed by Scripps will adequately assess impacts to humpback whales during the 5-year authorization for NPAL takings. The evidence from various sources, contained in this document and in the Scripps/ONR final EIS, indicate that marine mammal species, other than humpback whales and possibly sperm whales, would be unaffected by the LF, low intensity source because of either distributional, water column preference,

and/or hearing abilities for LF sounds. Therefore, NMFS believes it is most important to focus monitoring efforts on humpback whales (although other marine mammal species will also be assessed during humpback whale surveys).

Comment MRC3: The MMC recommends that NMFS, if it issues the LOA, include a description of the required monitoring program, in sufficient detail to enable reviewers to judge the likelihood that it will be capable of detecting biologically significant long-term effects in time to stop and reverse them.

Response: NMFS has expanded the discussion on the monitoring program in this document. For additional information on the protocols that will be employed, please refer to Mobley *et al.* (1999) which is available upon request. Their analysis included both calculating distance from shore and distance from source to assess distributional shifts. They also calculated an incidence rate that is comparable between years since the survey tracklines were constructed using the same rules. Therefore, although an overall abundance estimate cannot be estimated from these surveys, a relative incidence rate among years can be estimated.

Comment MRC4: The MMC notes that NMFS did not respond to the MMC's recommendations (in its letter to Scripps dated 22 September 2000) that (1) scientists with broad knowledge of the form and function of cetacean vocalizations be consulted to determine whether monitoring and comparing vocalizations before, during, and after NPAL transmissions could help resolve the uncertainties concerning masking and possible behavioral disruptions and (2) if the consultations indicate that such monitoring would be possible and useful, an appropriate vocalization monitoring program be designed and included as part of the proposed action.

Response: The potential for masking and masking effects were studied during the Kauai ATOC MMRP and summarized in ONR's draft and final EISs. The Kauai ATOC MMRP did not find any overt or obvious short-term changes in singing behavior of humpback whales in the vicinity of the sound source. In addition, no statistically significant changes in the underwater sound output from humpback whales in one of the frequency bands in which they vocalize was found in the vicinity of the Kauai source. Therefore, it is estimated that the potential for effects from masking would be minimal and limited to no more than 2 percent of the time for those animals in residence off the north

shore of Kauai. Therefore, NMFS has determined that no additional short-term studies on masking effects associated with the NPAL source are required, especially since this research would need to be conducted at the cost of decreased coverage in the long-term aerial monitoring program.

Comment MRC5: The WDSCS, while pleased that 8 aerial surveys will be conducted each year, rather than 4 surveys, is concerned that no surveys will be conducted when the duty cycle may be increased to 8 percent.

Response: As explained elsewhere in this document, under authorized funding levels for this project, conducting additional surveys outside the humpback whale season would necessitate a reduced aerial survey effort for humpback whales during the humpback whale season. Because the required humpback whale aerial surveys will also detect other marine mammal species, NMFS believes that additional aerial surveys are not an efficient use of NPAL's limited resources and, because this additional monitoring is unlikely to provide NMFS and the public with better data than would be provided during the humpback whale aerial surveys, should not be required.

Because the smaller whales and dolphins are not expected to be sensitive (e.g., react) to the Kauai NPAL acoustic source transmission, and because the required humpback whale aerial surveys will also detect other marine mammal species, NMFS also does not believe that conducting boat-based surveys for these species is warranted.

Comment MRC6: The WDSCS does not believe that the proposal to coordinate and investigate stranding events will lead to a responsible indication of the number of cetacean deaths that may occur as a result of NPAL operations. The WDSCS believes that a small number of cetaceans that die at sea (will) then wash ashore to be found.

Response: As explained in detail elsewhere in this document, due to the water depth of the NPAL source and the fact that it is not of sufficient intensity to result in hearing damage, NMFS has no scientific reason to suspect that the NPAL source could result in injury or death to marine mammals through either hearing or other body function impairments. However, Scripps will be required to coordinate with the Hawaiian Islands' marine mammal stranding network to ensure that all strandings are investigated and analyzed to the extent possible. Moreover, marine mammals do not need to be onshore in order to be considered a stranding. Therefore, floating dead marine

mammals spotted during marine mammal aerial surveys will also be investigated by Scripps and the stranding network to the extent possible.

Comment MRC7: The MMC notes that the discussion of the aerial survey monitoring program does not, but should, describe by whom the aerial surveys would be conducted, what area or areas would be surveyed, what data would be collected, and, what would be considered biologically significant effects, and should describe the kind of changes in distribution and abundance that would trigger a review and suspension or termination of the project.

Response: NMFS agrees. A more complete description of the monitoring program protocols can be found in this document.

Comment MRC8: The MMC notes two things in regard to the following sentence found in the preamble to the proposed rule: "Based on an average of seven humpback sightings per survey observed during the 1998 season and assuming a moderate-sized effect due to NPAL transmissions, eight surveys should produce a minimum of 56 sightings of humpback whales, which would result in an estimated power of 0.80 (i.e., there would be an 80-percent probability of detecting a change in distribution if an effect is present)." First, that while the term "moderate-sized effect," found in discussion of the ability to monitor effects on humpback whales, is a standard statistical expression in estimating power, NMFS should indicate what it understands to be "moderate-sized" with respect to humpback abundance near the source. Second, NMFS should include a reference to size as well as distribution.

