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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–55–AD; Amendment 39–12552; AD 2001–22–51]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A119 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2001–22–51, which was sent previously to all known U.S. owners and operators of Agusta S.p.A. (Agusta) Model A119 helicopters by individual letters. This AD requires removing a certain part-numbered tail rotor blade (blade) on or before accumulating 50 hours time-in-service (TIS). This AD also requires visually or dye penetrant inspecting each blade at specified time intervals and removing any cracked blade before further flight. This AD is prompted by the discovery of a fatigue crack on a blade during an inspection. The actions specified by this AD are intended to prevent failure of a blade and subsequent loss of control of the helicopter.

DATES: Effective December 26, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–22–51, issued on October 30, 2001, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 26, 2001.

Comments for inclusion in the Rules Docket must be received on or before February 8, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–55–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The applicable service information may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On October 30, 2001, the FAA issued Emergency AD 2001–22–51 for Agusta Model A119 helicopters, which requires removing a certain part-numbered tail rotor blade on or before accumulating 50 hours TIS. That Emergency AD also requires visually or dye penetrant inspecting each blade at specified time intervals and removing any cracked blade before further flight. That action was prompted by the discovery of a fatigue crack on a blade during an inspection. This condition, if not corrected, could result in failure of a blade and subsequent loss of control of the helicopter.

The FAA has reviewed Agusta Bollettino Tecnico No. 119–1, Revision A, dated August 22, 2001 (ABT), which describes procedures for performing inspections of each blade, part number (P/N) 109–8132–01–107, for a crack and assigning a new retirement life. The Ente Nazionale per l'Aviazione Civile, which is the airworthiness authority for Italy, classified the ABT as mandatory and issued ADs 2001–124, dated March 30, 2001; 2001–348, dated August 20, 2001; and 2001–374, dated August 29, 2001, to ensure the continued airworthiness of these helicopters in Italy.

This helicopter model is manufactured in Italy and is typed certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to this bilaterial agreement, the ENAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the ENAC, 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.

Since the unsafe condition described is likely to exist or develop on other Agusta Model A119 helicopters of the same type designs, the FAA issued Emergency AD 2001–22–51 to prevent failure of a blade and subsequent loss of control of the helicopter. The AD requires the following for each blade, P/N 109–8132–01–107:

- Removing any blade on or before accumulating 50 hours TIS.
- Before each flight, visually checking both sides of each blade for a crack.
- Initially and at specified intervals or before the next flight after any abnormal tail rotor vibration, inspecting each blade for a crack using a 5-power or higher magnifying glass.
- Initially and repetitively, dye penetrant inspecting each blade for a crack.
- If a crack is found, removing the blade.

The AD revises the Limitations section of the maintenance manual by establishing a 50-hour life limit for blade, P/N 109–8132–01–107. The actions must be accomplished in accordance with the ABT described previously. An owner/operator (pilot) may perform the visual check required by paragraph (b) of the AD and must enter compliance in the helicopter maintenance records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v)). The AD allows a pilot to perform this check because it involves only a visual check for a crack in the blade and can be performed equally well by a pilot or a mechanic.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, the actions stated previously

are required at the specified time intervals, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on October 30, 2001 to all known U.S. owners and operators of Agusta Model A119 helicopters. However, shortly after the issuance of the emergency AD, ENAC advised us that a replacement blade is being certificated. That replacement blade should have a longer life limit and should not require mandatory inspections. Therefore, a terminating action for the requirements of this AD may become available soon. In the meantime, the unsafe condition still exists, and the emergency AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons. This published version of the AD is identical to the version issued on October 30, 2001 except that the citation in paragraph (b) for recording compliance with the pilot check is corrected to read 91.417(a)(2)(v) instead of the non-existent 91.147(a)(2)(v) cited in the October 30, 2001 version of this AD.

We estimate that 2 helicopters of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per helicopter to accomplish the required actions, and the average labor rate is $60 per work hour. The manufacturer has indicated that the cost of any replacement blade will be given pro-rata warranty credit. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $480, assuming 100% warranty credit for any replacement blades.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–55–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–22–51 Agusta S.p.A: Amendment 39–12552. Docket No. 2001–SW–55–AD.

Applicability: Model A119 helicopters, with a tail rotor blade (blade), part number 109–8132–01–107, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove any blade on or before accumulating 50 hours time-in-service (TIS).

(b) Before each flight, visually check both sides of each blade for a crack. An owner/operator (pilot) holding at least a private pilot certificate may perform the visual check required by this paragraph, and must enter compliance into the helicopter maintenance records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v).

(c) Within 10 hours TIS and thereafter at intervals not to exceed 10 hours TIS or before the next flight after any abnormal increase in the vibratory level of the helicopter, inspect each blade for a crack using a 5-power or higher magnifying glass in accordance with the Compliance Instructions, Part II, paragraphs 1 through 6, of Agusta Bollettino Tecnico No. 119–1, Revision A, dated August 22, 2001 (ABT).

(d) Within 25 hours TIS and thereafter at intervals not to exceed 25 hours TIS, dye penetrant inspect each blade for a crack in accordance with the Compliance Instructions, Part III, paragraphs 1 through 4.5, of the ABT.

(e) Before further flight, remove any blade in which a crack is found.

(f) This AD revises the Limitations section of the maintenance manual by establishing a 50-hour life limit for each blade, P/N 109–8132–01–107.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

used if approved by the Manager, Regulations Group, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(h) Special flight permits will not be issued.

(i) The inspections shall be done in accordance with the Compliance Instructions, Part II, paragraphs 1 through 6 and Part III, paragraphs 1 through 4.5, of Agusta Bollettino Tecnico No. 119–1, Revision A, dated August 22, 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 Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on December 26, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–22–51, issued October 30, 2001, which contained the requirements of this amendment.

Note 3: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) ADs 2001–124, dated March 30, 2001; 2001–348, dated August 20, 2001; and 2001–374, dated August 29, 2001.

Issued in Fort Worth, Texas, on November 27, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–30211 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2001–ASW–14]

Revision of Class E Airspace, Springhill, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises the Class E Airspace, Springhill, LA.

EFFECTIVE DATE: The direct final rule published at 66 FR 45600 and is effective 0901 UTC, December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Joseph R. Yadouga, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5597.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 29, 2001, (66 FR 45600). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 27, 2001. No adverse comments were received, and, thus, this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on December 3, 2001.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 01–30482 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 211

RIN 1510–AA88

Delivery of Checks and Warrants to Addresses Outside the United States, Its Territories and Possessions

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule; revision.

SUMMARY: This final rule amends the regulations governing the delivery of Treasury checks outside the United States by removing the reference to Democratic Kampuchea, now known as Cambodia, as an area to which checks may not be sent. With the resumption of diplomatic relations, there is reasonable assurance that payees residing in Cambodia will receive and be able to negotiate checks for full value.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: William S. Mehr, Manager, Administrative Services Branch, (202) 874–6932, or Tricia Long, Attorney, Office of the Chief Counsel, (202) 874–8615, Financial Management Service, Department of the Treasury, Washington, DC 20227.

SUPPLEMENTARY INFORMATION: Banking and postal facilities in Cambodia have improved since the resumption of diplomatic relations in 1993. With respect to postal facilities, the Department of State has available a system whereby Treasury checks can be sent to the American Embassy for distribution. This arrangement is feasible for both Treasury and State, because the number of payees residing in Cambodia is small.

Accordingly, there is reasonable assurance that payees living in Cambodia will receive checks or warrants drawn against funds of the United States, its agencies or instrumentalities, and will be able to negotiate the same for full value. For this reason, 31 CFR 211.1(a) is being revised to delete the reference to Cambodia.

Rulemaking Analysis

This regulation is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because no notice of proposed rulemaking is required under 5 U.S.C. 553 or any other law.

Because this regulation involves a foreign affairs function of the United States, it is not subject to Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Notice and Comment

Because this rule removes a restriction on the delivery of checks and warrants to a foreign country, the Department of the Treasury has determined that notice of proposed rulemaking, public procedure and a delayed effective date are not required pursuant to 5 U.S.C. 553(a)(1), 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(1).

List of Subjects in 31 CFR Part 211

Foreign Banking, Checks.

For the reasons set forth in the preamble, 31 CFR Part 211 is amended as follows:

PART 211—DELIVERY OF CHECKS AND WARRANTS TO ADDRESSES OUTSIDE THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS

1. The authority citation for part 211 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321 and 3329.

2. Section 211.1 is amended by revising paragraph (a) to read as follows:

§ 211.1 Withholding delivery of checks.

(a) It is hereby determined that postal, transportation or banking facilities in

general or local conditions in the Republic of Cuba and the Democratic People's Republic of Korea (North Korea) are such that there is not a reasonable assurance that a payee in those areas will actually receive checks or warrants drawn against funds of the United States, or agencies or instrumentalities thereof, and be able to negotiate the same for full value.

* * * * *

Dated: November 2, 2001.

Richard L. Gregg,

Commissioner.

[FR Doc. 01–30535 Filed 12–7–01; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–01–120]

RIN 2115–AE46

Special Local Regulations: Cingular Wireless Winterfest Boat Parade, Broward County, Fort Lauderdale, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being established for the Cingular Wireless Winterfest Boat Parade. The event will be held on December 15, 2001, on the waters of the Port Everglades turning basin and the Intracoastal Waterway (ICW) from Dania Sound Light 35 to Pompano Beach Day Beacon 74. This rule creates 3 regulated areas around a staging area, parade route and viewing area. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: These regulations are effective from 5 p.m. on December 15, 2001 until 11 p.m. on December 15, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD07–01–120 and are available for inspection or copying at Coast Guard Group Miami, 100 MacArthur Causeway, Miami Beach, Florida, 33139 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BMC Sorensen, Coast Guard Group Miami, Florida at (305) 535–4317.

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 a NPRM. Publishing a NPRM and delaying the effective date of this rule would be contrary to public safety interests since immediate action is needed to minimize potential danger to the public because there will be numerous spectator craft in the area. Publishing a NPRM is also unnecessary because the temporary rule will only be in effect for 6 hours and this is an annual event that has been well publicized to the local community.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The Cingular Wireless Winterfest Boat Parade is a nighttime parade of approximately 110 pleasure boats ranging in length from 20 feet to 200 feet decorated with holiday lights. Approximately 1500 spectator craft are anticipated to view the parade. The parade will form in the staging area at the Port Everglades turning basin and south in the ICW and the parade route will proceed north on the ICW to Lake Santa Barbara where the parade will disband. This regulation creates regulated areas for the staging area, viewing area, and parade route. The staging area encompasses the entire Port Everglades turning basin, south to Dania Sound Light 35 (LLNR 47575). The parade route encompasses the Intracoastal Waterway from Dania Sound Light 35 (LLNR 47575) to Pompano Beach day beacon 74 (LLNR 47230). The viewing area covers the west side of the ICW from the Sunrise Boulevard Bridge (26° 08.281′N, 080° 06.482′W) south to the New River Sound Light 3 (LLNR 47240).

Non-participant vessels are not allowed to enter or anchor in the staging area. Further, no vessel is allowed to anchor in the vicinity of the shore side viewing area that covers the west side of the ICW between the Sunrise Boulevard Bridge (26° 08.281′N, 080° 06.482′W and the New River Sound Light 3 (LLNR 47240). During the parade transit, these regulations prohibit non-participant vessels from approaching within 175 yards ahead of the lead vessel or 175 yards astern of the last participant vessel in the parade, and within 15 yards on either side of the outboard parade vessels, unless authorized by the Coast Guard Patrol Commander. The event sponsor will have approximately 20 watercraft to guide mariners around the regulated areas.

The staging area of this special local regulation will overlap the two existing temporary fixed security zones in Port Everglades [COTP MIAMI–01–116 and COTP MIAMI–01–122]. These temporary fixed security zones are activated when a high capacity passenger vessel or a vessel carrying cargoes of particular hazard as defined in Title 33, Code of Federal Regulations part 126, enter or moor within the respective zone. These temporary fixed security zones prohibit vessels from entering the security zones without the permission of the Captain of the Port of Miami.

The first temporary fixed security zone [COTP MIAMI–01–116] encompasses all waters west of an imaginary line starting with the northern most point 26° 05.98′N, 080° 07.15′W, near the west side of the 17th Street Bridge, to the southern most point at 26° 05.41′N, 080° 06.97′W on the tip of the pier near Burt and Jacks Restaurant. The Coast Guard anticipates a cruise ship being moored within this zone; thus this security zone will be activated and no vessels will be permitted to enter the zone without the permission of the Miami Captain of the Port or his designated representative.

The second temporary fixed security zone [COTP MIAMI–01–122] encompasses the waters of the ICW between a line connecting a point at 26° 05.41′N, 080° 06.97′W on the northern tip of Port Everglades berth 22 near Burt and Jacks Restaurant and a point directly east across the Intracoastal Waterway (ICW) at 26° 05.41′N, 080° 06.74′W; and a line drawn from the corner of Port Everglades berth 29 at point 26° 04.72′N, 080° 06.92′W, easterly across the ICW to John U. Lloyd Beach, State Recreational Area at point 26° 04.72′N, 080° 06.81′W. The Coast Guard anticipates that a cruise ship will be moored in this second temporary fixed security zone, so no person or vessel may enter the security zone without the permission of the Captain of the Port or his designated representative. This second zone overlaps the parade staging area but the Coast Guard anticipates allowing persons to transit the east side of the ICW enroute to the parade staging area (with the cruise ship moored on the west side near terminal 24), while this second temporary security zone is activated. The Coast Guard anticipates further that the cruise ship moored at berth 24 will depart the Port sometime during the parade formation and as a result this security zone will be deactivated after the cruise ship departs.

The regulated area created by this special local regulation will continue to

be enforced if either security zone above is deactivated. The security zones and special local regulation allow the Coast Guard and local law enforcement maximum flexibility to ensure the safety of the entire Port and those within the Port area. The Coast Guard anticipates no ship arrivals during the timeframe of this special local regulation. However, a ship may unexpectedly require transit into port, necessitating on-scene changes. All on-scene changes will be announced on VHF–FM Channels 13 and 16.

Discussion of Rule

The Coast Guard is establishing 3 regulated areas under this regulation, a staging area, a viewing area, and a parade route. The staging area encompasses all the waters within the Port Everglades turning basin and that portion of the Intracoastal Waterway (ICW) extending from Port Everglades turning basin to Dania Sound Light 35 (LLNR 47575). The viewing area covers the west side of the Intracoastal Waterway from the Sunrise Boulevard Bridge (26° 08.281′N, 080° 06.482′W) south to the New River Sound Light 3 (LLNR 47240). The parade route includes the Intracoastal Waterway from Dania Sound Light 35 (LLNR 47575) to Pompano Beach Daybeacon 74 (LLNR 47230).

All non-participant persons and vessels are prohibited from entering or anchoring in the staging area and all vessels are prohibited from anchoring in the viewing area, unless authorized by the Patrol Commander. During the parade transit along the parade route, non-participant vessels are prohibited from approaching within 175 yards ahead of the lead vessel or 175 yards astern of the last participant vessel in the parade, and within 15 yards on either side of the outboard parade vessels. The Coast Guard Patrol Commander may allow vessels to enter the staging area when the last participant vessel has cleared the staging area. The Coast Guard Patrol Commander will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157.1 MHz) if vessels are authorized to enter the staging area.

Regulatory Evaluation

This proposal is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979) because the rule will only be in effect for 6 hours and vessels will still be allowed to transit the regulated areas with the permission of the Coast Guard Patrol Commander.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small business, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the Port Everglades turning basin and portions of the Intracoastal Waterway. 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 because the rule will only be in effect for 6 hours and vessels will still be allowed to transit the regulated areas with the permission of the Coast Guard Patrol Commander.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they may better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (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 Mandate Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or 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 has considered the environmental impact of this action and has determined pursuant to Figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1D, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

2. A new temporary § 100.35T–07–120 is added to read as follows:

§ 100.35T–07–120 Cingular Wireless Winterfest Boat Parade, Broward County, Fort Lauderdale, FL.

(a) Definitions.

(1) *Staging area.* The staging area includes all waters within the Port Everglades turning basin, west of a line drawn from the 17th Street Causeway Bridge (26° 06.044′N, 080° 07.089′W) south along the northeast shore of the turning basin, east through Bar Cut to Light 6 (LLNR 10340), south across Bar Cut to Light 7 (LLNR 10345), then southwest along the southeast shore of the turning basin to Daybeacon 1 (LLNR 10375) at Coast Guard Station Fort Lauderdale. The staging area also includes that portion of the Intracoastal Waterway from Port Everglades Turning Basin south to Dania Sound Light 35 (LLNR 47575).

(2) *Parade route.* The parade route includes the Intracoastal Waterway (ICW) from Dania Sound Light 35 (LLNR 47575) to Pompano Beach Daybeacon 74 (LLNR 47230).

(3) *Viewing area.* The viewing area covers the west side of the Intracoastal Waterway from the Sunrise Boulevard Bridge (26° 08.281′N, 080° 06.482′W) south to the New River Sound Light 3 (LLNR 47240).

(4) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Miami, Florida and is also the designated representative of the Captain of the Port of Miami for purposes of enforcing security zones in Port Everglades during this event.

(b) Special Local Regulations.