Response: Previous studies (Calambokidis, 1998) showed the mean distance from the ATOC source to be a relatively sensitive metric for assessing distributional changes of whales. However, no significant changes were noted for incidence (numbers) of whales in the "on" vs "off" experimental phases. Frankel and Clark (1998, 2000) also showed a similar effect in terms of distributional-related behaviors (i.e., distance and duration between surfacings). So the issue of statistical power was only applied to the distance from source variable, based on a difference on the order of 10 percent or greater. Though Scripps will report any differences in incidence, it is not expecting that metric to be particularly useful for later analysis, so the issue of power is not relevant there. In regard to the MMC's second point, it is not appropriate to calculate humpback whale abundance with the aerial survey

design. However, since the aerial survey tracklines will be constructed using the same rules as the baseline data surveys, it is possible to calculate a rate of incidence that is comparable between years. Therefore, although an overall abundance estimate cannot be estimated from these surveys, a relative incidence rate among years can be estimated.

Comment MRC9: The MMC asks what is meant by "an acute or short-term effect" on marine mammals that would trigger suspension of source operation and contacting NMFS. Also, what criteria would be used to determine whether the NPAL source was responsible for a stranding event.

Response: The Marine Mammal Monitoring and Studies Program would continue to monitor for acute, short-term effects, even though none were observed during the ATOC MMRP. Acute or short-term effects are defined as: (1) Animal dead or disabled (primary capability), (2) Increase in number of beached animals (potential/limited capability), (3) Increase in number of animals struck by vessels (potential/limited capability); (4) Repeated/prolonged activity (blowing, time on surface, etc.)(potential/limited capability), (5) Abnormal number of animals present/absent (primary capability), (6) Abnormal mother-calf activity (potential/limited capability). If at any time a Marine Mammal Monitoring and Studies Program team member positively identifies the occurrence of an acute or short-term effect, the information would be immediately communicated to the Marine Mammal Monitoring and Studies leader (Dr. J. Mobley, University of Hawaii). If the leader ascertains that an acoustic transmission (i.e., during the 5-min ramp-up or the 20-min transmission) coincided with the observed effect, he would contact the Barking Sands shore termination site and Scripps, and suspend source operations immediately until further notice by NMFS. The leader would collate all pertinent information relative to the incident and contact NMFS to inform them of the situation. NMFS, in consultation with the leader, would make the determination as to the severity of the situation, based upon the knowledge of the species type, the animal's location relative to the source, the source level at the time of the incident, the estimated received level at the animal, whether there were any other noise sources in the vicinity, etc. Based upon analysis of the information supplied, NMFS would recommend that one of the following options be executed: (1) Continue experiment as planned, (2) Continue experiment with

modifications to maximum source level or duty cycle, or (3) Suspend experiment pending consultation with NMFS. Regardless of the decision, within 24 hours, a written summary of the incident would be forwarded to ONR, Scripps, and NMFS.

If a dead or disabled animal is observed during the visual aerial surveys, this information would be provided to the Kauai stranding coordinator, who would follow his/her agency's protocols for handling of a dead or disabled animal.

Comment MRC10: The MMC questions the apparent discrepancy between NMFS statements that the 8 aerial surveys have an 80 percent chance of detecting a change in distribution (or abundance around the source) with the statement that the level of data from the monitoring program would not allow determinations to be made that the NPAL source was responsible for any decreases in abundance of humpback whales or other marine mammals in the vicinity of the source. The MMC believes that a monitoring program under a incidental taking authorization must be capable of detecting possible, non-negligible, project-related changes in distribution, abundance, or productivity of marine mammals.

Response: The MMC quoted the sentence out of context. The entire statement from the proposed rule reads:

NMFS does not believe that the level of data from the monitoring program will allow determinations to be made that the NPAL acoustic source was responsible for any decreases in abundance of humpback whales or other marine mammals in the vicinity of the source. At this time, evidence indicates that the numbers of humpback whales and Hawaiian monk seals off Kauai are increasing, however, it is unclear whether this is due to total abundance increases or geographic shifts due to oceanographic changes. Similarly, a cause and effect between operation of the NPAL source and any decrease in abundance of marine mammals in the offshore Hawaiian Islands over the short-term period of 5 years is unlikely.

The aerial monitoring program is designed to detect a change in distribution and abundance of humpback whales in the vicinity of the NPAL source due to the source being on at the time of overflight versus the acoustic source being off. This will be done by "distance from shore" analyses. The aerial monitoring program will not detect changes in distribution for other marine mammals because the numbers of animals detected will be too low. However, the best scientific information indicates that these other species will not be affected by the NPAL acoustic source.

NMFS believes that the NPAL monitoring program has been designed to conform to the greatest extent practicable with the guidelines found in the MMC's monitoring paper by Swartz and Hofman (1991). By using the information collected over the past five years, along with information collected by the aerial monitoring program north of Kauai and the Hawaii-wide aerial surveys, NMFS believes that determinations in trends in abundance for humpback whales will be attainable.

Comment MRC11: The MMC recommends that the final rule should contain a specific date by which annual reports under the LOA are to be submitted.