(1) *Staging area.* Entry or anchoring in the staging area by nonparticipating vessels is prohibited, unless authorized by the Patrol Commander. The Coast Guard Patrol Commander may allow vessels to enter the staging area when the last participant vessel has departed the staging area. The Coast Guard Patrol Commander will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157.1 MHz) if vessels are allowed to enter the staging area.

(2) *Parade route.* During the parade transit, non-participant vessels are prohibited from approaching within 175 yards ahead of the lead vessel or 175 yards astern of the last participating vessel in the parade, and within 15 yards on either side of the outboard parade vessels, unless authorized by the Coast Guard Patrol Commander.

(3) *Viewing Area.* Vessels are prohibited from anchoring in the viewing area.

(4) *Miscellaneous.* A succession of not fewer that 5 short whistle or horn blasts from a patrol vessel will be the signal for any and all vessels to stop immediately. At the discretion of the Coast Guard Patrol Commander, all vessels may resume normal operations after the passage of the parade participants.

(c) Dates. This section becomes effective at 5 p.m. on December 15, 2001 and terminates at 11 p.m. on December 15, 2001.

Dated: December 1, 2001.

James S. Carmichael,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 01–30477 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–041]

RIN 2115–AE47

Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary deviation.

SUMMARY: The Commander, Eighth Coast Guard District has authorized a temporary deviation from the regulation governing the Burlington Northern Railroad Drawbridge, Mile 0.2, St. Croix River at Prescott, Wisconsin. This deviation allows the drawbridge to remain closed to navigation for 29 days November 16, until December 15, 2001. This action will facilitate maintenance work on the bridge.

DATES: This temporary deviation is effective from 12:01 a.m., November 16, 2001, until 12:01 a.m., December 15, 2001.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION: The Burlington Northern Railroad Drawbridge provides a vertical clearance of 20.4 feet above normal pool in the closed to navigation position. Navigation on the waterway is a mixture of recreational boating and commercial tows. This deviation has been coordinated with waterway users. No objections were received.

This deviation allows the bridge to remain closed to navigation from 12:01 a.m., November 16, 2001 to 12:01 a.m., December 15, 2001. The bridge will open during this period of time upon receipt of 24 hours advance notice.

Dated: November 20, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–30476 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–044]

Drawbridge Operating Regulation; Lake Pontchartrain, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the bascule spans of the Greater New Orleans Expressway Commission Causeway across Lake Pontchartrain between Metairie, Jefferson Parish and Mandeville, St. Tammany Parish, Louisiana. This deviation allows the draws of the bridges to remain closed to navigation from 6 a.m. on Monday, December 17, 2001 until 6 a.m. on Wednesday, December 19, 2001. This temporary deviation allows for the connection of new submarine cables to operate the draw spans of the bridges.

DATES: This deviation is effective from 6 a.m. on Monday, December 17, 2001 until 6 a.m. on Wednesday, December 19, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: Presently, the draw is required to open on signal if at least three hours notice is given; except that, the draw need not be opened for the passage of vessels Monday through Friday except Federal holidays from 5:30 a.m. to 9:30 a.m. and from 3 p.m. until 7 p.m. The draw opens on signal for any vessel in distress or vessel waiting immediately following the closures listed above.

During the closure period, the bridges will not be able to open for vessels to transit through the bascule spans of the bridge. The bridges have a vertical clearance of 42 feet above mean high water in the closed-to-navigation position. Navigation on the waterway consists of small tugs with tows, fishing vessels, sailing vessels, and other recreational craft. In case of an emergency, the bridge owner will be able to hand crank the draws of the bridges to the open-to-navigation position. As an alternate route, the south channel fixed spans of the dual bridges provide a vertical clearance of 50 feet above mean high water.

The Greater New Orleans Expressway Commission requested a temporary deviation from the normal operation of the drawbridge in order to allow for the connection of new submarine cables to operate the draw spans of the bridges.

This deviation allows the draws of the bridges of the Greater New Orleans Expressway Commission Causeway across Lake Pontchartrain to remain closed to navigation from 6 a.m. on Monday, December 17, 2001 until 6 a.m. on Wednesday, December 19, 2001.

Dated: December 3, 2001.

J. R. Whitehead,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist., Acting.

[FR Doc. 01–30475 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7773]

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, S.W.; Room 411, Washington, D.C. 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 V				
Illinois: Bureau County, unincorporated areas.	170729	July 25, 1973, Emerg.; June 15, 1984, Reg.; December 6, 2001.	Dec. 6, 2001	Dec. 6, 2001.
Minnesota: Cook, City of, St. Louis County	270420	December 3, 1971, Emerg.; March 1, 1977, Reg.; December 6, 2001.	.....do.....	Do.
Region VIII				
South Dakota: Grenville, Town of, Day County.	461201	August 18, 1995, Emerg.; June 8, 1998, Reg.; December 6, 2001.	.....do.....	Do.
Region II				
New Jersey: New Providence, Borough of, Union County.	345306	July 16, 1971, Emerg.; November 23, 1973, Reg.; December 20, 2001.	Dec. 20, 2001 ...	Dec. 20, 2001.
Roseland, Borough of, Essex County	340193	July 31, 1975, Emerg.; September 2, 1981, Reg.; December 20, 2001.	.....do.....	Do.
West Caldwell, Borough of, Essex County	340196	September 8, 1972, Emerg.; April 16, 1979, Reg.; December 20, 2001.	.....do.....	Do.
Region X				
Washington: Castle Rock, City of, Cowlitz County.	530277	May 8, 1975, Emerg.; June 18, 1980, Reg.; December 20, 2001.	.....do.....	Do.
Cowlitz County, unincorporated areas	530032	June 18, 1971, Emerg.; August 1, 1980, Reg.; December 20, 2001.	.....do.....	Do.
Kelso, City of, Cowlitz County	530033	July 28, 1972, Emerg.; December 4, 1979, Reg.; December 20, 2001.	.....do.....	Do.
Longview, City of, Cowlitz County	530034	May 26, 1972, Emerg.; December 18, 1979, Reg.; December 20, 2001.	.....do.....	Do.

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

Dated: December 3, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance Administration and Mitigation Administration.

[FR Doc. 01–30428 Filed 12–7–01; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2735; MM Docket No. 00–31; RM–9815; RM–10014; RM–10095]

Radio Broadcasting Services; Nogales,Vail and Patagonia, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a proposal filed on behalf of Desert West Air Ranchers Corporation, licensee of Station KZNO(FM), Nogales, Arizona, the Commission substitutes Channel 253A for Channel 252A at Nogales, reallots Channel 253A to Vail, Arizona, as that community's first local aural transmission service, and modifies the license for Station KZNO(FM), as requested. *See* 65 FR 11540, March 3, 2000. Additionally, in response to a counterproposal filed on behalf of Desert West Air Ranchers Corporation, this document allots Channel 251A to Patagonia, Arizona, as that community's first local aural transmission service. And, in response to a counterproposal filed on behalf of Big Broadcasting of Arizona, LLC, this document allots Channel 283A to Vail, Arizona, as that community's second local FM service. Coordinates used for Channel 253A at Vail, Arizona to accommodate the reallotment are 31–55–39 NL and 110–37–57 WL; coordinates for Channel 283A at Vail for general application are 32–02–48 NL and 110–42–42 WL; coordinates used for Channel 251A at Patagonia are 31–33–05 NL and 110–44–45 WL. As Vail and Patagonia are located within 320 kilometers (199 miles) of the US-Mexico border, concurrence of the Mexican government has been requested for Channels 253A, and 283A at Vail, and for Channel 251A at Patagonia, but has not been received. Therefore, if construction permits are granted for the specified channels at Vail and Patagonia prior to receipt of final notification by the Mexican government, the authorizations will include the following condition: ''Operation with the facilities specified herein is subject to modification, suspension or termination without right to a hearing if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement, or if specifically objected to by Mexico.

DATES: Effective January 7, 2002. Filing windows for Channel 283A at Vail, Arizona, and for Channel 251A at Patagonia, Arizona, will not be opened at this time. Instead, the issue of opening those allotments for auction will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–31, adopted November 14, 2001, and released November 23, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 252A at Nogales.

3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Patagonia, Channel 251A; and Vail, Channel 253A and Channel 283A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30391 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2681; MM Docket Nos. 01–118, 01–119, 01–122; RM–10106, RM–10127, RM–10130]

Radio Broadcasting Services; Grants, Milan, and Shiprock, New Mexico; Van Wert and Columbus Grove, Ohio; Lebanon and Hamilton, Ohio and Fort Thomas, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission allots channels in three separate docketed proceedings which were proposed together in a multiple docket *Notice of Proposed Rule Making*. (1) At the request of KXXQ(FM) Radio Partners, Inc., Channel 264C0 is substituted for Channel 264A at Grants, New Mexico, Channel 264C0 is reallotted from Grants to Milan, New Mexico, and the license for Station KXXQ(FM) is modified to reflect the changes. In addition, Channel 299C1 is substituted for vacant Channel 265C1 at Shiprock, New Mexico to accommodate the changes. *See* 66 FR 33655 (June 25, 2001). Channel 264C0 is allotted at Milan with a site restriction of 21.2 kilometers (13.2 miles) north of the community. Channel 299C1 is allotted at Shiprock at the original allotment site. Coordinates for Channel 264C0 at Milan are 35–21–19 NL and 107–56–52 WL. Coordinates for Channel 299C1 at Shiprock are 36–46–12 NL and 108–42–49 WL. (2) At the request of Clear Channel Broadcasting Licenses, Inc., we substitute Channel 230B1 for Channel 230A at Van Wert, reallot the channel to Columbus Grove, Ohio, as the community's first local aural transmission service, and modify Clear Channel's construction permit for its unbuilt station to reflect the changes. *See* 66 FR 33656 (June 25, 2001). Channel 230B1 is allotted at Columbus Grove with a site restriction of 8.1 kilometers (5.0 miles) northwest of the community. Coordinates for Channel 230B1 at Columbus Grove are 40–57–33 NL and 84–08–14 WL. (3) At the joint request of Infinity Radio License Inc. and Caron Broadcasting, we reallot Channel 247A from Lebanon, Ohio to Fort Thomas, Kentucky, as the community's first local aural transmission service, and the modify Station WAQZ(FM)'s license to reflect the change. We also reallot Channel 243B from Hamilton, Ohio to Lebanon, as a replacement channel for the

community's first local aural transmission service and modify Station WYGY(FM)'s license to reflect the change. *See* 66 FR 33657 (June 25, 2001). Channel 247A can be reallotted from Lebanon to Fort Thomas at petitioner's requested site 14.7 kilometers (9.1 miles) north of Fort Thomas. Channel 243B can be reallotted from Hamilton to Lebanon at Station WYGY(FM)'s existing site 13.9 kilometers (8.6 miles) southwest of the community. Coordinates for Channel 247A at Fort Thomas, Kentucky, are 39–11–51 NL and 84–22–56 WL. Coordinates for Channel 243B at Lebanon, Ohio, are 39–21–11 NL and 84–19–30 WL.

DATES: Effective December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket Nos. 01–118, 01–119, and 01–122, adopted November 7, 2001, and released November 16, 2001. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by removing Channel 230A at Van Wert adding Columbus Grove, Channel 230B1, and by removing Channel 247A and adding Channel 243B at Lebanon.

3. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 264A at Grants, adding Milan, Channel 264C0, and removing Channel 265C1 and adding Channel 299C1 at Shiprock.

4. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Fort Thomas, Channel 247A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30388 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010511123–1123–01; I.D. 042001D]

RIN 0648–AP24

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Hawaii-based Pelagic Longline Restrictions and Seasonal Area Closure, and Sea Turtle and Sea Bird Mitigation Measures

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

ACTION: Emergency interim rule and extension of expiration date.

SUMMARY: This action extends an emergency interim rule, now in effect, applicable to vessels registered for use under a Hawaii longline limited access permit (Hawaii longline vessels) and allows the use of basket-style longline gear as an alternative method for deep-set tuna longline fishing. This emergency interim rule: Prohibits the targeting of swordfish north of the equator by Hawaii longline vessels; prohibits longline fishing by Hawaii longline vessels in waters south of the Hawaiian Islands (from 15° N. lat. to the equator, and from 145° W. long. to 180° long.) during the months of April and May; allows re-registration of vessels to Hawaii longline limited access permits only in October; imposes additional sea turtle handling and resuscitation measures; and requires all Hawaii longline vessel operators to attend an annual protected species workshop. This emergency interim rule implements an order issued by the U.S. District Court for the District of Hawaii (Court) in March 2001 to reduce the number of sea turtles injured and killed incidental to longline fishing operations. Other parts of this emergency interim rule implement the terms and conditions contained in an amended November 2000 biological opinion issued by the U.S. Fish and Wildlife Service (FWS) on the effects of the Hawaii longline fleet on the endangered short-tailed albatross. In October 2001, FWS amended its biological opinion on the short-tailed albatross allowing Hawaii longline vessels to use basket-style longline gear as an alternative method for deep-set tuna longline fishing, which is implemented by this emergency interim rule.

DATES: 1. The expiration date of the emergency interim rule published on June 12, 2001 (66 FR 31564), is extended to June 8, 2002.

2. The amendments to §§ 660.12, 660.35 (a)(7), and (a)(10) in this emergency interim rule are effective from December 11, 2001, through June 8, 2002.

ADDRESSES: Copies of the environmental assessment and regulatory impact review prepared for this emergency interim rule may be obtained from Dr. Charles Karnella, Administrator, Pacific Islands Area Office (PIAO), National Marine Fisheries Service, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI, 96814–4700.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, at 808-–973–2937.

SUPPLEMENTARY INFORMATION: On June 12, 2001, NMFS issued an emergency interim rule (66 FR 31561) implementing temporary measures for the Hawaii-based pelagic longline fishery (Hawaii longline fishery) to avoid the likelihood of jeopardy to sea turtles and to reduce adverse effects to the short-tailed albatross. These measures are consistent with NMFS' March 29, 2001, Biological Opinion on the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region and FWS' November 28, 2000, Biological Opinion on the Effects of the Hawaii-based Domestic Longline Fleet on the Short-tailed Albatross (*Phoebastria albatrus*) (short-tailed albatross BiOp). NMFS received no written comments on the June 12, 2001, emergency interim rule.

The action taken to protect and conserve sea turtles complies with a March 30, 2001, Order Modifying Injunction (Order) issued by the Court in *Center for Marine Conservation* v. *NMFS*, CV No. 99-00152. This emergency interim rule codifies that Order in 50 CFR part 660 under the authority of section 305 (c) of the Magnuson-Stevenson Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1855 (c). Background information on the Order was published in several previous

Federal Register documents (64 FR 72290, December 27, 1999; 65 FR 16346, March 28, 2000; 65 FR 37917, June 19, 2000; 65 FR 51992, August 25, 2000; 65 FR 66186, November 3, 2000; 66 FR 1110, February 22, 2001; and at 66 FR 15358, March 19, 2001; 66 FR 31561, June 12, 2001) and is not repeated here.

The turtle component of this emergency interim rule (a) prohibits Hawaii longline vessels from using longline gear to target swordfish north of the equator; (b) requires Hawaii longline vessels to deploy longline gear such that the ''sag'' (deepest point) between any two floats is at least 100 m (328.1 ft) beneath the sea surface and the float line suspending the main longline beneath a float is at least 20 m (65.6 ft) long, with a minimum of 15 branch lines deployed between any 2 floats; (c) prohibits a Hawaii longline vessel from possessing light sticks on board the vessel; (d) prohibits Hawaii longline vessels from fishing with longline gear during the months of May and April in the area bounded on the south by the equator, on the west by 180° long., on the east by 145° W. long., and on the north by 15° N. lat.; (e) allows the re-registration of a Hawaii longline vessel that has been de-registered from a Hawaii longline limited access permit after March 29, 2001, only during the month of October; (f) requires operators of Hawaii longline vessels to annually attend a protected species workshop conducted by NMFS; (g) requires Hawaii longline vessel operators to cease gear retrieval if a sea turtle is discovered hooked or entangled on a longline until the turtle has been removed from the gear or brought onto the vessel's deck; (h) requires that hooks be removed from sea turtles as quickly and carefully as possible; however, if a hook cannot be removed, that the line be cut as close to the hook as possible; (i) requires that wire or bolt cutters capable of cutting through a longline hook be on board the vessel to facilitate cutting of hooks imbedded in sea turtles; and (j) requires the operator of a Hawaii longline vessel to bring comatose sea turtles on board the vessel and to perform resuscitation on such turtles as prescribed in 50 CFR 223.206 (d)(1).

The seabird protection component of this emergency interim rule implements the terms and conditions of the short-tailed albatross BiOp, as amended. This biological opinion requires operators and crew of Hawaii longline vessels operating with longline gear north of 23° N. lat. to (1) use thawed blue-dyed bait in a manner specified by NMFS and discard offal strategically to distract sea birds during the setting and hauling of longline gear; and (2) to employ a line-setting machine or basket-style longline gear (as discussed below) with weights (minimum weight = 45 g) attached to each branch line within 1 m of the hook when making tuna target sets (the only type of set allowed under this emergency interim rule north of the equator). Also, the crew of a Hawaii longline vessel is required to apply certain sea bird handling techniques to increase the likelihood of survival of any short-tailed albatross that is incidentally taken and brought on board the vessel alive. If a short-tailed albatross is brought aboard a Hawaii longline vessel, the vessel operator must determine if it exhibits the following traits: Head is held erect and the bird responds to noise and motion stimuli; bird breathes without noise; both wings can flap and retract to normal folded position on back; and the bird can stand on both feet with toes pointed forward. If a short-tailed albatross fails to exhibit even one of these traits, the vessel operator must contact NMFS immediately. In addition, any short-tailed albatross recovered dead must be frozen immediately and surrendered as soon as possible to NMFS.

This emergency interim rule implements an amendment to the short-tailed albatross BiOp issued by FWS on October 18, 2001, in response to NMFS' request of August 15, 2001, to allow basket-style longline gear to be deployed without a line-setting machine north of 23° N. lat. under the terms and conditions of that biological opinion. This gear type is regarded as a traditional rope or tarred longline fishing method in the Hawaii longline fishery. The FWS made this adjustment because this gear type, when it is deployed slack, sinks at approximately 9 m per minute through the first 50 m of the water column, which is comparable to the sink rate of a monofilament longline deployed by a line-setting machine. The FWS determined that the use of basket-style longline gear, like a line-setting machine, minimizes the incidental take of sea birds, including the short-tailed albatross. At present, there is one vessel in the Hawaii longline fishery that uses the basket-style longline gear. Both the Western Pacific Fishery Management Council (Council) and NMFS strongly support the use of basket-style longline gear in the fishery.

The short-tailed albatross BiOp also requires all Hawaii longline vessel operators to attend annually a protected species workshop. The BiOp also contains seabird take mitigation measures for longline fishing targeting swordfish north of 23° N. lat.; however, these measures become moot because, under this emergency interim rule, targeting swordfish north of the equator is prohibited under the sea turtle take mitigation measures.

Changes From the Original Emergency Interim Rule

This emergency interim rule contains adjustments to regulatory measures at § 660.12 by adding a definition for ''basket-style longline gear,'' by suspending § 660.35 (a)(7), and by adding § 660.35 (a)(10) that allows the use of basket-style longline gear as an alternative to a line-setting machine or line-shooter (currently required for all Hawaii longline vessels fishing above 23° N. lat.).

Extension of this emergency interim rule is authorized under section 305 (c)(3)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. Background information on other aspects of this emergency interim rule regarding longline sag depth and non-regulatory requirements of the Court Order are presented in the **Federal Register** announcing the emergency interim rule on June 12, 2001 (66 FR 3156). This information is not repeated here.

Recent, Unforeseen Events or Recently Discovered Circumstances

On October 18, 2001, FWS amended the terms and conditions of its November 2000 short-tailed albatross BiOp to allow the use of basket-style longline gear in the Hawaii longline fishery. This amendment is based on information provided by NMFS demonstrating that this method of deep-set longline fishing is an acceptable alternative to monofilament longline deployed with a line-setting machine in minimizing sea bird take. This gear, when deployed slack, has a sinking rate such that birds diving on the bait are unable to get the bait or become hooked or entangled in the gear. At present there is one Hawaii longline vessel that uses basket-style longline gear. While using this gear, this vessel has not observed or reported any sea turtle interactions. Both the Council and NMFS believe that this vessel should be allowed to continue using this method of fishing. Therefore, this emergency interim rule includes the basket-style longline gear as an alternative to line-setting machine or line shooter currently required of all Hawaii longline vessels targeting tuna north of 23° N. lat. around the Hawaiian Islands.

Classification

The Assistant Administrator for Fisheries, NOAA (AA) has determined

that extension of the emergency interim rule is necessary to comply with a U.S. District Court Order and the mandatory terms and conditions of a BiOp issued under section 7 of the Endangered Species Act.

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

The AA finds for good cause that providing prior notice and opportunity for public comment is unnecessary because this action implements a Court Order and mandatory terms and conditions of a BiOp, authorized under the ESA, thus precluding implementation of any alternative. Similarly, the AA finds, for good cause, under 5 U.S.C. 553 (d)(3), that delaying the effectiveness of this rule for 30 days is impracticable given the explicit directive from the Court and the mandatory requirements of the FWS's BiOp. Further, the AA finds, under 5 U.S.C. 553 (d)(1), that this rule relieves a restriction by allowing the use of a longline gear type that was previously prohibited above 23° N. lat. Accordingly, the AA is making this emergency interim rule effective from December 11, 2001, through June 8, 2002.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: December 3, 2001.

Rebecca Lent,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. Effective from December 11, 2001, through June 8, 2002, in § 660.12, a definition for ''Basket-style longline gear'' is added in alphabetical order to read as follows:

§ 660.12 Definitions.

* * * * *

Basket-style longline gear means a type of longline gear that is divided into units called ''baskets'' each consisting of a segment of main line to which 10 or more branch lines with hooks are spliced. The lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

* * * * *

3. Effective from December 11, 2001, through June 8, 2002, in § 660.35, paragraph (a)(7) is suspended and a new paragraph (a)(10) is added to read as follows:

§ 660.35 Seabird take mitigation measures.

(a) * * *

(10) Use a line-setting machine or line-shooter to set the main longline, or use basket-style longline gear such that the main longline is deployed slack to maximize its sinking rate;

* * * * *

[FR Doc. 01–30384 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 237
Monday, December 10, 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 AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–026–1]

Change in Disease Status of Portugal Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to remove Portugal from the list of regions where African swine fever exists. We are proposing this action because Portugal is now free of African swine fever. This action would relieve restrictions due to African swine fever on the importation of pork and pork products into the United States from Portugal. However, because Portugal is on the list of regions where hog cholera exists and the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or foot-and-mouth disease-affected countries, Portugal would continue to be subject to certain restrictions regarding the importation into the United States of pork and pork products.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 8, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–026–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–026–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–026–1'' on the subject line.

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: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever (ASF), hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.8 of the regulations lists regions of the world where ASF exists or is reasonably believed to exist. Section 94.8 also restricts the importation of pork and pork products into the United States from the listed regions.

On December 29, 1999, we published in the **Federal Register** an interim rule (64 FR 72912–72913, Docket No. 99–096–1) that added Portugal to the list in § 94.8 of regions where ASF exists because the presence of ASF was confirmed in that region on November 15, 1999. As a result of that action, the importation into the United States of any pork and pork products that left Portugal on or after November 5, 1999, the effective date of that interim rule, was restricted. We adopted the interim rule without change in a document published in the **Federal Register** on August 28, 2000 (65 FR 51997, Docket No. 99–096–2).

Portugal responded quickly to the presence of ASF, which was confined to four premises. Following depopulation of the affected herds, Portugal conducted extensive serological surveillance. This testing indicated that ASF had not spread beyond the affected premises. The Government of Portugal recently requested that APHIS recognize Portugal as a region considered free of ASF.

In response to that request, we reviewed the documentation submitted by the Government of Portugal in support of its request, and a team of APHIS officials performed a site visit to conduct an evaluation of Portugal's animal health program with regard to ASF. You may review the on-site evaluation on the Internet at *http://www.aphis.usda.gov/vs/reg-request.html.* The evaluation consisted of a review of Portugal's veterinary service infrastructure, laboratory and diagnostic procedures, vaccination practices, and administration of laws and regulations intended to prevent the introduction of communicable animal diseases into Portugal. After reviewing the documentation provided by Portugal and the data gathered during the site visit by APHIS officials, we have determined that Portugal qualifies to be recognized as free of ASF.

However, Portugal is still considered to be affected with hog cholera, also known as classical swine fever, so pork and pork products from Portugal offered for importation into the United States would remain subject to the restrictions in § 94.9 for hog cholera. Similarly, dry-cured pork products from Portugal would continue to be subject to the restrictions in § 94.17 due to hog cholera. Additionally, pork and pork products from Portugal would continue to be subject to the restrictions in § 94.11 because Portugal is one of the countries listed in § 94.11(a) that have been declared free of rinderpest and FMD, but from which the importation of meat and other animal products is restricted due to the nature of their trade with countries affected with rinderpest or FMD or because they have a land border with a country affected with rinderpest or FMD.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required under Executive Order 12866.

We are proposing to remove Portugal from the list of regions where ASF exists. We are proposing this action because Portugal is now free of ASF. This action would relieve restrictions due to ASF on the importation of pork and pork products into the United States from Portugal. However, because Portugal is on the list of regions where hog cholera exists and the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected countries, Portugal would continue to be subject to certain restrictions regarding the importation into the United States of pork and pork products.

The following analysis addresses the economic effect of this rule on small entities, as required by the Regulatory Flexibility Act.

Entities in the United States likely to be affected by this proposed rule include those engaged in the production of swine and processed pork products. Since Portugal has never exported pork or pork products to the United States, we anticipate that this proposed rule would have no economic effect on U.S. swine importers, hog meat processors, hog producers, or any other entities, large or small. However, should Portugal commence the exportation of pork and pork products to the United States, restrictions on the importation of pork and pork products into the United States from Portugal would still be in place because Portugal is on the list of regions where hog cholera exists and the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected countries. Given those continuing restrictions, we believe any potential imports of processed pork and pork products from Portugal would be minimal. Likewise, because any potential increase in imports of processed pork and pork products from Portugal would be slight, the potential effect on U.S. swine producers and processors of pork is expected to be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.8 [Amended]

2. In § 94.8, the introductory text of the section would be amended by removing the word ''Portugal,''.

Done in Washington, DC, this 4th day of December, 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30463 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–34–U

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulations No. 4 and 16]

RIN 0960–AF29

Revised Medical Criteria for Evaluating Skin Disorders

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: We propose to revise the criteria in the Listing of Impairments (the listings) that we use to evaluate claims involving skin disorders. We apply these criteria when you claim benefits based on disability under title II and title XVI of the Social Security Act (the Act). The proposed revisions will reflect advances in medical knowledge, treatment, and methods of evaluating skin disorders.

DATES: To be sure your comments are considered, we must receive them by February 8, 2002.

ADDRESSES: You may give us your comments by using: our Internet site facility (*i.e.,* Social Security Online) at: *http://www.ssa.gov/regulations/,* e-mail to *regulations@ssa.gov;* telefax to (410) 966–2830; or by letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235–7703.

You may also deliver them to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, or you may inspect them physically on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.access.gpo.gov/su docs/aces/aces140.html.* It is also available on the Internet site for SSA (i.e., Social Security Online): *http://www.ssa.gov/regulations/.*

FOR FURTHER INFORMATION CONTACT: Suzanne DiMarino, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1769 or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free number 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet web site, Social Security Online, at *http://www.ssa.gov.*

SUPPLEMENTARY INFORMATION:

What Programs Would These Proposed Regulations Affect?

These proposed regulations would affect disability determinations and decisions we make for you under title II and title XVI of the Act. In addition, to the extent that Medicare and Medicaid eligibility are based on entitlement to benefits under title II and eligibility for

benefits under title XVI, these proposed regulations would also affect the Medicare and Medicaid programs.

Who Can Get Disability Benefits?

Under title II of the Act, we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,
- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see 20 CFR § 404.336) of insured workers.

Under title XVI of the Act, we provide for Supplemental Security Income (SSI) payments on the basis of disability if you have limited income and resources.

How Do We Define Disability?

Under both the title II and title XVI programs, disability must be the result of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least 12 months. Our definitions of disability are shown in the following table:

If you file a claim under . . .	And you are . . .	Disability means you have a medically determinable impairment(s) that meets the statutory duration requirement and results in . . .
title II	an adult or child	the inability to do any substantial gainful activity (SGA).
title XVI	an adult	the inability to do any SGA.
title XVI	a child	marked and severe functional limitations.

What Are the Listings?

The listings contain examples of impairments that we consider severe enough to prevent you as an adult from doing any gainful activity. If you are a child seeking SSI benefits based on disability, the listings describe impairments that we consider severe enough to result in marked and severe functional limitations. Although the listings are contained only in appendix 1 to subpart P of part 404 of our rules, we incorporate them by reference in the SSI program in § 416.925 of our regulations, and apply them to claims under both title II and title XVI of the Act.

How Do We Use the Listings?

There are listings for adults (part A) and for children (part B). We apply the medical criteria in part A when we assess your claim if you are an adult, i.e., a person age 18 or over.

If you are a child, we first use the criteria in part B. If the B criteria do not apply, and the specific disease process(es) has a similar effect on adults and children, we then use the criteria in part A. (*See* §§ 404.1525, 404.1526, 416.925 and 416.926.)

We use the criteria in the listings only to make favorable findings of disability. We never deny a claim or find that disability has ceased because your impairment(s) does not meet or medically equal a listing.

Why Are We Proposing To Revise the Listings for Skin Impairments?

We are proposing these revisions to update the medical criteria and provide more information about how we evaluate skin impairments. We last published final rules containing comprehensive revisions to the skin listings in the **Federal Register** on March 27, 1979 (44 FR 18170). In subsequent rules published December 6, 1985 (50 FR 50068), we indicated that due to advances in medical treatment, technology, and program experience we would periodically review and update the listings. The current listings for the evaluation of skin impairments would no longer be effective on July 2, 2003 (66 FR 34361 (June 28, 2001)).

How Long Would These Proposed Rules Be Effective?

These proposed rules would remain in effect for 8 years from the date we publish them as final rules in the **Federal Register**, unless we extend them, or revise and issue them again.

We will continue to apply our current listings until we evaluate the public comments on these proposed rules and determine whether they should be issued as final rules. If we finalize these proposed rules, when any final rules become effective, we will apply them to new applications filed on or after the effective date of the final rules, and to cases that are pending in the administrative review process. In accordance with our usual practice, we would explain how we would apply any final rules in greater detail in the preamble to the final rules.

When we conduct reviews to determine whether your disability continues, we would not find that your disability has ended based only on any changes in the listings. Our regulations explain that we continue to use our prior listings when we review your case if you receive disability benefits or SSI payments based on our determination or decision that your impairment(s) met or equaled the listings. In these cases, we determine whether you have experienced medical improvement, and if so, whether the medical improvement is related to the ability to work. If your impairment(s) still meets or equals the same listing section that we used to make our most recent favorable determination or decision, we will find the medical improvement is not related to the ability to work. If your condition has medically improved so that you no longer meet or equal the prior listing, we evaluate your case further to determine whether you are currently disabled. We may find that you are currently disabled, depending on the full circumstances of your case. See 20 CFR 404.1594(c)(3)(i), 416.994(b)(2)(iv)(A). If you are a child who is eligible for SSI payments, we follow a similar rule when we decide whether you have experienced medical improvement in your condition. 20 CFR 416.994a(b)(2).

What Revisions Are We Proposing To Make?

To present the skin listing criteria in part A of Appendix 1 in a more logical order, and make the listings easier to use, we propose to:

- Revise the titles to put them in plain language;
- Revise the order and update the diagnostic groupings of skin impairments;
- Add a listing for photosensitivity disorders;
- Provide a more uniform and clearly defined statement of severity required for a listing-level skin impairment;
- Expand the guidance in the introductory text to the listing; and
- Make nonsubstantive editorial changes.

In addition, we propose to add a set of childhood skin listings in part B of Appendix 1.

How Are We Proposing To Change the Introductory Text to the Adult Skin Listings?

We propose to change the heading title from 8.00 Skin to 8.00 Skin Disorders.

We propose to expand and significantly reorganize the introductory

text to the skin impairments listings in current 8.00A and 8.00B in order to provide additional guidance in applying the skin listings. In doing so, we propose to:

- Expand and supplement the first sentence of current 8.00A and move it into proposed 8.00C;
- Expand and supplement the second sentence of current 8.00A and move it into proposed 8.00F;
- Expand the third sentence of current 8.00A and move it into proposed 8.00C(3); and
- Expand the material in 8.00B and move it into proposed 8.00D.

We also propose to add new material in all the proposed sections of the introductory text. A detailed description of the new and modified paragraphs follows.

Proposed 8.00A—What Skin Impairments Do We Evaluate With These Listings?

This new section provides a detailed description of the more common impairments that may be disabling covered by the skin listings.

Proposed 8.00B—What Documentation Do We Need?

We propose to add a new section that discusses the documentation we require in evaluating skin impairment(s) cases. The proposed section explains the information we expect to find in a complete dermatologic case record in order to make a reasonable assessment of severity. It also explains the importance of diagnostic procedures, which produce laboratory findings or other evidence from generally acceptable methods, in accurately diagnosing skin impairments.

Proposed 8.00C—How Do We Determine if Your Skin Impairment(s) Prevents You From Doing Any Gainful Activity?

This section, which is partially new and partially based on modification to the first sentence of current 8.00A, will explain the three factors we consider when evaluating the severity of skin impairments. The proposed section consists of three subsections:

- Proposed 8.00C1 defines ''extensive lesions'', a term in proposed listings 8.02 through 8.07. That definition explains that the term extensive not only refers to the amount of surface area affected, but also to the limitations resulting from the lesions. Hence, these listings require a qualitative, as well as a quantitative, evaluation of the effect of the skin lesions. This section also gives examples of extensive lesions. We will determine whether you can ambulate effectively or can perform fine and gross movements effectively based on the medical and other evidence in the case record, generally without developing additional evidence about your ability to perform the specific activities listed as examples.
- Proposed 8.00C2 explains how we evaluate symptoms (including pain) consistent with our rules in §§ 404.1525(f) and 416.925(f) and §§ 404.1529 and 416.929.
- Proposed 8.00C3 explains that while skin impairments often respond to treatment, there is a wide variation in how people respond, including side effects to drug therapy. Therefore, we will consider each case on an individual basis.