Response: A date for receipt of an annual report under a LOA is a condition for an LOA, not rulemaking. This allows NMFS the ability to modify the timing for the annual report, if necessary, without the need to undertake lengthy rulemaking. However, renewal of an LOA is conditional upon receipt of an annual report that is acceptable to NMFS.

NEPA, ESA and Other Concerns

Comment NEC1: The WDCS, while pleased that the ONR and Scripps will include a discussion on Hawaiian monk seals in the final EIS and in the AIM calculations, is nevertheless dissatisfied considering the endangered status of the monk seal that data were not made available at the time of the writing of the draft EIS.

Response: A draft EIS is, as its title suggests, a draft document. When information is lacking, incomplete or inaccurate, corrections are made in the final EIS, if noted by commenters and provided the information in the draft EIS is not so inadequate to preclude meaningful analysis (40 CFR 1502.9(a)). Information was provided in the draft EIS on the status of the monk seal in one of the NEPA alternatives, that is, use of the NPAL source at Midway Island. Recent information (Forney *et al.*, 1999) indicates that the monk seal population at the Main Hawaiian Islands (MHI) is approximately 40 animals which includes the 21 animals relocated to the MHI from Laysan Island in 1994. More recently, in August 2000, NMFS conducted a statewide aerial survey which observed 17 beached seals in Kauai County and 3 births which were all on the island of Kauai. To account for animals that may not have been observed for a reasonable estimate of the actual population size, NMFS normally multiplies the beach counts by a correction factor of 3. This recent information has been included in the ONR's final EIS. However, as stated

previously, NMFS does not believe that Hawaiian monk seals will be impacted by the NPAL source considering that monk seals are believed to be mid-frequency-specialist hearers, the relatively low SPL of the NPAL source at the water surface in the offshore vicinity of the source (less than 136 dB), and the coastal nature of the Hawaiian monk seal, where SPLs will be even lower.

Comment NEC2: The MMC notes that a reference was not provided with the statement that Hawaiian monk seals are "high-frequency" (HF) specialists. Also countering NMFS' statement that the Agency did not believe that monk seals would be impacted by the NPAL source, the MMC is unaware of studies on monk seal hearing, at-sea movements, diving behavior and behavioral responses to LF sound. The MMC believes that without additional analyses, installation and operation of a sound source at the Midway location would be contrary to the provisions of the ESA and NEPA and the regulations should not authorize operation of the NPAL acoustic source in the Midway Island area until such information is available.

Response: The reference for monk seals being HF specialists is Thomas *et al.* (1990). These authors found auditory thresholds for monk seals from 2 to 48 kHz, with best sensitivity between 12 and 28 kHz. For marine mammals, this best-sensitivity range means that monk seals are considered mid-frequency specialists, not HF specialists. Nonetheless, this continues to support NMFS' belief that monk seals are unlikely to be affected by a LF source such as NPAL, which transmits at 75 Hz (.075 kHz).

It is not clear to NMFS how locating the source at Midway would be contrary to NEPA and the ESA. The draft and final EISs prepared for this action by ONR describe the impacts of locating the source at either Kauai or Midway. The Council on Environmental Quality regulations implementing NEPA (40 CFR 1502.22) addressed the issue of proceeding with incomplete or inadequate information.

In addition, NMFS has completed consultation under section 7 of the ESA on conducting the activity off Kauai. If Scripps and ONR decided to relocate the activity to Midway, then ONR would need to reinitiate consultation under section 7 of the ESA. In addition, because this small take rule has now been finalized, a new rule would need to be proposed in order for a small take authorization to be issued for NPAL operations at Midway.

Comment NEC3: The State of Hawaii noted that pursuant to 15 CFR 930,

Coastal Zone Management federal consistency concurrence is prerequisite to the issuance of the Letter of Authorization.

Response: Because the State consistency finding is being undertaken by Scripps, and because Scripps has applied for the small take authorization (a permit) under the MMPA, this action comes under subpart D of 15 CFR Part 930, as revised on December 8, 2000 (65 FR 77124). In consideration of § 930.62(c), NMFS processes applications for small take authorizations and, if a state consistency process has not been completed by the time a small take authorization has been completed, NMFS conditions that small take authorization's effectiveness upon the written concurrence of the appropriate state that the activity proposed is consistent with the state's Coastal Zone Management program. That policy applies to this action.

Comment NEC4: The HSUS is concerned that ONR and Scripps would proceed with this project even if they did not receive an LOA from NMFS. The HSUS quotes the proposed rule that: "Without an authorization under the MMPA, NMFS and the public may not receive this information" from reports. The HSUS presumes this means that the public would not receive the information because the project would not proceed because any taking of marine mammals would be illegal.

Response: In the proposed rule NMFS simply provided a summary statement of the costs and benefits of the proposed action in compliance with E.O. 12866-Regulatory Planning and Review. Whether or not an activity would take place without a small take authorization is the decision of the activity participants. If an activity were to take marine mammals without an authorization, NMFS would investigate to determine whether there was a violation of the MMPA. The statement regarding receipt of information is simply a statement that, without a small take authorization, there would be no requirement to monitor the activity nor to submit reports to NMFS.