Proposed 8.00D—How Do We Assess Impairments That Involve More Than One Body System?

This section modifies current 8.00B. It clarifies that other impairments, in addition to systemic ones, can involve the skin and explains how we evaluate such impairments under the listings. It also broadens the list of examples of impairments that affect skin and other body systems.

Proposed 8.00E—How Do We Evaluate Burns?

We propose to include this new section on burns in the introductory text to the skin listings in response to many inquiries that we receive on how we evaluate these injuries. This new paragraph notes that burns frequently affect more than one body system. It then explains that we evaluate the specific impairment resulting from burns using the criteria of the affected body system.

Proposed 8.00F—How Do We Determine if an Impairment Will Continue at a Disabling Level of Severity in Order to Meet the Duration Requirement?

We propose to add this section to explain how we will determine if the duration requirement is or will be met. This section is partially new and partially based on the second sentence of current 8.00A.

We state that the extensive skin lesions must persist for at least 3 months despite continuing treatment as prescribed in order for us to infer that the duration requirement will be met. Currently, each listing requires that the skin lesions not respond to prescribed treatment, but there is no statement of how long the lesions must last despite prescribed treatment before we can evaluate the skin impairment(s) under the listing criteria. Since most skin impairments improve significantly within 3 months after treatment begins, we propose that skin lesions must have persisted for at least 3 months despite continuing treatment as prescribed. The proposed timeframe will allow us to predict, with a high degree of certainty, which impairments resulting in the inability to perform gainful activity will also satisfy the duration requirement of the Act. In addition, the proposed timeframe will help to ensure that we do not decide cases prematurely or unnecessarily delay making decisions.

Proposed 8.00G—How Do We Assess Impairments if There Is No Prescribed Treatment, or the Extensive Lesions Have Not Persisted for at Least 3 Months?

This section explains how we assess a skin impairment when there is no record of ongoing treatment, such treatment has lasted less than 3 months, or the extensive lesions have not yet persisted for at least 3 months. It describes how we continue through the sequential evaluation process if the listing(s) cannot be met due to insufficient longitudinal treatment records.

How Are We Proposing To Change the Criteria in the Listings for Evaluating Skin Impairments in Adults?

8.01 Category of Impairments, Skin

Most of the changes we propose to make to the skin listings are not significant. For instance, we propose to update the medical terminology and to broaden and reorganize the skin listings.

A significant change we do propose to make is to add a listing, 8.07, for photosensitivity disorders. Currently, such disorders may be found equivalent in severity to a listed skin impairment. We also propose to define ''extensive lesions'' and to add to each listing a requirement that the extensive lesions must persist, despite continuing treatment as prescribed, for a period of at least 3 months. This is explained in 8.00F of the introductory text.

The following is a detailed explanation of the proposed listing criteria.

Proposed Listing 8.02—Ichthyosis

We propose to revise the title of listing 8.02 to ichthyosis so that it covers the general group of disorders characterized by noninflammatory scaling of the skin. This prevents the need to also cite the inherited disorder ichthyosiform erythroderma, which we do not commonly see. We also propose to move exfoliative dermatitis to listing 8.05 with the other dermatitis disorders.

Proposed Listing 8.03—Bullous Disease (e.g., Pemphigus, Erythema Multiforme Bullosum, Epidermolysis Bullosa, Bullous Pemphigoid, Dermatitis Herpetiformis)

We propose to revise the title of listing 8.03 so that we can apply it to all types of bullous diseases. Then, through the use of examples, we propose to cite the four currently listed diseases and epidermolysis bullosa.

Proposed Listing 8.04—Chronic Infections of the Skin or Mucous Membranes

We propose to revise the title of listing 8.04 so that the listing will include infections other than deep mycotic (fungal) infections. In this listing we propose to use the words ''fungating'' (to grow exuberantly like a fungus or spongy growth) and ''ulcerating'' (a lesion through the skin or a mucous membrane resulting from loss of tissue, usually with inflammation) to modify the term ''extensive lesions'' because they are descriptive of the different types of lesions frequently associated with the more severe types of chronic infections. Listing-level severity is characterized by either fungating or ulcerating lesions.

Proposed Listing 8.05—Dermatitis (e.g., Psoriasis, Dyshidrosis, Atopic Dermatitis, Exfoliative Dermatitis, Allergic Contact Dermatitis)

We propose to revise the title of listing 8.05 so that we can use it to evaluate miscellaneous inflammatory conditions of the skin, rather than just the three conditions currently cited. The new title will allow us to use this listing to evaluate environmental skin conditions such as allergic contact dermatitis.

Proposed Listing 8.06—Hidradenitis Suppurativa

We propose to remove the reference to acne conglobrata from listing 8.06 because it is not usually disabling and frequently responds well to current treatment. Also, we propose different severity criteria for this listing. We are taking out the condition of ''not amenable to surgical treatment'' since most lesions associated with hidradenitis suppurativa involve local inflammation of the apocrine glands and occur in the axillae, inguinal areas, or perineum. Due to advances in medical treatments, these conditions do not usually require surgery; but if surgery is needed, continuing treatment as prescribed includes any necessary surgical procedures.

Proposed Listing 8.07—Photosensitivity Disorders (e.g., Xeroderma Pigmentosum)

We propose to add a listing for evaluating photosensitivity disorders, such as xeroderma pigmentosum, in adults. Some individuals with these disorders are now surviving into adulthood and thus we believe it appropriate to have a separate listing for these disorders. For more information about this new listing disorder, we refer you to the following:

1. Photosensitivity (Section 15), in: Harper J, Oranje A, Prose N, (eds) *Textbook of Pediatric Dermatology,* vols 1 & 2, Oxford: Blackwell Science, 2000:895–936.

2. Roelandts R., The Diagnosis of Photosensitivity, Arch Dermatol, 2000:136:1152–7.

3. Epstein JH., Photosensitivity and Photoallergy, Semin Cutan Med Surg., 1999:18:274–84.

Why Are We Proposing To Add Listings for Evaluating Skin Impairments in Children?

We propose to add new listings to evaluate claims filed by persons under age 18 who have skin impairments to maintain consistency with the other body system listings which have both adult and child criteria.

How Do the Skin Listings We Are Proposing for Children Differ From Those We Are Proposing for Adults?

The skin listings we are proposing for children are identical in content to those we are proposing for adults, except that we propose to include examples of erythropoietic porphyrias and hemangiomas in 108.00D, and not in 8.00D. We did this because the skin manifestations of these disorders are not likely to be the primary manifestations in adults. For example, most hemangiomas disappear spontaneously or are surgically removed in childhood. When the hemangiomas are associated with Kasabach-Merritt Syndrome, a rare condition in which the low number of blood platelets cause bleeding, the hemic manifestations are obvious in adults. Similarly, in erythropoietic porphyria, a rare metabolic disorder characterized by a deficiency of the enzyme ferrochelatase that is essential to the synthesis of hemoglobin, a major symptom in children is the hypersensitivity of their skin to sunlight and some types of artificial light. Generally, by adulthood, anemia is a prominent manifestation in the more severe cases, with possible complications related to liver and gallbladder function.

Clarity of These Proposed Rules

Executive Order 12866 requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, 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 is not 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?

Regulatory Procedures

Executive Order (E.O.) 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the requirements for a significant regulatory action under E.O. 12866. Thus, they were subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed rules 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 rules contain reporting requirements at 8.00B, 8.00C, 8.00D, 108.00B, 108.00C, and 108.00D. The public reporting burden is accounted for in the Information Collection Requests for the various forms that the public uses to submit the information to SSA. Consequently, a 1-hour placeholder burden is being assigned to the specific reporting requirement(s) contained in these rules. We are seeking clearance of the burdens referenced in these rules because they were not considered during the clearance of the forms. An Information Collection Request has been submitted to OMB. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of

automated collection techniques or other forms of information technology. Comments should be submitted to the Social Security Administration at the following address: Social Security Administration, Attn: SSA Reports Clearance Officer, Rm. 1–A–20 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235–6401.

Comments can be received for between 30 and 60 days after publication of this notice. Comments will be most useful if received by SSA within 30 days of publication.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: December 3, 2001.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart P of part 404 of 20 CFR chapter III as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

Appendix 1 to Subpart P of Part 404—Listing of Impairments (Amended)

2. Item 9 of the introductory text before part A is amended by revising the heading title, revising the expiration date for section 8.00, and adding section 108.00 and its expiration date as follows:

* * * * *

9. Skin Disorders (8.00 and 108.00): (date 8 years from the date of publication of final rules in the **Federal Register**).

* * * * *

3. The list of sections for part A of appendix 1 is amended by revising 8.00 to read ''8.00 Skin Disorders''.

4. The list of sections for part B of appendix 1 is amended by revising of 108.00 to read ''108.00 Skin Disorders''.

5. Section 8.00 in part A of appendix 1 is revised and section 108.00 in part B of appendix 1 is added to read as follows:

APPENDIX 1 TO SUBPART P OF PART 404—LISTING OF IMPAIRMENTS

* * * * *

Part A

* * * * *

8.00 Skin Disorders

A. *What skin impairments do we evaluate with these listings?* We use these listings to evaluate skin impairments that may result from hereditary, congenital, or acquired pathological processes. Examples of impairments covered by these listings include: ichthyosis, bullous diseases, chronic infections of the skin or mucous membranes, dermatitis, hidradenitis suppurativa, and photosensitivity disorders.

B. *What documentation do we need?* Your case record should include information about onset, duration, frequency of flare-ups, and prognosis; location, size, and appearance of lesions; and, when applicable: history of exposure to toxins, allergens, or irritants; familial incidence; seasonal variation; and stress factors. To confirm the diagnosis, we often need laboratory findings (e.g., biopsy or serological testing) or evidence from other medically acceptable methods consistent with the prevailing state of medical knowledge and clinical practice.

C. *How do we determine if your skin impairment(s) prevents you from doing any gainful activity?* We base our assessment of severity on whether your skin lesions are extensive, how your symptoms (including pain) limit you, the extent of your treatment, and how your treatment affects you.

(1) *Extensive skin lesions.* Extensive skin lesions are those that involve sufficient surface area over multiple body sites or involve critical body areas, and result in very serious limitations. Examples of extensive lesions that result in very serious limitations include:

(a) Skin lesions that interfere with motion of joints that very seriously limit your use of more than one extremity, i.e. two upper extremities, two lower extremities, or one upper and one lower extremity; or

(b) Skin lesions on the palms of the hands or the axillary areas that very seriously limit your ability to do fine and gross motor movements; or

(c) Skin lesions on the soles of the feet, the perineum, or the inguinal areas that very seriously limit your ability to ambulate.

(2) *Symptoms (including pain).* Symptoms (including pain) may be important factors contributing to the severity of your skin impairment(s). We assess the impact of symptoms as explained in §§ 404.1525(f), 404.1529, 416.925(f), and 416.929.

(3) *Treatment.* Skin impairments frequently respond to treatment, however response to treatment can vary widely, with some impairments becoming resistant to treatment.

(a) We assess the effects of treatment by determining if there is improvement in the symptoms, signs, and laboratory findings of the disorder, and if there are side effects that may result in functional limitations. We assess the effects of medication, therapy, surgery, or any other form of treatment you receive when determining the severity and the duration of the impairment(s). An assessment of these issues may require:

(i) a description of the treatment prescribed (e.g., the type, dosage, method and frequency of administration of medication or therapy);

(ii) your response to the treatment;

(iii) any adverse effects of such treatment; or

(iv) the expected duration of the treatment.

(b) Because treatment itself or the effects of treatment may be temporary, in most cases sufficient time must elapse to allow us to evaluate the impact and expected duration of treatment and side effects. You must follow prescribed treatment for at least 3 months before your impairment can be determined to meet a skin listing. We consider your specific response to treatment when we evaluate overall severity of your impairment.

D. *How do we assess impairments that involve more than one body system?* These listings are only examples of common skin disorders that we consider severe enough to prevent you from doing any gainful activity. If your impairment(s) does not meet the criteria of any of these listings, we must also consider whether you have an impairment that satisfies the criteria of a listing in another body system. Also, when your impairment involves more than one body system, we first evaluate the predominant feature under the appropriate body system. For example:

(1) Tuberous sclerosis has cutaneous manifestations, but the more dominant feature involves the brain, often resulting in seizures (11.02 and 11.03) and organic mental disorders (12.02);

(2) Malignant tumors of the skin (e.g., malignant melanoma) are neoplastic diseases and we first evaluate them under 13.00ff;

(3) Connective tissue disorders or immune system disorders (e.g., systemic lupus erythematosis or HIV infection) involve more than one body system. We first evaluate these disorders under 14.00ff;

(4) Scleroderma, although at times limited to skin only, usually involves other body systems as a part of generalized systemic sclerosis which we evaluate under listing 14.04. However, when it involves skin contractures restricting joint motion we also consider the appropriate criteria in 1.00ff;

(5) Facial disfigurement resulting from skin lesions may also be associated with physical functional loss such as impairment of sight, hearing, speech, and mastication, which we evaluate under the appropriate criteria in 2.00ff and 5.00ff. Facial disfigurement or any kind of physical deformity due to skin lesions may also result in psychological impairment(s) with socialization, mood, or other related limitations. We evaluate those impairments under the appropriate criteria in 12.00ff.

E. *How do we evaluate burns?* Electrical, chemical, or thermal traumatic burns frequently affect more than one body system (e.g., musculoskeletal, special senses, respiratory, cardiovascular, skin, renal, neurological, or mental). Consequently, we evaluate impairments that can result from severe burns under the criteria of the affected body systems. For example, we evaluate soft tissue injuries resulting from burns under the musculoskeletal system criteria in 1.00ff and

we evaluate renal failure resulting from burns under the genito-urinary system criteria in 6.00ff.

F. *How do we determine if an impairment will continue at a disabling level of severity in order to meet the duration requirement?* If you have extensive skin lesions, and they persist for at least 3 months despite continuing treatment as prescribed, these listings allow us to infer that they will continue at that level of severity for at least 12 months. By persist, we mean the longitudinal clinical record shows that, with few exceptions, the lesions have been at the level of severity specified in the listing and that this pattern could be expected to continue. Where adverse effects of treatment contribute to the impairment severity, the duration or expected duration of the treatment must be considered in assessing the duration of the impairment(s).

G. *How do we assess skin impairments if there is no prescribed treatment, or extensive lesions have not persisted for 3 months?*

(1) For your impairment to meet a skin listing, you must have extensive lesions that persist for at least 3 months despite continuing treatment as prescribed, and you must follow that treatment, unless you have an acceptable reason for failing to follow prescribed treatment (see §§ 404.1530 and 416.930).

(2) If you have not received ongoing treatment nor have an ongoing relationship with the medical community despite the existence of a severe impairment(s), or if your skin lesions have not persisted for at least 3 months, but you are undergoing continuing treatment as prescribed, you still may have an impairment(s) that medically equals the listings. An individual who has an impairment(s) that does not meet or medically equal the listings may or may not have the residual functional capacity to engage in substantial gainful activity. For such an individual, we proceed to the fourth, and if necessary, the fifth steps of the sequential evaluation process in §§ 404.1520 and 416.920. When we decide whether an adult continues to be disabled, we use the rules in §§ 404.1594 and 416.994, as appropriate. We will base our evaluation on the current objective medical evidence and other available evidence. We will take into consideration your medical history, symptoms, and acceptable medical source opinions.

8.01 Category of Impairments, Skin

8.02 *Ichthyosis*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.03 *Bullous disease (e.g., pemphigus, erythema multiforme bullosum, epidermolysis bullosa, bullous pemphigoid, dermatitis herpetiformis)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.04 *Chronic infections of the skin or mucous membranes*, with extensive fungating, or extensive ulcerating lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.05 *Dermatitis (e.g., psoriasis, dyshidrosis, atopic dermatitis, exfoliative dermatitis, allergic contact dermatitis)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.06 *Hidradenitis suppurativa*, with extensive lesions involving the axillae, inguinal areas, or perineum that persist for at least 3 months despite continuing treatment as prescribed.

8.07 *Photosensitivity disorders (e.g., xeroderma pigmentosum)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

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Part B

* * * * *

108.00 Skin Disorders

A. *What skin impairments do we evaluate with these listings?* We use these listings to evaluate skin impairments that may result from hereditary, congenital, or acquired pathological processes. Examples of impairments covered by these listings include: ichthyosis, bullous diseases, chronic infections of the skin or mucous membranes, dermatitis, hidradenitis suppurativa, and photosensitivity disorders.

B. *What documentation do we need?* Your case record should include information about onset, duration, frequency of flare-ups, and prognosis; location, size, and appearance of lesions; and, when applicable: history of exposure to toxins, allergens, or irritants; familial incidence; seasonal variation; and stress factors. To confirm the diagnosis, we often need laboratory findings (*e.g.,* biopsy or serological testing) or evidence from other medically acceptable methods consistent with the prevailing state of medical knowledge and clinical practice.

C. *How do we determine if your skin impairment(s) results in marked and severe limitations?* We base our assessment of severity on whether your skin lesions are extensive, how your symptoms (including pain) limit you, the extent of your treatment, and how your treatment affects you.

(1) *Extensive skin lesions.* Extensive skin lesions are those that involve sufficient surface area over multiple body sites or involve critical body areas, and result in very serious limitations. Examples of extensive lesions that result in very serious limitations include:

(a) Skin lesions that interfere with motion of joints that very seriously limit your use of more than one extremity, i.e. two upper extremities, two lower extremities, or one upper and one lower extremity; or

(b) Skin lesions on the palms of the hands or the axillary areas that very seriously limit your ability to do fine and gross motor movements; or

(c) Skin lesions on the soles of the feet, the perineum, or the inguinal areas that very seriously limit your ability to ambulate.

(2) *Symptoms (including pain).* Symptoms (including pain) may be important factors contributing to the severity of your skin impairment(s). We assess the impact of symptoms as explained in §§ 404.1525(f), 404.1529, 416.925(f) and 416.929.

(3) *Treatment.* Skin impairments frequently respond to treatment, however response to treatment can vary widely, with some impairments becoming resistant to treatment.

(a) We assess the effects of treatment by determining if there is improvement in the symptoms, signs, and laboratory findings of the disorder, and if there are side effects that may result in functional limitations. We assess the effects of medication, therapy, surgery, or any other form of treatment you receive when determining the severity and the duration of the impairment(s). An assessment of these issues may require:

(i) a description of the treatment prescribed (e.g., the type, dosage, method and frequency of administration of medication or therapy);

(ii) your response to the treatment;

(iii) any adverse effects of such treatment; or

(iv) the expected duration of the treatment.

(b) Because treatment itself or the effects of treatment may be temporary, in most cases sufficient time must elapse to allow us to evaluate the impact and expected duration of treatment and side effects. You must follow prescribed treatment for at least 3 months before your impairment can be determined to meet a skin listing. We consider your specific response to treatment when we evaluate overall severity of your impairment.

D. *How do we assess impairments that involve more than one body system?* These listings are only examples of common skin disorders that we consider severe enough to result in marked and severe functional limitations. If your impairment(s) does not meet the criteria of any of these listings, we must also consider whether you have an impairment that satisfies the criteria of a listing in another body system. Also, when your impairment involves more than one body system, we first evaluate the predominant feature under the appropriate body system. For example:

(1) Tuberous sclerosis has cutaneous manifestations, but the more dominant feature involves the brain, often resulting in seizures (111.02 and 111.03) and organic mental disorders (112.02);

(2) Malignant tumors of the skin (e.g., malignant melanoma) are neoplastic diseases and we first evaluate them under 113.00ff;

(3) Connective tissue disorders or immune system disorders (e.g., systemic lupus erythematosis or HIV infection) involve more than one body system. We first evaluate these disorders under 114.00ff;

(4) Scleroderma, although at times limited to skin only, usually involves other body systems as a part of generalized systemic sclerosis which we evaluate under listing 114.04. However, when it involves skin contractures restricting joint motion we also consider the appropriate criteria in 101.00ff;

(5) Facial disfigurement resulting from skin lesions may also be associated with physical functional loss such as impairment of sight, hearing, speech, and mastication, which we evaluate under the appropriate criteria in 102.00ff and 105.00ff. Facial disfigurement or any kind of physical deformity due to skin lesions may also result in psychological impairment(s) with socialization, mood, or other related limitations. We evaluate those impairments under the appropriate criteria in 112.00ff;

(6) We evaluate erythropoietic porphyrias under 107.00ff;

(7) We evaluate hemangiomas associated with thrombocytopenia and hemorrhage (e.g., Kasabach-Merritt Syndrome) involving

coagulation defects, under 107.00ff. But, when hemangiomas impinge on vital structures or interfere with function or feeding, we evaluate them under the appropriate body system.

E. *How do we evaluate burns?* Electrical, chemical, or thermal traumatic burns frequently affect more than one body system (e.g., musculoskeletal, special senses, respiratory, cardiovascular, skin, renal, neurological, or mental). Consequently, we evaluate impairments that can result from severe burns under the criteria of the affected body systems. For example, we evaluate soft tissue injuries resulting from burns under the musculoskeletal system criteria in 101.00ff and we evaluate renal failure resulting from burns under the genito-urinary system criteria in 106.00ff.

F. *How do we determine if an impairment will continue at a disabling level of severity in order to meet the duration requirement?* If you have extensive skin lesions, and they persist for at least 3 months despite continuing treatment as prescribed, these listings allow us to infer that they will continue at that level of severity for at least 12 months. By persist, we mean the longitudinal clinical record shows that, with few exceptions, the lesions have been at the level of severity specified in the listing and that this pattern could be expected to continue. Where adverse effects of treatment contribute to the impairment severity, the duration or expected duration of the treatment must be considered in assessing the duration of the impairment(s).

G. *How do we assess skin impairments if there is no prescribed treatment, or extensive lesions have not persisted for 3 months?*

(1) For your impairment to meet a skin listing, you must have extensive lesions that persist for at least 3 months despite continuing treatment as prescribed, and you must follow that treatment, unless you have an acceptable reason for failing to follow prescribed treatment (*see* §§ 404.1530 and 416.930).

(2) If you have not received ongoing treatment nor have an ongoing relationship with the medical community despite the existence of a severe impairment(s), or if your skin lesions have not persisted for at least 3 months, but you are undergoing continuing treatment as prescribed, you still may have an impairment(s) that medically equals the listings or, in the case of a childhood claim for SSI payments under Title XVI, functionally equals the listings. (See §§ 404.1526, 416.926, and 416.926a.) When we decide whether a child receiving SSI payments continues to be disabled, we use the rules in § 416.994a. We will base our evaluation on the current objective medical evidence and other available evidence. We will take into consideration your medical history, symptoms, and acceptable medical source opinions.

108.01 Category of Impairments, Skin

108.02 *Ichthyosis*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.03 *Bullous disease (e.g., pemphigus, erythema multiforme bullosum, epidermolysis bullosa, bullous pemphigoid, dermatitis herpetiformis*), with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.04 *Chronic infections of the skin or mucous membranes*, with extensive fungating or extensive ulcerating lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.05 *Dermatitis (e.g., psoriasis, dyshidrosis, atopic dermatitis, exfoliative dermatitis, allergic contact dermatitis)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.06 *Hidradenitis suppurativa*, with extensive lesions involving the axillae, inguinal areas, or perineum that persist for at least 3 months despite continuing treatment as prescribed.

108.07 *Photosensitivity disorders (e.g., xeroderma pigmentosum)*, with extensive lesions that persist for at least 3 months despite continuing treatment as prescribed.

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[FR Doc. 01–30431 Filed 12–7–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[USCG–2001–9175]

RIN 2115–AG15

Revised Options for Responding to Notices of Violations

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes changing the procedure for Notices of Violation when the recipient fails to either accept or decline it within 45 days. Instead of automatically converting the Notice of Violation to a marine violation case with its lengthier processing and potentially higher penalties, we would treat the Notice of Violation as a default and proceed with the civil penalty. Our proposal would not change the party's existing option to choose marine violation processing at any time during the 45-day response period.

DATES: Comments and related material must reach the Docket Management Facility on or before February 8, 2002.

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

(1) By mail to the Docket Management Facility (USCG–2001–9175), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call LCDR Scott Budka, Project Manager, Office of Investigations & Analysis (G–MOA), Coast Guard, telephone 202–267–2026. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2001–9175), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background

Notices of Violation provide an optional simplified civil penalty process for first and second minor violations of a law, regulation, or order enforced by the Coast Guard. A Notice of Violation (NOV) is like a ticket issued for a minor motor vehicle offense.

Until we started issuing NOVs, the marine violation (MV) procedures of 33 CFR 1.07–10 applied to all Coast Guard civil penalty cases. The lengthy processing time for MV cases resulted in some parties being charged with second or third violations before their first violation had been fully processed. We established the NOV procedures in 33 CFR 1.07–11 in 1994 (59 FR 66477, December 27, 1994).

NOVs offer both the party and the Coast Guard the benefits of speedier processing and a scheduled penalty that is fixed lower than the maximum penalty amount for the offense. The NOV form (CG–5582) describes the processing options available to the party. NOV recipients choose between NOV and MV processing. They have 45 days in which to notify the Coast Guard of their choice.

At present, if you receive an NOV, you can accept it, decline it, or take no action on it. If you accept it, you pay the scheduled penalty set out on the NOV, which is between $50 and $3,000. In this case, Coast Guard records show your case as proved. Declining an NOV is like choosing to ''go to court'' over a traffic ticket. Your NOV is converted to a MV case and a Coast Guard hearing officer processes the case and sets any penalty—up to the maximum $27,500 per offense. If you take no action during the 45-day response period, the NOV is automatically converted to an MV case, just as if you had declined the NOV. Once you decline or fail to take action on an NOV and it is converted to an MV case, the scheduled penalty amount on the NOV is no longer the maximum penalty for your offense; it is the maximum for an MV case, as previously noted.

Recently, we completed a review of the NOV program. The Coast Guard issues about 2300 NOVs each year. About 95% of the parties accept, 4% decline, and 1% fail to respond to the NOV issuance within the 45-day response period. To improve the program's efficiency, we are proposing a change in processing NOVs for which we receive no response. By streamlining the process for each ''fail to respond'' NOV that we now automatically convert to an MV case, we would expect to save MV processing time. Further, the Coast Guard would be able to quickly dispense with these cases and alleviate the situation noted earlier, where the first case has not finished processing before a second or third NOV is issued to the same party.

Discussion of Proposal

We propose changing the procedure that results when an NOV recipient fails to either accept or decline it within 45 days. Conversion of an NOV to an MV case costs the Coast Guard about 8 additional hours of personnel time in processing and reviewing the case and also subjects the party to a lengthier adjudication time and potentially higher penalty assessments. Instead of automatically converting the NOV to an MV case with its lengthier processing and potentially higher penalties, we would treat the NOV as a default and proceed with the civil penalty on the NOV. Our proposal would not change the party's existing option to choose marine violation processing at any time during the 45-day response period. However, the party would have to specifically request MV processing by marking the NOV as declined and returning it to the Coast Guard.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, l979).

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

This proposed rule would change the Notice of Violation (NOV) regulations in 33 CFR 1.07–11. Today, if you fail to respond to your NOV by accepting or declining it within 45 days, we convert the NOV to a marine violation (MV) case, as if you declined it. MV cases provide fuller processing and a higher potential penalty than NOVs ($27,500 maximum MV penalty per charge while scheduled NOV penalties of $50 to $3000 per charge are fixed by COMDTINST M5582). We propose changing the procedure that results when you fail to respond. After 45 days we would treat the NOV as a default and assess the scheduled penalty.

The proposed change would affect only those parties who receive an NOV and fail to respond to it within the allotted 45 days, about 1% of issued NOVs. Currently, of about 2300 NOVs issued each year, approximately 95% of the recipients accept, 4% decline, and 1% fail to respond. We spend an average of 8 hours per MV case. For each ''fail to respond'' NOV we now automatically convert to an MV case, we would save some MV processing time by showing the NOV charge as proved. If, however, all of these parties declined their NOVs, the Coast Guard expenditure of resources would remain the same. The parties who decline the NOV would shorten their MV processing time by up to 45 days, depending on how quickly they respond to the NOV.

Small Entities

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

The proposed rule would not change the choice (accept or decline the NOV option) currently required by 33 CFR section 1.07–11. The only change proposed is in the handling we provide, by default, to those parties who fail to make their choice within the 45 days allotted. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not 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 proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(a) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. The changes proposed here are procedural and serve to update and streamline the Coast Guard's processing of NOVs. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

Subpart 1.07—Enforcement; Civil and Criminal Penalty Proceedings

1. The authority citation for subpart 1.07 continues to read as follows:

Authority: 14 U.S.C. 633; Sec. 6079(d), Pub. L. 100–690, 102 Stat. 4181; 49 CFR 1.46.

2. In § 1.07–11, a new paragraph (b)(7) is added, paragraph (d) is revised, and paragraphs (e) and (f) are added, as follows:

§ 1.07–11 Notice of Violation.

* * * * *

(b) * * *

(7) A statement that failure to either pay the proposed penalty on the Notice of Violation or decline the Notice of Violation and request a hearing within 45 days will result in a finding of default and the Coast Guard will proceed with the civil penalty in the amount recommended on the Notice of Violation without processing the violation under the procedures described in 33 CFR 1.07–10(b).

* * * * *

(d) If a party declines a Notice of Violation within 45 days, the case file will be sent to the District Commander for processing under the procedures described in 33 CFR 1.07–10(b).

(e) If a party pays the proposed penalty on the Notice of Violation within 45 days, a finding of proved will be entered into the case file.

(f) If a party fails within 45 days to either pay the proposed penalty on the Notice of Violation or decline the Notice of Violation, the Coast Guard will enter a finding of default in the case file and proceed with the civil penalty in the amount recommended on the Notice of Violation without processing the violation under the procedures described in 33 CFR 1.07–10(b).

Dated: November 5, 2001.

Paul J. Pluta,

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

[FR Doc. 01–30480 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD08–01–025]

RIN 2115–AG22

Safety Zones for Outer Continental Shelf Facilities in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish safety zones around five petroleum and gas production facilities in the Outer Continental Shelf in the Gulf of Mexico. The four platforms and one moored spar buoy need to be protected from vessels operating outside the normal shipping channels and fairways. Placing safety zones around these facilities will significantly reduce the threat of allisions, oil spills and releases of natural gas. The proposed regulation prevents all vessels from entering or remaining in specified areas around the platforms except for the following: An attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel

authorized by the Eighth Coast Guard District Commander.

DATES: Comments and related material must reach the Coast Guard on or before February 8, 2002.

ADDRESSES: You may mail comments and related material to Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, or comments and related material may be delivered to Room 1341 at the same address between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–6271. Commander, Eighth Coast Guard District (m) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander, Eighth Coast Guard District (m) between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, telephone (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Requests for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08–01–025], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Eighth Coast Guard District (m) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish safety zones around the following petroleum producing facilities in the Gulf of Mexico: ExxonMobil Hoover Floating OCS Facility, a moored spar buoy, Alaminos Canyon Block 25A (AC25A), located at position 26°56′33″ N, 94°41′19.55″ W; Sir Douglas Morpeth Tension Leg Platform (Morpeth TLP), Ewing Bank Block 921A (EB 921A), located at position 28°02′05.28″ N, 90°01′22.12″ W; and Allegheny Tension Leg Platform (Allegheny TLP), Green Canyon Block 254A (GC 254A), located at position 27°41′29.65″ N, 90°16′31.93″ W; Brutus Tension Leg Platform (Brutus TLP), Green Canyon Block 158 (GC 158), located at position 27°47′42.86″ N, 90°38′51.15″ W; Enchilada Platform, Garden Banks Block 128A (GB 128A), located at position 27°52′31.31″ N, 91°59′11.09″ W.

These five proposed safety zones are in the deepwater area of the Gulf of Mexico. For the purposes of this regulation it is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the proposed safety zones consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways. The fairways include the Gulf of Mexico East-West Fairway, the entrance/exit route of the Mississippi River, and the Houston-Galveston Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area.

ExxonMobil Production Company, British Borneo USA, Inc and Shell Exploration and Production have requested that the Coast Guard establish safety zones in the Gulf of Mexico around the following: ExxonMobil Production Company, the ExxonMobil Hoover Floating OCS Facility, a moored spar buoy; British Borneo platforms, the Morpeth TLP and the Allegheny TLP; and Shell platforms, the Brutus TLP and the Enchilada Platform.

The request for the safety zones was made due to the high level of shipping activity around the facilities and the safety concerns for both the personnel on board the facilities and the environment. ExxonMobil Production Company, British Borneo USA, Inc and Shell Exploration and Production, indicated that the location, production level, and personnel levels on board the facilities make it highly likely that any allision with the facilities would result in a catastrophic event. The Enchilada Platform is located near the edge of a shipping safety fairway. The ExxonMobil Hoover Floating OCS Facility, Brutus TLP, Morpeth TLP and Allegheny TLP are located in open waters where no fixed structures previously existed. All are high production oil and gas drilling platforms producing from 20,000 to 108,000 barrels of oil per day, and are manned with crews ranging from approximately 18 to 160 people.

The Coast Guard has reviewed ExxonMobil Production Company's, British Borneo USA, Inc's and Shell Exploration and Production's concerns and agrees that the risk of allision to the facilities and the potential for loss of life and damage to the environment resulting from such an accident warrant the establishment of these safety zones. The proposed regulation would significantly reduce this threat of allisions, oil spills and natural gas and increase the safety of life, property, and the environment in the Gulf of Mexico. This regulation is issued pursuant to 14 U.S.C. 85 as set out in the authority citation for all of 33 CFR part 147.

Discussion of Proposed Rule

In addition to the general risks discussed above, the following specific risks apply to the individual facilities. The specific risk factors, which necessitate a safety zone for the *ExxonMobil Hoover Floating OCS Facility,* a moored spar buoy, are as follows: (1) There is no designated fairway at this distance offshore and mariners use the facility as a navigational aid; (2) the facility has a high production capacity of 100,000 barrels of petroleum oil per day and 325 million cubic feet of gas per day; and (3) the facility is manned with a crew of 160.

The specific risk factors, which necessitate a safety zone for the *Morpeth TLP,* are as follows: (1) Proximity to the Gulf of Mexico East-West fairway; (2) the facility has a high production capacity of 15,000 barrels of petroleum oil per day and 12,000 cubic feet of gas per day; and (3) the facility is manned with a crew of 18.