Description of Affected Marine Mammals

A summary of the marine mammal species that may potentially be found in the vicinity of the NPAL acoustic source at either Kauai or Midway is presented here. For more detail on marine mammal abundance, density, and the methods used to obtain this information, reviewers are requested to refer to ONR's draft EIS. For general information on North Pacific Ocean marine mammals, reviewers may refer

to Forney *et al.* (2000) or many other references commonly available. For information on distribution and abundance of marine mammals in Hawaiian waters, reviewers are encouraged to review Mobley *et al.* (2000).

Six species of baleen whales, humpback (*Megaptera novaengliae*), fin (*Balaenoptera physalus*), blue (*B. musculus*), Bryde's (*B. edeni*), minke (*B. acutorostrata*), and the North Pacific right (*Balaena japonicus*) whales, may occur in the Kauai or Midway Atoll areas. Although not reported near Midway Atoll, the humpback whale is the only balaenopterid whale known to be present in reasonably large numbers. Humpback whales are considered abundant in coastal waters of the main Hawaiian Islands from November through April. Fin whales and blue whales have the potential to occur in the area; however, their distribution and abundance in the region is believed to be uncommon (Balcomb, 1987), although only a single fin whale was observed during recent ATOC marine mammal research. Right whales in the North Pacific Ocean are extremely rare and therefore, would also be rare in the Hawaiian Islands. Bryde's whales, and minke whales may be occasionally seen in the area of Midway Atoll (Leatherwood *et al.*, 1988), but are not usually found off Kauai.

Sixteen species of odontocetes (toothed whales, dolphins and porpoises) may be found in the Kauai and Midway areas. These species are sperm whales (*Physeter macrocephalus*), short-finned pilot whales (*Globicephala macrorhynchus*), beaked whales (*Ziphius cavirostris*, *Berardius bairdi*, and *Mesoplodon spp.*), spinner dolphins (*Stenella longirostris*), spotted dolphins (*Stenella attenuata*), striped dolphins (*Stenella coeruleoalba*), bottlenose dolphins (*Tursiops truncatus*), rough-toothed dolphins (*Steno bredanensis*), pygmy sperm whales (*Kogia breviceps*), dwarf sperm whales (*Kogia simus*), killer whales (*Orcinus orca*), false killer whales (*Pseudorca crassidens*), pygmy killer whales (*Feresa attenuata*), and melon-headed whales (*Peponocephala electra*). It should be noted, however, that the latter 7 species were not sighted in or near the proposed Kauai area during marine mammal surveys conducted between 1993 and 1998.

The Hawaiian monk seal (*Monachus schauinslandi*) occurs in the area of the Leeward Hawaiian Islands and, more recently in the main Hawaiian Islands, including the island of Kauai.

Assessment of Potential Impacts on Marine Mammals

The effects of underwater noise on marine mammals are highly variable, and can be categorized as follows (based on Richardson *et al.*, 1995): (1) The noise may be too weak to be heard at the location of the animal (i.e. lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both); (2) the noise may be audible but not strong enough to elicit any overt behavioral response; (3) the noise may elicit behavioral reactions of variable conspicuousness and variable relevance to the well being of the animal; these can range from subtle effects on respiration or other behaviors (detectable only by statistical analysis) to active avoidance reactions; (4) upon repeated exposure, animals may exhibit diminishing responsiveness (habituation), or disturbance effects may persist (the latter is most likely with sounds that are highly variable in characteristics, unpredictable in occurrence, and associated with situations that the animal perceives as a threat); (5) any noise that is strong enough to be heard has the potential to reduce (mask) the ability of marine mammals to hear natural sounds at similar frequencies, including calls from conspecifics and/or echolocation sounds, and environmental sounds such as storms and surf noise; and (6) very strong sounds have the potential to cause either a temporary or a permanent reduction in hearing sensitivity (i.e., TTS or PTS, respectively). In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Few data on the effects of non-explosive sounds on hearing thresholds of marine mammals have been obtained. However, in terrestrial mammals (and presumably in marine mammals), received sound levels must far exceed the animal's hearing threshold for there to be any TTS and must be even higher for there to be risk of PTS (Richardson *et al.*, 1995). In this proposed action, Scripps has calculated that a marine mammal would have to receive one ping greater than, or equal to 180 dB in order to be considered receiving a non-serious injury (Level A harassment), or many pings at an RL slightly lower than 180 dB in order to potentially incur a significant biological response (Level B harassment) to the noise.

In order to understand the biological significance of the risk of Level A or

Level B harassment, it is necessary to determine how this risk might affect a population of marine mammals, starting with acoustic criteria. First, the marine mammal must be able to hear LF sound. Second, the animal must incur a reaction to the LF sound that is more than momentary. Third, any effect from LF sound must involve a significant behavioral change in a biologically important activity, such as feeding, breeding, or migration, all of which are potentially important for reproductive success of the population.

Based on California and Hawaii ATOC MMRPs, Scripps found no overt or obvious short-term changes: (1) In the abundance and distribution of marine mammals in response to the ATOC transmissions (intensive statistical analyses of aerial survey data showed some subtle shifts in distribution of humpback (and possibly sperm) whales away from the California site (Calambokidis *et al.*, 1998) and humpback whales away from the Kauai site); (2) in the behavior of humpback whales in response to the playback of ATOC-like sounds (intensive statistical analyses revealed some subtle changes in the behavior of humpback whales (Frankel and Clark, 1998; 2000)); or (3) in the singing behavior of humpback whales in the vicinity of the Kauai ATOC sound source. Bioacoustic experts concluded that these subtle effects would not adversely affect the survival of an individual whale or the status of the North Pacific humpback whale population (Frankel and Clark, 2000).