The specific risk factors, which necessitate a safety zone for the *Allegheny TLP,* are as follows: (1) There is no designated fairway at this distance offshore and mariners use the facility as a navigational aid; (2) the facility has a high production capacity of 23,500 barrels of petroleum oil per day and 32

million cubic feet of gas per day; and (3) the facility is manned with a crew of 18.

The specific risk factors, which necessitate a safety zone for the *Brutus TLP,* are as follows: (1) Proximity to the Gulf of Mexico East-West fairway; (2) the facility has a high production capacity of 100,000 barrels of petroleum oil per day and 150 million cubic feet of gas per day; and (3) the facility is manned with a crew of 150.

The specific risk factors, which necessitate a safety zone for the *Enchilada Platform,* are as follows: (1) Proximity to the Gulf of Mexico East-West fairway; (2) the facility has a high production capacity of 108,000 barrels of petroleum oil per day and 384 million cubic feet of gas per day; and (3) the facility is manned with a crew of 35.

Regulatory Evaluation

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

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

The impacts on routine navigation are expected to be minimal because the safety zone will not encompass any nearby safety fairways.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. Since the offshore facilities are located far offshore, few privately owned fishing vessels and recreational boats/yachts may be operating in the area and alternate routes are available for these vessels. Deviation of their intended course may cause a minimal loss of time (estimated loss of four to ten minutes) to their destination depending on how fast the vessel is traveling. The Coast Guard expects the impact of this regulation on small entities to be minimal.

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

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Protection of Children

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

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

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

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. Add §§ 147.815, 147.817, 147.819, 147.821 and 147.23 to read as follows:

§ 147.815 ExxonMobil Hoover Floating OCS Facility safety zone.

(a) *Description.* The ExxonMobil Hoover Floating OCS Facility, a moored spar buoy, Alaminos Canyon Block 25A (AC25A), is located at position 26°56′33″ N, 94°41′19.55″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.817 Sir Douglas Morpeth Tension Leg Platform safety zone.

(a) *Description.* The Sir Douglas Morpeth Tension Leg Platform (Morpeth TLP), Ewing Bank Block 921A (EB 921A), is located at position 28°02′5.28″ N, 90°01′22.12″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.819 Allegheny Tension Leg Platform safety zone.

(a) *Description.* The Allegheny Tension Leg Platform (Allegheny TLP), Green Canyon Block 254A (GC 254A), is located at position 27°41′29.65″ N, 90°16′31.93″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.821 Brutus Tension Leg Platform safety zone.

(a) *Description.* The Brutus Tension Leg Platform (Brutus TLP), Green Canyon Block 158 (GC 158), is located at position 27°47′42.86″ N, 90°38′51.15″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.823 Enchilada Platform safety zone.

(a) *Description.* The Enchilada Platform, Garden Banks Block 128A (GB 128A), is located at position 27°52′31.31″ N, 91°59′11.09″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent East—West Gulf of Mexico Fairway, is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: August 27, 2001.

R.J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–30481 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 175

[USCG–2001–10163]

RIN 2115–AG18

Federal Requirements For Propeller Injury Avoidance Measures

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to require owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom to install one of two propulsion unit measures or employ three combined measures. This change responds to recommendations made by the National Boating Safety Advisory Council (NBSAC). The proposed rule would reduce the number of boaters who are seriously or fatally injured when struck by a non-planing recreational houseboat with propeller-driven propulsion.

DATES: Comments and related material must reach the Docket Management Facility on or before March 11, 2002.

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

(1) By mail to the Docket Management Facility (USCG–2001–10163), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

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

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

(4) Electronically through the Internet Site for the Docket Management System at *http://dms.dot.gov.* The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.* You may obtain a copy of this proposed rule by calling the U. S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet, at the web site for the Office of Boating Safety, at *http://www.uscgboating.org or at http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, contact Carlton Perry, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202–267–0979 or by e-mail at *cperry@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting

comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2001–10163), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and want to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

Regulatory History. The Coast Guard received requests from the National Boating Safety Advisory Council (NBSAC), propeller strike prevention organizations, and the general public to require installation of propeller guards on recreational houseboats and other displacement (non-planing) vessels, including those leased by livery operations. While accident data currently available to us does not show a high number of reported fatalities from propeller strikes annually, the number of responses to the 1995 and 1997 notices of request for comments (discussed below) indicate a great deal of public interest in whether and how the Federal government should act to prevent propeller-strike accidents. After consideration of public input and consultation with the National Boating Safety Advisory Council (NBSAC), we determined that we should promulgate regulations for owners of houseboats as non-planing recreational vessels with propeller-driven propulsion aft of the transom.

Initial Notice of Request for Comments. To gather information from the recreational boating public and industry, we published a notice of request for comments in the **Federal Register** in May 1995 (60 FR 25191). We asked the recreational boating public to comment on: (1) The economic and other impacts of establishing a requirement for propeller guards on recreational houseboats and other displacement (non-planing) vessels; (2) suggestions on alternatives to propeller guards that should also be considered; (3) recommendations on the applicability of regulations; and (4) concerns of the livery and charter industries.

We received over 100 comments during the 60-day comment period. Various parties, including the National Association of State Boating Law Administrators (NASBLA) requested an extension of the comment period. To accommodate this request, we published a notice to reopen the comment period for an additional 120-days in August 1995 (60 FR 40545). We received 1,994 comments to this notice, including more than 1,800 form letters that supported a requirement to use propeller guard technology or jet pump propulsion on rental houseboats. An additional 69 comments also supported developing such a requirement. Fifty-seven comments objected to such a requirement. The information received was voluminous, but too general to help us develop a regulation.

Advance Notice of Proposed Rulemaking. We published an advance notice of proposed rulemaking (ANPRM) in March 1996 (61 FR 13123) that asked questions to gather current and specific information about the injuries involving propeller strikes and rented boats. We also announced a series of meetings across the country to enable the public to express their views. Some of the questions specifically sought out the following information: the appropriate Federal and State roles in reducing propeller strike incidents; whether government intervention is appropriate; and if so, whether it should be directed at the vessels, their manufacturers, their operators, their owners, or the companies leasing such vessels.

Second Notice of Request for Comments. After reviewing available research and the comments from the public, and consulting with NBSAC at its November 1996 meeting, we published another notice of request for comments in April 1997 (62 FR 22991) and provided a 90-day comment period. We solicited comments on the effectiveness of specific devices and interventions that may reduce the number of recreational boating accidents involving rented powerboats in which individuals are injured by the propeller. We also asked for information about other devices or interventions (propeller injury avoidance measures) that may reduce the severity of injuries to individuals involved in propeller-strike accidents.

The devices or interventions we asked about included: (1) Swimming ladder locations and interlocks; (2) large warning notices to make the operators, passengers and swimmers more aware of the dangers; (3) propeller location wands; (4) clear vision aft to alert operators to the presence of swimmers near the propeller; (5) propeller shaft engagement alarms to alert passengers and swimmers of a rotating propeller; (6) conversion of a standard inboard, outboard, or inboard/outboard engine with a jet pump propulsion engine; (7) ignition cut-off/auto throttle and neutral returns to stop the propeller when the helm is vacated or unattended; and (8) education specifically directed to the location and dangers of propellers. We also solicited comments on propeller guards, and any other devices that might reduce the occurrence or severity of injuries due to propeller strikes. Based on requests from the public, we published a notice that extended the comment period an additional 210 days in August 1997 (62 FR 44507).

Summary of Comments. In response to the ANPRM and the notices, we received 2,027 comments, more than 1,800 of which were form letters and none of which contained information sufficient to support proposing requirements for manufacturers of new recreational boats, nor did they help us determine the estimated burdens and costs to boat manufacturers. Of the total comments received, 95% were in favor of initiating a Federal regulation.

NBSAC Consultation. At the April 30, 2000, NBSAC Subcommittee meeting, we presented the results of our research on accident report statistics: vessels most frequently involved with injuries are open recreational motorboats in the category ''16 feet to less than 26 feet in length.'' We announced our intention to initiate a regulatory project that would require owners of this category of recreational vessels to attach pre-printed warning labels at strategic locations on their vessels. We would also propose requirements for owners to attach a propeller guard on a smaller number of rental non-planing houseboats. The Subcommittee report included the Coast Guard rulemaking project description. The Subcommittee presented its report to the full Council at the May 1, 2000, meeting and the Council accepted the Subcommittee's report without amendment.

At the October 2000 NBSAC Subcommittee meeting, the Subcommittee reviewed the preferred alternative from its April 2000 meeting and recommended that we propose, instead, an expanded list of interventions for vessels in the category ''16 feet to less than 26 feet in length.'' As a result, we developed and presented a number of propeller injury avoidance measures to NBSAC for their review. Again, the full Council accepted the Subcommittee report.

At the April 2001 NBSAC Subcommittee meeting, we presented the expanded list of alternatives from which owners of the affected vessels can choose for their vessels. After discussing the alternatives and their cost, the Council recommended that the Coast Guard, instead, develop four specific regulations:

(1) Require owners of all propeller driven vessels 12 feet in length and longer with propellers aft of the transom to display propeller warning labels and to employ an emergency cut-off switch, where installed;

(2) Require manufacturers and importers of new planing vessels 12 feet to 26 feet in length with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods;

(3) Require manufacturers and importers of new non-planing vessels 12 feet in length and longer with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods; and

(4) Require owners of all non-planing rental boats with propellers aft of the transom to install either a jet propulsion system or a propeller guard or all of several propeller injury avoidance measures.

This regulatory project would focus on implementing the fourth NBSAC recommendation. We will address the other NBSAC recommendations in subsequent regulatory projects. Due to the extensive broadening of the initial regulatory project, we are withdrawing the initial regulatory project, as published in the Notices section of this document, and initiating the first of a series of separate regulatory projects in response to recent NBSAC recommendations. We have placed the public docket for the initial regulatory project (CGD 95–041) into a new public docket (USCG–2001–10299) at the Docket Management System (DMS) at the above address under **ADDRESSES** for public viewing.

Use of the propeller injury avoidance measures described in this proposed rule would, in most cases, prevent direct contact of the propeller blades with persons in the water and minimize serious and fatal injuries due to propeller strikes.

Discussion of Proposed Rule

1. Section 175.03 of Title 33 Code of Federal Regulations would be amended to include definitions of the following terms used in this subpart: clear vision aft, houseboat, ignition cut-off switch, non-planing vessel, planing vessel, and swim ladder interlock. We would specifically like public comment on these terms and definitions.

2. Part 175—Equipment Requirements would be revised by adding a new subpart E—Propeller Injury Avoidance Measures.

3. New section 175.301, Applicability, would describe the category of recreational vessels that are subject to the new requirements: Non-planing recreational houseboats with propeller-driven propulsion located aft of the transom. We would specifically like public comment on definitions for terms used in this section.

4. New sections 175.310 and 175.315 would describe the specific safety measures required by this proposed rule. Section 175.310 instructs owners and operators of vessels for rent; section 175.315 instructs owners and operators of vessels not for rent.

Owner and Operator Requirements for Vessels for Rent

Under proposed section 175.310, owners of recreational, non-planing houseboats for rent with propeller-driven propulsion located aft of the transom must equip their vessels with either a propeller guard, or a combination of three propeller injury avoidance measures: A swim ladder interlock, an aft visibility device, and an emergency ignition cut-off switch. Operators of vessels for rent must use either a propeller guard or all three propeller injury avoidance measures listed above.

Owner and Operator Requirements for Vessels Not for Rent

Under proposed section 175.315, owners of recreational, non-planing houseboats not for rent with propeller-driven propulsion located aft of the transom must equip their vessels with either a propeller guard, or both of the following propeller injury avoidance measures: a swim ladder interlock and an aft visibility device.

Operators of vessels not for rent must use either a propeller guard, or all of the following propeller injury avoidance measures: a swim ladder interlock, an aft visibility device, and an emergency ignition cut-off switch (if factory installed).

We are not requiring owners of vessels not for rent to install an emergency ignition cut-off switch because it may be cost-prohibitive. However, if a vessel has an emergency ignition cut-off switch that was installed at the factory, vessel operators must use it. If a vessel does not have a factory-installed emergency ignition cut-off switch, we encourage, but do not require the owner to get one.

We would specifically like public comment on the availability of, and experience with, the safety devices described in this proposed rule. We would also like feedback about your experience operating a vessel with a propeller guard; fitting a propeller guard to a vessel drive unit; or concerns about propeller guard clogging, if any.

5. *Phase-in period for installing safety measures.* To minimize the immediate economic burden on owners of both rental and non-rental vessels and to provide a reasonable time period for compliance, we would provide a phase-in period for implementing the safety measures. Owners of vessels not for rent, lease, or charter would have 2 years from the date that a final rule is published to install the prescribed safety measures. Owners of vessels for rent, lease, or charter would have an additional year (3 years) from the date that a final rule is published to install the prescribed safety measures. We are allowing owners of vessels for rent an extra year because, in many cases, they have multiple vessels on which they must install the safety measures.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed this rule 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).

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT follows:

Costs of Proposed Rule

We estimate that this rule would impose a $12 to $30 million economic cost on owners of approximately 100,000 non-planing houseboats. Approximately 5,000 of these vessels are rented, leased or chartered.

Owners who lease, rent, or charter non-planing recreational houseboats would have to install either a propeller guard or three combined measures. The three measures include a swim ladder interlock ($100 plus installation), a clear visibility aft device ($20, self-installed), and an ignition cut-off switch ($40, plus installation). Owners of non-planing non-rental recreational houseboats would not be required to install an ignition cut-off switch. Therefore, in our calculation of the total minimum cost to this group of owners, we have only included the cost of the other two measures.

Owners could convert their engine into a jet pump at a cost of $2500 and be exempt from this rule. Because we do not expect many houseboat owners to do this, the maximum cost is based on installation of a propeller guard, which we estimate to be $300 (self-installed).

To minimize the immediate economic impact of this rule, owners of non-rental houseboats are provided two years to comply; rental and livery businesses are granted an additional year (three years) to comply.

We estimate that costs to the government would be minimal. The Coast Guard would have to expand its Boarding Officer personnel training to include checking for installation of the injury avoidance measures, a propeller guard, or a jet pump engine in a safe and determinative manner, during currently required field boardings of recreational vessels for safety equipment checks.

Benefits of Proposed Rule

This proposed rule is appropriate because the Boating Accident Reporting Database (BARD) shows that the number of injuries and fatalities reported during calendar years 1990 through 1999 occurred at a chronic rate. BARD data for the same period revealed a total of 18 injuries and 2 fatalities involving non-planing recreational houseboats. The number of injuries to be prevented by this rule may be greatly understated since many boaters are unaware of the requirement to report accidents.

The benefits of avoiding future propeller strike injuries and fatalities are based on the eighteen propeller strike injuries and two fatalities caused by non-planing houseboats from 1990 through 1999. If we anticipate 100% compliance with this regulation and assume the eighteen injuries to be severe, then the total monetary benefits of injuries avoided are $9.1 million. The total monetary benefits of injuries avoided are based on the value society is willing to pay to avert a severe injury, which the Office of the Secretary of Transportation has calculated to be $506,300.

In addition, two propeller-related fatalities were reported in the accident database from 1990 through 1999. If compliance with the regulation prevents these fatalities, then the total monetary benefits of fatalities avoided, based on the value society is willing to pay to avert a fatality, are $5.4 million ($2,700,000 $\times$ 2 deaths). The total monetary benefit to society for avoiding all of the injuries and fatalities involving non-planing houseboats are $14.5 million ($9.1 for injuries and $5.4 for fatalities) over a 10-year period. This exceeds our lowest cost estimates of $12 million. If at least twelve fatalities are averted due to the implementation of the regulation, the benefits will exceed our highest cost estimates of $30 million for this rule.

Vessel owners may incur additional benefits from lower insurance premiums as a result of their use of improved safety measures.

The Coast Guard expects that this rule would reduce the number of people who are killed or injured due to a propeller strike involving non-planing recreational houseboats.

Small Entities

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

Individuals, not small entities, own the majority of non-planing recreational houseboats affected by this rule; however, under the Regulatory Flexibility Act, the Coast Guard must determine the impact on small entities. The Coast Guard estimates that there are 300 houseboat rental facilities that must install the propeller injury avoidance measures required by this rule. In order to minimize the burden on these small entities, the Coast Guard would provide them 3 years (an additional year beyond the 2 years provided to owners of non-rental houseboats) to comply with this rule.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effect on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Carlton Perry, Project Manager, Office of Boating Safety, by telephone at 202–267–0979, or by e-mail at *cperry@comdt.uscg.mil.*

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

Collection of Information

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

Federalism

A rule has implications for Federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them

We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism. Under this proposal, the Coast Guard establishment of a performance standard or equipment installation requirement would not conflict with any existing State statute. The Coast Guard routinely consults with the National Association of State Boating Law Administrators (NASBLA) and will continue to do so on this specific regulatory project.

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not 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 proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

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

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

Energy Effects

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

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(d), of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. The proposed rule requires owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom to install one of two propulsion unit measures or three combined measures. The propeller guard devices do not create sufficient drag through the water for these slow moving non-planing vessels to result in an increase of consumption of fossil fuels or increase air pollution due to increased exhaust. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 175

Marine Safety.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 175 as follows:

PART 175—EQUIPMENT REQUIREMENTS

1. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

2. Amend § 175.3 by adding the following undesignated definitions in alphabetical order to the rest of the section, to read as follows:

§ 175.3 Definitions.