To assess the potential environmental impact of the NPAL sound source on marine mammals, it was necessary for Scripps to predict the sound field that a given marine mammal species could be exposed to over time. This is a multi-part process involving (1) the ability to measure or estimate an animal's location in space and time, (2) the ability to measure or estimate the three-dimensional sound field at these times and locations, (3) the integration of these two data sets to estimate the potential impact of the sound field on a specific animal in the modeled population, and (4) the conversion of the resultant cumulative exposures for a modeled population into an estimate of the level of risk associated with a disruption of a biologically important activity.

Next, a methodology for converting the resultant cumulative exposures for a modeled population into an estimate of the risk to the entire population associated with a significant disruption in a biologically important activity and or injury was developed. This process

assessed risk in relation to RL and repeated exposure. The resultant "risk continuum" is based on the assumption that the threshold of risk is variable and occurs over a range of conditions rather than at a single threshold.

Taken together, the recent results on marine mammals from LF sounds, the acoustical modeling, and the risk assessment, provide an estimate of potential environmental impacts to marine mammals.

The acoustical modeling process was accomplished by Scripps using the U.S. Navy's standard acoustical performance prediction transmission loss model-Parabolic Equation (PE) version 3.4. The results of this model are the primary input to the AIM model. AIM was used in this analysis to estimate marine mammal sound exposures and integrate simulated characteristics of marine mammals (e.g., species distribution, density, dive profiles, and general movement), NPAL sound transmissions (e.g., duty cycle, transmission length), and the predicted sound field for each transmission to estimate acoustic exposure during a typical NPAL source transmission. A description of the PE and AIM models (including AIM input parameters for animal movement, diving behavior, and marine mammal distribution, abundance, and density) and the risk continuum analysis are described in detail in the Scripps' application and ONR's final EIS and are not discussed further in this document. For copies of these documents see **ADDRESSES**.

Scripps has drawn some general conclusions about the potential impact of the NPAL sound source on marine mammals from the relative abundance of various marine mammal species in relationship to the NPAL sound field. The only mysticete (baleen) whale species expected in the waters off the north shore of Kauai in substantial numbers is the humpback whale. Scripps believes however, that because humpback whales usually prefer nearshore locations (inside the 100-fathom (188 m) depth contour) and not the offshore location of the NPAL source, few humpbacks are expected to be exposed to received levels greater than 120 dB (i.e., the SPL level presumed by Scripps in its risk continuum (explained in Scripps' application) to be almost zero for marine mammals to have a potential to incur significant behavioral disturbance). Similarly, sperm whales are the most common deep-diving odontocete (toothed) whale in Hawaiian Islands area, but because they usually prefer offshore waters (i.e., water depths greater than 4,000 m (12,700 ft)), few are

expected to be exposed to received levels greater than 120 dB. According to Scripps, these distributional preferences are supported by the Kauai ATOC MMRP (Mobley, 1999).

Using the risk continuum and acoustic modeling, Scripps estimated the potential for biologically significant reactions by marine mammals under the proposed action. Scripps determined that of all the species found in the NPAL source area only humpback whales that remain in the vicinity of the sound source for a full day of transmissions may potentially experience any effect from the source transmissions. However, humpback whales typically travel parallel to the coast of Kauai, and, therefore, Scripps believes, would probably not receive sound from more than a single transmission. NMFS, having reviewed Mobley *et al.* (1999, 2000), and the information contained in ONR's draft and final EISs, concurs with this assessment and therefore concludes that operation of the NPAL source by Scripps will have no more than a negligible impact on the affected marine mammal stocks and habitats.

Mitigation

Scripps' proposed action includes mitigation that would minimize the potential effects of the NPAL sound source to marine mammals. First, the sound source would operate at the minimum duty cycle (2 percent during the humpback whale season) necessary to support the large-scale acoustic thermometry and long-range propagation objectives (described previously in this document). Any increases in the duty cycle beyond the nominal 2 percent (with a maximum of 8 percent) would not occur during the humpback whale season (January-April). However the proposed action includes the possibility of an 8-percent duty cycle for up to 2 months out of each year; this action, which would not occur during the period of time humpback whales inhabit Hawaiian waters. Second, NPAL transmissions would continue with approximately the same transmission schedule as that used during the first feasibility phase of the ATOC study. Third, the sound source would operate at the minimum power level necessary to support large-scale acoustic thermometry and long-range sound transmission objectives (It should be recognized that signal length and power trade off with each other; a shorter signal length would require increased power to accomplish the project's objectives-for that reason it is considered as a mitigation measure to prevent potential injury to marine

mammals). The fourth mitigation measure proposed is to ramp-up the NPAL sound source transmissions over a 5-min period. This is believed to reduce the potential for startling marine mammals in the vicinity of the NPAL sound source and provides them an opportunity to move away from the sound source before transmitting at the maximum power levels.