* * * * *

Clear visibility aft device means a device, such as a video camera and monitor or a mirror, that allows the operator to see aft of the vessel from the engine throttle control station to be aware of the presence of a swimmer near a propeller.

Houseboat means a motorized vessel designed primarily with accommodation spaces with little or no foredeck or cockpit, with low freeboard and with a low length to beam ratio.

Ignition cut-off switch means a device that interrupts the engine ignition to stop the engine when the operator moves away from the engine throttle control station.

* * * * *

Non-planing vessel means a vessel with a hull that is designed to ride through the water at any speed.

* * * * *

Planing vessel means a vessel with a hull that is designed to ride on top of the water beyond a minimum speed.

* * * * *

Swim ladder interlock means a device that interrupts the engine ignition to stop the engine when a swim ladder is moved into position near the propeller.

* * * * *

3. Amend part 175 by adding a new subpart E—Propeller Injury Avoidance Measures as follows:

Subpart E—Propeller Injury Avoidance Measures

§ 175.301 Applicability.

§ 175.310 Propeller safety measures for rental houseboats.

§ 175.315 Propeller safety measures for non-rental houseboats.

§ 175.301 Applicability.

(a) Sections 175.310 and 175.315 apply to recreational vessels described in § 175.1, which:

(1) Are monohull houseboats;

(2) Use a propulsion drive unit with an exposed propeller located aft of the transom; and

(3) Are designed to be operated in a non-planing manner.

(b) Sections 175.310 and 175.315 do not apply to multi-hull vessels or planing vessels.

§ 175.310 Propeller safety measures for rental houseboats.

(a) If you own a recreational non-planing houseboat and provide it for rent, charter or lease, you must either—

(1) Cover each exposed propeller located aft of the transom with a propeller guard attached in a secure manner; or;

(2) Do all of the following—

(i) Install and maintain an interlock device for each swim ladder;

(ii) Install and maintain a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control area; and

(iii) Install and maintain an emergency ignition cut-off switch.

(b) If you operate a rented, chartered, or leased vessel that has an exposed propeller located aft of the transom, you must—

(1) Use all swim ladder interlock devices;

(2) Use a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control station; and

(3) Use the emergency ignition cut-off switch.

§ 175.315 Propeller safety measures for non-rental houseboats.

(a) If you own a recreational non-planing houseboat and do not provide it for rent, charter or lease, you must either—

(1) Cover each exposed propeller located aft of the transom with a propeller guard attached in a secure manner; or

(2) Do both of the following—

(i) Install and maintain an interlock device for each swim ladder; and

(ii) Install and maintain a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control station.

(b) If you operate a vessel with an exposed propeller located aft of the transom, you must—

(1) Use all swim ladder interlock devices;

(2) Use a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control area; and

(3) Use the emergency ignition cut-off switch (if factory installed).

Dated: October 15, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 01–30479 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 181

[USCG–2001–10299; CGD 95–041]

RIN 2115–AE37

Propeller Injury Prevention Aboard Rental Boats

AGENCY: Coast Guard, DOT.

ACTION: Notice of withdrawal.

SUMMARY: The Coast Guard is withdrawing its proposed rulemaking regarding requirements for manufacturers to prevent propeller strike injuries and terminating rulemaking under the following Regulatory Identification Number: (RIN) 2115–AE37 (USCG–2001–10299; CGD 95–041). The Coast Guard lacks sufficient data to demonstrate that the benefits of requirements for manufacturers clearly outweigh the costs and burdens.

DATES: This withdrawal of the March 26, 1996 (61 FR 13123) advance notice of proposed rulemaking is made on December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Randolph Doubt, Project Manager, Recreational Boating Product Assurance Division, Office of Boating Safety, 202–267–0981.

SUPPLEMENTARY INFORMATION:

Regulatory History

Initial Notice of Request for Comments. To gather information from the recreational boating public and industry, we published a notice of request for comments in the **Federal Register** in May 1995 (60 FR 25191). We asked the recreational boating public to comment on: (1) The economic and other impacts of establishing a requirement for propeller guards on recreational houseboats and other displacement (non-planing) vessels; (2) suggestions on alternatives to propeller guards that should also be considered; (3) recommendations on the applicability of regulations; and (4) concerns of the livery and charter industries.

We received over 100 comments during the 60-day comment period. Various parties, including the National Association of State Boating Law Administrators (NASBLA) requested an extension of the comment period. To accommodate this request, we published a notice to reopen the comment period for an additional 120-days in August 1995 (60 FR 40545). We received 1,994 comments to this notice, including more than 1,800 form letters that supported a requirement to use propeller guard technology or jet pump propulsion on rental houseboats. An additional 69 comments also supported developing such a requirement. Fifty-seven comments objected to such a requirement. The information received was voluminous, but too general to help us develop a regulation.

Advance Notice of Proposed Rulemaking. We published an advance notice of proposed rulemaking (ANPRM) in March 1996 (61 FR 13123) that asked questions to gather current and specific information about the injuries involving propeller strikes and rented boats. We also announced a series of meetings across the country to enable the public to express their views. Some of the questions specifically sought out the following information: the appropriate Federal and State roles in reducing propeller strike incidents; whether government intervention is appropriate; and if so, whether it should be directed at the vessels, their manufacturers, their operators, their owners, or the companies leasing such vessels.

Second Notice of Request for Comments. After reviewing available research and the comments from the public, and consulting with the National Boating Safety Advisory Council (NBSAC) at its November 1996 meeting, we published another notice of request for comments in April 1997 (62 FR 22991) and provided a 90-day comment period. We solicited comments on the effectiveness of specific devices and interventions that may reduce the number of recreational boating accidents involving rented powerboats in which individuals are injured by the propeller. We also asked for information about other devices or interventions (propeller injury avoidance measures) that may reduce the severity of injuries to individuals involved in propeller-strike accidents.

The devices or interventions we asked about included: (1) Swimming ladder locations and interlocks; (2) large warning notices to make the operators, passengers and swimmers more aware of the dangers; (3) propeller location wands; (4) clear vision aft to alert operators to the presence of swimmers near the propeller; (5) propeller shaft engagement alarms to alert passengers and swimmers of a rotating propeller; (6) conversion of a standard inboard, outboard, or inboard/outboard engine with a jet pump propulsion engine; (7) ignition cut-off/auto throttle and neutral returns to stop the propeller when the helm is vacated or unattended; and (8) education specifically directed to the location and dangers of propellers. We also solicited comments on propeller guards, and any other devices that might reduce the occurrence or severity of injuries due to propeller strikes. Based on requests from the public, we published a notice that extended the comment period an additional 210 days in August 1997 [62 FR 44507].

Summary of Comments. In response to the ANPRM and the notices, we received 2,027 comments, more than 1,800 of which were form letters and none of which contained information sufficient to support proposing requirements for manufacturers of new recreational boats, nor did they help us determine the estimated burdens and costs to boat manufacturers. Of the total

comments received, 95% were in favor of initiating a Federal regulation.

NBSAC Consultation. At the April 30, 2000 NBSAC Subcommittee meeting, we presented the results of our research on accident report statistics: vessels most frequently involved with injuries are open recreational motorboats in the category ''16 feet to less than 26 feet in length.'' We announced our intention to initiate a regulatory project that would require owners of this category of recreational vessels to attach pre-printed warning labels at strategic locations on their vessels. We would also propose requirements for owners to attach a propeller guard on a smaller number of rental, non-planing houseboats. The Subcommittee report included the Coast Guard rulemaking project description. The Subcommittee presented its report to the full Council at the May 1, 2000 meeting and the Council accepted the Subcommittee's report without amendment.

At the October 2000 NBSAC Subcommittee meeting, the Subcommittee reviewed the preferred alternative from its April 2000 meeting and recommended that we propose, instead, an expanded list of interventions for vessels in the category ''16 feet to less than 26 feet in length.'' As a result, we developed and presented a number of propeller injury avoidance measures to NBSAC for their review. Again, the full Council accepted the Subcommittee report.

At the April 2001 NBSAC Subcommittee meeting, we presented the expanded list of alternatives from which owners of the affected vessels can choose for their vessels. After discussing the alternatives and their cost, the Council recommended that the Coast Guard, instead, develop four specific regulations:

(1) Require owners of all propeller driven vessels 12 feet in length and longer with propellers aft of the transom to display propeller warning labels and to employ an emergency cut-off switch, where installed;

(2) Require manufacturers and importers of new planing vessels 12 feet to 26 feet in length with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods;

(3) Require manufacturers and importers of new non-planing vessels 12 feet in length and longer with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods; and

(4) Require owners of all non-planing rental boats with propellers aft of the transom to install either a jet propulsion system or a propeller guard or all of several propeller injury avoidance measures.

Withdrawal

We are withdrawing the rulemaking because of (1) the lack of substantive information about the benefits to society of a requirement for manufacturers to prevent propeller strike injuries, and (2) to simplify the development of a series of new regulatory projects initiated in response to the recent, broader NBSAC recommendations. For these reasons, we are terminating further rulemaking under RIN 2115–AE37 (USCG–2001–10299).

We have placed the public docket (CGD 95–041) for this project into an electronic docket under the Department of Transportation Docket Management System (DMS) under a new docket number: USCG–2001–10299. This new docket number will allow the public to access the early docket records electronically. These early docket records serve as background for new regulatory projects the Coast Guard is initiating in response to recommendations from the NBSAC in its April 2001 meeting.

We are publishing a notice of proposed rulemaking elsewhere in this issue under RIN 2115–AG18 (USCG–2001–10163). This rulemaking is the first of a series of separate regulatory projects initiated in response to the recent NBSAC recommendations.

Dated: October 15, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 01–30478 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 01–321; FCC 01–339]

Performance Measurements and Standards for Interstate Special Access Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on whether the Commission should adopt a select group of performance measurements and standards for evaluating incumbent local exchange carrier (incumbent LEC) performance in the provisioning of special access services. These comments will assist the Commission in ensuring that these services are provisioned in a just, reasonable, and nondiscriminatory manner.

DATES: Comments are due January 9, 2002, and Reply Comments are due January 30, 2002.

FOR FURTHER INFORMATION CONTACT: Jon Reel, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket No. 01–321, FCC 01–339, adopted November 16, 2001, and released November 19, 2001. The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* It is also available on the Commission's website at *http://www.fcc.gov.*

Synopsis of the Notice of Proposed Rulemaking

1. *Jurisdiction and Enforcement.* The Commission has broad authority to establish national performance measurements and standards for special access services pursuant to sections 201, 202, and 272 of the Act. The Commission seeks comment on how, if the Commission were to adopt special access measures and standards, the state commissions might participate in enforcing these requirements. The Commission also seeks comment on whether and to what extent the Commission should exercise the fully panoply of enforcement mechanisms available to it under the Act to enforce any national measurements and standards it may adopt.

2. *Performance Measures and Standards.* In this NPRM, the Commission seeks comment on whether the Commission should adopt interstate special access measures and standards at this juncture. It seeks comment on whether national measurements, standards, and reporting requirements for special access provisioning should apply to all incumbent LECs, or should exclude small, rural or midsized incumbent LECs. The Commission also seeks comment on whether the proposed performance measurements and standards for unbundled network

elements should apply to provisioning of both high-capacity loops and special access circuits.

3. *Suggested Model Performance Measures and Standards.* The NPRM calls commenters attention to measurements and standards that have been proposed by New York in *Proceeding on Motion of the Commission to Review Service Quality Standards for Telephone Companies,* Order Adopting Revisions to Inter-Carrier Service Quality Guidelines, Case 97–C–0139 (December 15, 2000); *New York State Carrier-to-Carrier Guidelines Performance Standards and Reports,* NYPSC Case 97–C–0139 (Jan. 2001), and in Texas in *Texas Performance Remedy Plan and Performance Measurement, Attachment 17 to Texas 271 Agreement (Version 2.0)* (Aug. 2001). To facilitate access by commenters, these documents have been filed in the docket of the instant proceeding, CC Docket No. 01–321. The NPRM also calls commenters attention to proposals by WorldCom on August 6, 2001 and by Time Warner on July 16, 2001; these documents have also been filed in the docket of the instant proceeding, CC Docket. No. 01–321. Commenters are also directed to the performance measurements and standards in the *Performance Measurements and Standards for Unbundled Network Elements and Interconnection Notice,* CC Docket No. 01–318, FCC No. 01–331, at Section IV.B.

4. *Implementation.* The Commission asks commenters to discuss the same issues that apply in the context of performance measures and standards for UNEs and interconnection, namely (1) How may we best ensure that reported data are sufficiently accurate to form the basis for an enforcement action? (2) Should penalties be imposed if data inaccuracies are detected? (3) How may the Commission ensure the valid and accurate implementation of business rules and exclusions? (4) What auditing procedures, if any, are reasonable? (5) Would industry workshops under the direction of regulators be useful, and if so, should we adopt safeguards against delay and stalemate? In addition, the Commission solicits comment on appropriate reporting procedures that may help foster competition while avoiding increases on the overall burdens imposed on incumbent LECs. The Commission also seeks comment regarding the development, implementation, and analysis of the results of statistical measures that might be applicable and appropriately used in analyzing performance data.

5. *Sunset Requirements.* The Commission contemplates that when the services discussed herein are provisioned in a nondiscriminatory, just and reasonable manner, the Commission will suspend any reporting requirements that have become unnecessary. Accordingly, the Commission seeks comment on whether it should establish a sunset date on which the proposed reporting requirements would cease to apply to incumbent LECs. In particular, the Commission asks parties to comment on whether the reporting requirements should sunset on a date certain, such as in two, three or four years, or whether it should establish a specific trigger event. Similarly, for BOCs, the Commission seeks comment on whether these rules should sunset on a date certain after section 271 approval. The Commission also requests comments on additional proposals parties may have on establishing a sunset date.

Initial Regulatory Flexibility Analysis

6. As required by the Regulatory Flexibility Act (RFA), as amended, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected economic impact on small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

7. In this NPRM, the Commission seeks comment on whether it should adopt a limited number of measurements and standards for evaluating incumbent local exchange carrier performance with respect to ordering, provisioning and maintaining and repairing of the facilities that are critical for competitive carriers to compete for end-user customers.

Legal Basis

8. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 2, 4, 201, 202, 205, 206, 207, 209, 272, 303(r) and 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 202, 205, 206, 207, 209, 272, 303(r) and 503(b).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

9. The RFA directs agencies to provide a description and, an estimate where feasible, of the number of small entities that will be affected by any rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' For the purposes of this Order, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). Consistent with the SBA's Office of Advocacy's view, we have included small incumbent LECs in this RFA analysis. We emphasize, however, that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

10. *Local Exchange Carriers.* The most reliable source of information regarding the number of LECs nationwide appears to be the data that we collect annually in connection with the Telecommunications Relay Service. According to our most recent data, there are 1,335 incumbent LECs. Although some of these carriers may not be independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 1,335 small entity incumbent LECs that may be affected by the proposals in the NPRM.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

11. We expect that any proposal we may adopt pursuant this NPRM will not substantially increase existing reporting, recordkeeping or other compliance requirements. The Commission already requires the filing of service quality reports and many states require the same of incumbent LECs.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

12. One objective of this proceeding is to adopt reporting requirements for UNEs that will not increase the existing regulatory burdens on small carriers.

Ordering Clauses

13. Pursuant to Sections 1, 2, 4, 201, 202, 205, 206, 207, 209, 272, 303(r) and 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 202, 205, 206, 207, 209, 272, 303(r), and 503(b) a NOTICE OF PROPOSED RULEMAKING IS ADOPTED.

14. CC Docket No. 00–51 IS HEREBY TERMINATED.

15. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30434 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2785, MM Docket No. 00–124, RM–9893]

Digital Television Broadcast Service; Bryan, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a request filed by KWTX/KBTX License Corporation, requesting the substitution of DTV channel 50 for DTV channel 59 at Bryan, Texas. DTV Channel 50 can be allotted to Bryan, Texas, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (30–33–16 N. and 96–01–51 W.). As requested, we propose to allot DTV Channel 50 to Bryan with a power of 1000 and a height above average terrain (HAAT) of 477 meters.

DATES: Comments must be filed on or before January 28, 2002, and reply comments on or before February 12, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Vincent A. Pepper, Pepper & Corazzini, LLP, 1776 K Street, NW., Suite 200, Washington, DC 20006–2334 (Counsel for KWTX/KBTX Licensee Corporation).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rule Making, MM Docket No. 00–124, adopted December 4, 2001, and released December 5, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

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

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

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

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV Channel 59 and adding DTV Channel 50 at Bryan.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–30390 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2682; MM Docket No. 99–196; RM–9619, RM–9874]

Radio Broadcasting Services; Bethel Springs, Martin, Tiptonville, Trenton, South Fulton, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: The Allocations Branch dismisses the petition for rule making filed by Sherry A. Brown proposing the allotment of Channel 249A at Bethel Springs, Tennessee, as being procedurally defective for failure to properly file comments in compliance with sections 1.415(b) and 1.420(e) of the Commission's Rules. *See* 64 FR 29979, June 4, 1999. In addition, the counterproposal filed by Thunderbolt Broadcasting Company, proposing two options for the substitution of Channel 267C3 for Channel 269A at Martin, and the reallotment of Channel 267C3 to South Fulton, Tennessee (described more fully in the *Report and Order*) is disposed of as follows: Option I is denied because it required the downgrade of vacant Channel 267C3 at Tiptonville, Tennessee, and there are expressions of interest for the Class C3 channel. Option II is dismissed for failure to be ''technically correct'' and ''substantially complete'' as required at the time it is filed.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–196, adopted November 7, 2001, and released November 16, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex, International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30389 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2737; MM Docket No. 01–322; RM–10332]

Radio Broadcasting Services; Fremont and Sunnyvale, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed on behalf of Chase Radio Properties, L.L.C., licensee of Station KCNL(FM), Channel 285A, at Fremont, California, requesting the reallotment of Channel 285A from Fremont to Sunnyvale, California, and modification of its authorization accordingly, pursuant to the provisions of section 1.420(i) of the Commission's Rules. Coordinates used for requested Channel 285A at Sunnyvale, California, are 37–18–41 North Latitude and 121–48–58 West Longitude.