Monitoring and Reporting

In an effort to understand the potential for long-term effects of man-made sound on marine mammals, Scripps will monitor the distribution and abundance of marine mammals in the vicinity of the sound source by conducting eight surveys each year from February through early April. In order to maintain a basis for comparison with previous aerial surveys conducted in the area off the north shore of Kauai, the proposed survey protocol would follow the protocol used in the earlier 1993-1998 surveys (see Mobley *et al.*, 1999). North-south tracklines spaced 13 km (7 nm) apart would be surveyed within a 40-km (21.6 nm) radius of the NPAL source. One or two additional lines spaced 6.5 km (3.5 nm) apart would be added in the immediate vicinity of the Kauai source. Sightings of all marine mammal and sea turtle species would be made by two experienced observers, one on each side of the aircraft. Sightings would be called to a data recorder who would note the species sighted, number of individuals, presence or absence of a calf, angle to the sighting, and any apparent reaction to the aircraft. Additionally, GPS locations and aircraft altitude, measured by a radar altimeter) would be automatically recorded at 30-sec intervals and whenever a sighting is made.

The 8 aircraft surveys would be scheduled eight days apart to match the NPAL transmission schedule. Based on an average of seven humpback sightings per survey observed during the 1998 season, and assuming a moderate sized effect due to NPAL transmissions, eight surveys should produce a minimum of 56 sightings of humpback whales, which would result in an estimated power of 0.80 (i.e., there would be an 80-percent probability of detecting a change in distribution if an effect is present). The estimate of 56 sightings is presumed to be a minimum, given previously reported evidence that the Hawaiian wintering population of humpback whales is increasing (Mobley *et al.*, 1999).

During the aerial surveys, the location (lat/long) of each sighting of a marine mammal or sea turtle will be recorded with GPS. Therefore, since the lat/long

location of the sound source is known, one can calculate distance of the marine mammal sighting from the sound source. Similarly, with the lat/long position of the sighting, a distance offshore can be calculated from a digitized map. These distances can then be compared to the baseline data that was collected during the 2001 field season, and a comparison between source "on" and source "off" distribution can be determined. As for the received level that a sighted animal was exposed to, during ATOC a detailed transmission loss (TL) study was conducted in the waters shoreward of the sound source, and the PE plots show the TL seaward of the sound source. Therefore, knowing the lat/long position, one can estimate what sound level an animal would receive during a transmission.

If humpback whales, or other marine mammals, are observed exhibiting avoidance reactions in response to NPAL source transmissions, the received level at the whale must be estimated and included in the required annual report. If acute effects such as injury or mortality of listed species are observed relative to the initiation of the sound source, then Scripps must immediately initiate the source shut-down procedure in the research protocol. Avoidance reactions must also be reported in the annual reports. Finally, since the aerial surveys will be scheduled to coincide with days that the source will be transmitting, if any injured or dead animals are observed, the Kauai stranding coordinator must be notified and informed of the location of the stranding, or the offshore location of the animal.

A report on activities will be provided to NMFS annually upon the conclusion of that year's aerial surveys. Reports on the aerial survey results will be available to the public.

NEPA

The ONR has released a final EIS under NEPA (see **ADDRESSES**). NMFS is a cooperating agency, as defined by the Council on Environmental Quality (40 CFR 1501.6), in the preparation of the draft and final EISs.

Endangered Species Act (ESA)

On June 23, 2000, ONR submitted a Biological Assessment to NMFS to initiate consultation under section 7 of the ESA. In that regard, NMFS concluded consultation with ONR on this action on April 26, 2001. The finding of that consultation was that funding, and continuation of, the NPAL sound source located off Kauai, HI and the issuance by NMFS of a small take

authorization for this activity are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS. A copy of the Biological Opinion issued as a result of that consultation is available upon request (see **ADDRESSES**).

Determinations

Based on the scientific analyses detailed in Scripps' application and further supported by information and data contained in ONR's final EIS, and discussed in this document, NMFS has determined that the taking of marine mammals potentially harassed incidental to the continued operation of an LF acoustic source previously installed off the north shore of Kauai by the NPAL project would result in only small numbers (as the term is defined in § 216.103) of marine mammals being taken. In addition, this incidental harassment would have no more than a negligible impact on the affected marine mammal stocks or habitats and would not have an unmitigable adverse impact on Arctic subsistence uses of marine mammals.

The following factors have been considered when making the determination that the taking by the NPAL acoustic source at Kauai would result in small numbers being harassed and having no more than a negligible impact: (1) The limited duty cycle of the source (2-8 percent); (2) the information that most species of marine mammals are relatively insensitive to acoustic sounds as low as the NPAL source; (3) the fact that relatively few marine mammals that inhabit the acoustic source area are known to dive to depths that would put them in the proximity of sound fields that could disrupt biologically significant behavior; and (4) the low potential that a marine mammal actually would be within the acoustic sound field during sound transmissions. In consideration of these factors, NMFS has concluded that the operation of the acoustic source at Kauai would result in no more than small numbers of marine mammals being affected, and that the operation of the NPAL source offshore Kauai, HI for the next five years would have a negligible impact on affected marine mammal species and stocks. Finally, because no marine mammals potentially affected by the NPAL acoustic source are also utilized for subsistence by Alaskan natives, the NPAL project will not have an unmitigable adverse impact on subsistence uses of marine mammals. Therefore, in accordance with section 101(a)(5)(A) of the MMPA, a Letter of Authorization for the taking of small

numbers of marine mammals incidental to operation of the NPAL source off Kauai, HI can be issued to Scripps under these regulations.

Costs and Benefits

In addition to allowing Scripps to take a small number of marine mammals incidental to conducting scientific research using the NPAL acoustic source off Hawaii, this rule would require Scripps to provide NMFS and the public with information on the NPAL source's effect on certain species of marine mammals. Without an authorization under the MMPA, NMFS and the public might not receive this information. NMFS believes that obtaining this information is important because scientific findings resulting from the monitoring program are likely to be directly applicable to other oceanographic research activities that employ LF acoustic sources. The cost to ONR and Scripps cannot be fully determined at this time but these costs would be incurred through implementation of the aerial monitoring program that will be required under this proposed rule. Preliminarily, NMFS estimates that the cost would be approximately \$300,000 during the 5-year program.

Finally, NMFS agrees with Scripps and ONR that, while direct effects on the economy could occur through a reduction in whale-watching and other tourism if changes in marine mammal abundance or behavior occurred, because the Kauai ATOC MMRP demonstrated that no overt or obvious short-term change in abundance, distribution, or behavior occurred as a result of the ATOC sound transmissions, no effects on the economy are anticipated.

Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration, at the proposed rule stage, that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities since it would apply only to Scripps and would have no effect, directly or indirectly, on small businesses. It will also affect a small number of contractors providing services related to reporting the impact of the NPAL source on marine mammals. Some of the affected contractors may be small businesses, but the number involved would not be

substantial. Further, since the monitoring and reporting requirements are what would lead to the need for their services, the economic impact on them would be beneficial. Because of this certification, a regulatory flexibility analysis is not required.

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 (PRA) unless that collection of information displays a currently valid OMB control number. This proposed rule contains collection-of-information requirements subject to the provisions of the PRA. This collection has been approved previously by OMB under section 3504(b) of the PRA issued under OMB control number 0648-0151. These requirements include an application for an LOA and an annual report on monitoring. Other information requirements in the rule are not subject to the PRA since they apply only to a single entity and, therefore, are not contained in a rule of general applicability.

The reporting burden for this collection is estimated to be approximately 80 hours, including the time for gathering and maintaining the data needed, and completing and reviewing the collection of information. It does not include time for monitoring the activity.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

August 10, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Subpart P is added to read as follows:

Subpart P—Taking of Marine Mammals Incidental to Operating A Low Frequency Acoustic Source by the North Pacific Acoustic Laboratory

Sec.

216.170 Specified activity and specified geographical region.

216.171 Effective dates.

216.172 Permissible methods of taking.

216.173 Prohibitions.

216.174 Mitigation.

216.175 Requirements for monitoring and reporting.

216.176 Letter of authorization.

216.177 Renewal of a letter of authorization.

216.178 Modifications to a letter of authorization.

Subpart P—Taking of Marine Mammals Incidental to Operating A Low Frequency Acoustic Source by the North Pacific Acoustic Laboratory

§ 216.170 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of small numbers of marine mammals specified in paragraph (b) of this section by U.S. citizens engaged in conducting acoustic research using a moored, low-frequency acoustic source by the North Pacific Acoustic Laboratory off Kauai, Hawaii.

(b) The incidental harassment of marine mammals under the activity identified in paragraph (a) of this section is limited to small numbers of the following species: humpback whales (*Megaptera novaengliae*), fin whales (*Balaenoptera physalus*), blue whales (*B. musculus*), Bryde's whales (*B. edeni*), minke whales (*B. acutorostrata*), North Pacific right whales (*Balaena japonicus*), sperm whales (*Physeter macrocephalus*), short-finned pilot whales (*Globicephala macrorhynchus*), beaked whales (*Ziphius cavirostris*, *Berardius bairdi*, and *Mesoplodon spp.*), spinner dolphins (*Stenella longirostris*), spotted dolphins (*Stenella attenuata*), striped dolphins (*Stenella coeruleoalba*), bottlenose dolphins (*Tursiops truncatus*), rough-toothed dolphins (*Steno bredanensis*), pygmy sperm whales (*Kogia breviceps*), dwarf sperm whales (*Kogia simus*), killer whales (*Orcinus orca*), false killer whales (*Pseudorca crassidens*), pygmy killer whales (*Feresa attenuata*), and melon-headed whales (*Peponocephala electra*), and Hawaiian monk seals (*Monachus schauinslandi*).

§ 216.171 Effective dates.

Regulations in this subpart are effective from September 17, 2001, through September 17, 2006.

§ 216.172 Permissible methods of taking.

(a) Under a Letter of Authorization issued pursuant to §§ 216.106 and 216.176, the Holder of this Letter of Authorization may incidentally, but not

intentionally, take marine mammals by harassment within the area described in § 216.170(a), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the Letter of Authorization.

(b) The activities identified in § 216.170(a) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

§ 216.173 Prohibitions.

Notwithstanding takings authorized by § 216.170(b) and by a Letter of Authorization issued under §§ 216.106 and 216.176, no person in connection with the activities described in § 216.170(a) shall:

(a) Take any marine mammal not specified in § 216.170(b);

(b) Take any marine mammal specified in § 216.170(b) other than by incidental, unintentional harassment;

(c) Take any marine mammal specified in § 216.170(b) if such take results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under §§ 216.106 and 216.176.

§ 216.174 Mitigation.

As described in the Letter of Authorization issued under §§ 216.106 and 216.176., the North Pacific Acoustic Laboratory acoustic source must:

(a) Operate at the minimum duty cycle necessary for conducting large-scale acoustic thermometry and long-range propagation objectives.

(b) Not increase the duty cycle during the months of January through April.

(c) Operate at the minimum power level necessary for conducting large-scale acoustic thermometry and long-range propagation objectives, but no more than 260 Watts.

(d) Precede all transmissions from the acoustic source by a 5-minute ramp-up of the acoustic source's power.

§ 216.175 Requirements for monitoring and reporting.

(a) The holder of the Letter of Authorization is required to cooperate with the National Marine Fisheries Service and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. The holder must notify the Southwest Regional Administrator at least 2 weeks prior to commencing monitoring activities.

(b) The Holder of this Authorization must conduct a minimum of eight

surveys each year from February through early April in the area off the north shore of Kauai, Hawaii, as specified in the Letter of Authorization issued under §§ 216.106 and 216.176.

(c) The Holder of this Authorization must, through coordination with marine mammal stranding networks in Hawaii, monitor strandings of marine mammals to detect long-term trends in stranding and the potential relationship to the North Pacific Acoustic Laboratory acoustic source.

(d) Activities related to the monitoring described in paragraphs (b) and (c) of this section, or in the Letter of Authorization issued under §§ 216.106 and 216.176 may be conducted without the need for a separate scientific research permit.

(e) In coordination and compliance with marine mammal researchers operating under this subpart, at its discretion, the National Marine Fisheries Service may place an observer on any aircraft involved in marine mammal surveys in order to monitor the impact on marine mammals.

(f) The holder of a Letter of Authorization must annually submit a report to the Director, Office of Protected Resources, National Marine Fisheries Service, no later than 120 days after the conclusion of the humpback whale aerial survey monitoring program. This report must contain all the information required by the Letter of Authorization, including the results, if any, of coordination with coastal marine mammal stranding networks.

(g) A final comprehensive report must be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service no later than 240 days after completion of the final year of humpback whale aerial survey monitoring conducted under § 216.175. This report must contain all the information required by the Letter of Authorization.

§ 216.176 Letter of authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time specified in the Letter

of Authorization but may not exceed the period of validity of this subpart.

(b) A Letter of Authorization with a period of validity less than the period of validity of this subpart may be renewed subject to renewal conditions in § 216.177.

(c) A Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Authorized geographic area for taking;

(3) Means of effecting the least practicable adverse impact on the species of marine mammals authorized for taking and its habitat; and

(4) Requirements for monitoring and reporting incidental takes.

(d) Issuance of a Letter of Authorization will be based on a determination that the number of marine mammals taken by the activity will be small, and that the number of marine mammals taken by the activity, specified in § 216.170(b), as a whole, will have no more than a negligible impact on the species or stocks of affected marine mammal(s).

(e) Notice of issuance or denial of a Letter of Authorization will be published in the **Federal Register** within 30 days of a determination.

§ 216.177 Renewal of a letter of authorization.

(a) A Letter of Authorization issued under § 216.106 and § 216.176 for the activity identified in § 216.170(a) will be renewed annually upon:

(1) Notification to the National Marine Fisheries Service that the activity described in the application for a Letter of Authorization submitted under § 216.176 will be undertaken and that there will not be a substantial modification to the described work, mitigation, or monitoring undertaken during the upcoming season;

(2) Timely receipt of the monitoring reports required under § 216.175, which have been reviewed by the National Marine Fisheries Service and determined to be acceptable;

(3) A determination by the National Marine Fisheries Service that the mitigation, monitoring, and reporting

measures required under §§ 216.174 and 216.175 and the Letter of Authorization were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization; and

(4) Renewal of a Letter of Authorization will be based on a determination that the number of marine mammals taken by the activity continues to be small and that the number of marine mammals taken by the activity, specified in § 216.170(b), will have no more than a negligible impact on the species or stock of affected marine mammal(s).

(b) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the **Federal Register** within 30 days of a determination.

§ 216.178 Modifications to a letter of authorization.

(a) In addition to complying with the provisions of §§ 216.106 and 216.176, except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization issued pursuant to §§ 216.106 and 216.176 and subject to the provisions of this subpart shall be made by the National Marine Fisheries Service until after a notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 216.177 without modification, except for the period of validity, is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.170(b), a Letter of Authorization issued pursuant to §§ 216.106 and 216.176 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the **Federal Register** within 30 days subsequent to the action.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current

session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/fedreg>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/nara/index.html>. Some laws may not yet be available.

S. 468/P.L. 107-23

To designate the Federal building located at 6230 Van Nuys Boulevard in Van Nuys, California, as the "James C. Corman Federal Building". (Aug. 3, 2001; 115 Stat. 198)

H.R. 1954/P.L. 107-24

ILSA Extension Act of 2001 (Aug. 3, 2001; 115 Stat. 199)

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