Petitioner's reallotment proposal complies with the provisions of section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 285A at Sunnyvale, California, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before January 14, 2002, and reply comments on or before January 29, 2002.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Harry C. Martin; Fletcher, Heald & Hildreth, P.L.C.; 1300 North 17th Street, 11th Floor; Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–322 adopted November 14, 2001, and released

November 23, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document may also be may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303. 334, and 336.

§ 73.202 [Amended].

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Sunnyvale, Channel 285A, and removing Channel 285A at Fremont.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30387 Filed 12–7–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI28

Endangered and Threatened Wildlife and Plants; Listing the San Miguel Island Fox, Santa Rosa Island Fox, Santa Cruz Island Fox, and Santa Catalina Island Fox as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose endangered status pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), for four subspecies of island fox (*Urocyon littoralis*): San Miguel Island Fox (*Urocyon littoralis littoralis*), Santa Rosa Island Fox (*U. l. santarosae*), Santa Cruz Island Fox (*U. l. santacruzae*), and Santa Catalina Island Fox (*U. l. catalinae*). Island fox populations on these four islands have experienced precipitous declines since 1995. The three island fox subspecies inhabiting the northern Channel Islands (San Miguel, Santa Rosa, and Santa Cruz) have declined due to predation by golden eagles (*Aquila chrysaetos*). Island foxes on San Miguel and Santa Rosa islands have been effectively extirpated in the wild; captive breeding efforts are underway on both islands. On Santa Cruz Island, the island fox population decreased from 1,300 to less than 100 animals; captive breeding efforts on Santa Cruz will begin in the fall of 2001. The Santa Catalina Island fox population experienced a precipitous decline in 1999 as a result of an outbreak of canine distemper virus; fewer than 200 Santa Catalina Island foxes are thought to remain in the wild.

DATES: Comments from all interested parties must be received by February 8, 2002. Public hearing requests must be received by January 24, 2002.

ADDRESSES: 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 to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003.

(2) You may send comments by electronic mail (e-mail) to: *fw1islandfox@r1.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 office at 2493 Portola Road, Suite B, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Diane Noda, Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, at the address above (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

The island fox was first described as *Vulpes littoralis* by Baird in 1857 from the type locality of San Miguel Island, Santa Barbara County, California. Merriam (1888, in Hall and Kelson 1959) reclassified the island fox into the genus *Urocyon* and later described island foxes from Santa Catalina, San Clemente, and Santa Cruz islands as three separate taxa (*U. catalinae, U. clementae,* and *U. littoralis santacruzae*) (Merriam 1903). Grinnell *et al.* 1937 revised Merriam's classification, placing foxes from all islands under the species *U. littoralis* and assigning each island population a subspecific designation (*U. l. catalinae* on Santa Catalina Island, *U. l. clementae* on San Clemente Island, *U. l. dickeyi* on San Nicolas Island, *U. l. littoralis* on San Miguel Island, *U. l. santacruzae* on Santa Cruz Island, and *U. l. santarosae* on Santa Rosa Island). Recent morphological and genetic studies support the division of the *U. littoralis* complex into six subspecies which are each limited in range to a single island (Gilbert *et al.* 1990; Wayne *et al.* 1991a; Collins 1991a, 1993; Goldstein *et al.* 1999). Each subspecies is reproductively isolated from the others by a minimum of 5 kilometers (3 miles) of ocean waters. The island fox is closely related to the mainland gray fox, *U. cinereoargenteus*, but is smaller in size and darker in coloration (Moore and Collins 1995).

The island fox is a diminutive canid, weighing approximately 1.4 to 2.7 kilograms (3 to 6 pounds) and standing approximately 0.3 meters (1 foot) tall. Dorsal coloration is grayish-white and black. The base of the ears and sides of the neck and limbs are cinnamon-rufous in color. The underbelly is a dull white, and the tail is conspicuously short. Island foxes display sexual size dimorphism, with males being larger and heavier than females (Moore and Collins 1995).

Island foxes inhabit the six largest islands (San Miguel, Santa Rosa, Santa Cruz, San Nicolas, Santa Catalina, and San Clemente islands) off the coast of southern California. Genetic evidence suggests that all island foxes are descended from one colonization event (George and Wayne 1991), possibly from chance overwater dispersal by rafting on floating debris (Moore and Collins 1995). Fossil evidence indicates that island foxes inhabited the northern Channel Islands (San Miguel, Santa Rosa, and Santa Cruz) between 10,000 to 16,000 years ago (Orr 1968). However, island foxes are thought to have existed on the northern Channel Islands even before that time, during a period when Santa Cruz, Santa Rosa, and San Miguel were one land mass referred to as ''Santarosae,'' last known to have been united 18,000 years before present (Johnson 1978, 1983). The island fox was thought to have reached the southern Channel Islands (San Nicolas, San Clemente, and Santa Catalina) much more recently (2,200 to 3,800 years ago), most likely introduced to these islands by Native Americans as pets or semi-domesticates (Collins 1991a, b). However, island fox remains recently recovered from San Nicolas Island extend this time period to approximately 5,200 years before present (Vellanoweth 1998).

Genetic evidence confirms the pattern of dispersal suggested by archeological and geological findings (Gilbert *et al.* 1990). The pattern of genetic relatedness supports the geological evidence of the sequence of isolation for each island, and each population, as rising sea levels separated Santarosae into the northern Channel Islands. Santa Cruz separated from the other northern Channel Islands first, about 11,500 years ago, followed by the separation of San Miguel and Santa Rosa about 9,500 years ago. Together with the fossil record, genetic evidence indicates that San Clemente was the first southern Channel Island colonized, probably by immigrants from San Miguel. Dispersal then occurred from San Clemente to San Nicolas and then Santa Catalina (Gilbert *et al.* 1990).

Island forms of species generally have less genetic variability than their mainland counterparts (Gill 1980), and island foxes are no exception. Mainland gray foxes are more variable both morphologically and genetically than island foxes (Wayne *et al.* 1991b; Goldstein *et al.* 1999). Island fox population size and genetic variability seem to decrease with island size; the smallest island fox populations, San Miguel and San Nicolas, show the least genetic variability, with San Nicolas having virtually no genetic variability, which is highly unusual among mammals. This lack of variability could be attributed either to extensive inbreeding, or to the population having passed through a bottleneck, a period of very low population (George and Wayne 1991).

The diminutive island fox is the largest native carnivore on the Channel Islands. The island fox is a habitat generalist, occurring in valley and foothill grasslands, southern coastal dunes, coastal bluff, coastal sage scrub, maritime cactus scrub, island chaparral, southern coastal oak woodland, southern riparian woodland, bishop (*Pinus muricata*) and torrey pine (*Pinus torreyana*) forests, and coastal marsh habitats. Although foxes can be found in a wide variety of habitats on the islands, they prefer areas of diverse topography and vegetation (Von Bloeker 1967; Laughrin 1977; Moore and Collins 1995). Laughrin (1973, 1980) found woodland habitats to support higher densities of island fox due to increased food availability, while Crooks and Van Vuren (1996) found island foxes to prefer fennel grasslands and avoid ravines and scrub oak patches.

Island foxes are omnivores, taking a wide variety of seasonally available plants and animals (Collins and Laughrin 1979; Collins 1980; Kovach and Dow 1981; Moore and Collins 1995; Crowell 2001). Island foxes forage opportunistically on any food items encountered within their home range. Selection of food items is determined largely by availability, which varies by habitat and island, as well as seasonally and annually. Island foxes prey on native deer mice (*Peromyscus maniculatus*), as well as introduced house mice (*Mus musculus*) and rats (*Rattus rattus*). Small mammals may be especially important prey during the breeding season, because they are large, energy-rich food items that adult foxes can bring back to their growing pups (Garcelon *et al.* 1999). In addition to small mammals, island foxes feed on ground-nesting birds such as horned larks (*Eremophila alpestris*) and western meadowlarks (*Sturnella neglecta*), and a wide variety of insect prey (Moore and Collins 1995). At certain times of the year, foxes feed heavily on orthopterans (e.g., grasshoppers and crickets) (Crooks and VanVuren 1995), especially Jerusalem crickets (*Stenopelmatus fuscus*). Less common in the diet are amphibians, reptiles, and carrion of marine mammals (Collins and Laughrin 1979). Island foxes feed on a wide variety of native plants, including the fruits of manzanita (*Arctostaphylos* spp.), summer holly (*Comarostaphylis* spp.), toyon (*Heteromeles* spp.), chollo cactus (*Opuntia* spp.), island cherry (*Prunus ilicifolia*), sumac (*Rhus* spp.), rose (*Rosa* spp.), nightshade (*Solanum* spp.), and huckleberry (*Vaccinium* spp.) (Moore and Collins 1995). Fruiting shrubs do not occur on San Miguel

Island, where island foxes rely more on the fruits of the low growing sea-fig, *Carpobrotus chilensis*.

The island fox is a docile canid, exhibiting little fear of humans in many instances. Although primarily nocturnal, the island fox is more diurnal than the mainland gray fox (Collins and Laughrin 1979; Fausett 1993). This is thought to be a result of the historical absence of large predators and freedom from human harassment on the islands (Laughrin 1977).

Mated island foxes maintain territories that are separate from the territories of other pairs (Crooks and Van Vuren 1996; Roemer *et al.* 2001a). Island fox home range size varies with sex, season, population density, landscape features, and habitat type (Laughrin 1977; Crooks and Van Vuren 1996; Thompson *et al.* 1998; Roemer *et al.* 2001a). Estimates of territory size range from 0.24 square kilometers (km^2) (59 acres (ac)) in mixed habitat (Crooks and Van Vuren 1996) and 0.87 km^2 (214 ac) in grassland habitat (Roemer 1999) on Santa Cruz Island, to 0.77 km^2 (190 ac) in canyons on San Clemente Island (Thompson *et al.* 1998). Island fox territory configuration changes after the death and replacement of paired male foxes, but not after the death and replacement of paired females or juveniles, indicating that adult males are involved in territory formation and maintenance (Roemer *et al.* 2001a).

Although island foxes appear monogamous, copulations with individuals other than the mate, and offspring as a result of those unions, are common (Roemer *et al.* 2001a). Courtship activities occur from late January to early March; genetic evidence suggests that inbreeding avoidance occurs (Roemer *et al.* 2001a). Recent endocrine assays on fecal samples from San Miguel Island indicate that, unlike all other canids studied to date, island foxes are induced rather than spontaneous ovulators (*i.e.,* the presence of males is necessary in order for females to go into estrous) (Bauman *et al.* 2001). Young are born from late April through May after a gestation period of approximately 50 days. Island foxes give birth to their young in simple dens, which are usually not excavated by the foxes themselves (Moore and Collins 1995). Rather, any available sheltered site (*e.g.,* brush pile, rock crevice, and hollow stump) is used (Laughrin 1977). Litter size ranges from one to five (average = 2.17). Both island fox care for the young (Garcelon *et al.* 1999). By 2 months of age, young foxes spend most of the day outside the den and will remain with their parents throughout the summer. Some pups disperse from their birth territories by winter, although others may stay on their natal territories into their second year (Coonan 2001). Island foxes can mate at the end of their first year (Collins and Laughrin 1979), although most breeding involves older animals. Coonan *et al.* (1998) found that only 16 percent of females under the age of 2 bred over a 5-year period, in contrast to 60 percent of older females.

Due to the low reproductive output of island foxes, survival of adults is the most important factor influencing population growth rate (Roemer *et al.* 1994; 2001a). Compared with the gray fox, island fox populations are skewed toward older adults (Laughrin 1980; Garcelon 1988). Adult island foxes live an average of 4 to 6 years (Moore and Collins 1995), although this may be an underestimate (Coonan *et al.* 1998).

In the 1970s, island foxes were found at higher densities than any other canid species, likely due to the lack of competition and predation compared with the island foxes' mainland canid counterparts (Laughrin 1980). At the time of Laughrin's early studies, island fox populations were stable on all islands except Santa Catalina (Laughrin 1973). Pre-decline trapping on Santa Cruz Island in 1993 and 1994 reconfirmed that island foxes existed at high densities (Roemer *et al.* 2001a)

San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes have experienced precipitous declines in the last 6 years (Coonan *et al.* 1998, 2000, and in review; Roemer 1999; Timm *et al.* 2000; Roemer *et al.* in press). Total island fox numbers rangewide have fallen from approximately 6,000 individuals (Roemer *et al.* 1994) to fewer than 1,660 (Tim Coonan, Channel Islands National Park, pers. comm. 2001a). Island fox populations on San Miguel and Santa Cruz islands have declined by an estimated 80 to 90 percent and have a 50 percent chance of extinction over the next 5 to 10 years (Roemer 1999; Roemer *et al.* in press). During the period of decline, island fox population monitoring was not conducted on Santa Rosa Island; however, anecdotal observations and recent trapping efforts showed that a similar decline occurred for this subspecies as well (Roemer 1999; Coonan 2001). Island fox populations on the northern Channel Islands are considered critically endangered and in need of immediate conservation action (Coonan *et al.* 1998; Roemer 1999; Roemer *et al.* 2001b). On Santa Catalina, island foxes are now rare on the larger eastern portion of the island. This decline is thought to be a result of a canine distemper outbreak that swept through the population in 1999 (Timm *et al.* 2000).

San Clemente and San Nicolas islands have island fox populations estimated at more than 500 and 738 individuals, respectively (D. Garcelon, unpublished data; Roemer 2000), although the San Nicolas estimate is likely an overestimate, as it did not factor in habitat suitability (Grace Smith, Department of the Navy, pers. comm. 2001). San Clemente Island has not experienced the sharp declines seen on other islands; however, 13 years of trapping data display a slow decline of island fox since the early 1990s (Garcelon 1999; D. Garcelon, unpublished data). Populations of the San Nicolas Island fox appear to be stable. However, its small population size (Roemer *et al.* 1994), insular nature, lack of resistance to canine distemper and other diseases (Garcelon *et al.* 1992), high densities (Roemer 2000), and low genetic variability (Wayne *et al.* 1991a) increase the vulnerability of this subspecies (Roemer 1999). Protective measures have been put in place on these islands, such as implementing a wildfire management plan and feral cat management program and removing all feral ungulates, to prevent further decline of these two subspecies.

San Miguel Island Fox (Urocyon littoralis littoralis)

The first quantitative surveys for island foxes on San Miguel Island were conducted by Laughrin in the early 1970s (Laughrin 1973). Trap efficiency was high (43 percent) and Laughrin concluded that island fox populations were stable at 2.7 foxes per km^2 (7 foxes per square mile (mi^2)), although this may be an underestimate. In the late 1970s, the island foxes on San Miguel had an average density of 4.6 foxes per sq. km (12 foxes per mi^2) for a total estimated population of 151 to 498 individuals (Collins and Laughrin 1979). Island foxes on San Miguel Island were not surveyed again until the National Park Service (NPS) instituted a long-term population study in 1993 which recorded an average density of 7.7 foxes per sq. km (20 foxes per mi^2) on two trapping grids and estimated the total population at more than 300 foxes (Roemer *et al.* 1994; Coonan *et al.* 1998). A third trapping grid was added the following year, and yielded the highest island fox densities ever recorded to that point (15.8 foxes per km^2 (41 foxes per mi^2) in one study area), resulting in an island-wide estimate of 450 adults (Coonan *et al.* 1998). Annual population monitoring using capture-mark-recapture techniques documented a substantial decline in island fox

populations on San Miguel Island between 1994 and 1999 (Coonan *et al.* 1998; Coonan *et al.* in review). In the last 7 years, estimated population size dropped from as many as 450 adults in 1994 (Coonan *et al.* 1998) to 17 adults currently (T. Coonan, unpublished data). Data from a remote camera survey and from fox sign (scat and tracks) indicate only one fox (a lone female that has evaded capture efforts) exists in the wild on San Miguel Island (Coonan *et al.* in review); the remaining 16 foxes are captive.

In 1999, NPS captured 14 individuals (4 males and 10 females) from the San Miguel Island fox subspecies to protect them from further losses to predation and to initiate a captive propagation program. Captive breeding over the last 2 years has brought the captive San Miguel Island fox population up to 16 adults (5 males and 11 females) and 5 pups (all males). The captive San Miguel Island fox population has high parasite loads, which may affect the health of individual foxes (L. Munson, unpublished data). Until September 2001, all captive San Miguel Island foxes were held in one breeding facility, putting the subspecies in danger of extinction due to a catastrophic event such as wildfire or disease outbreak. The NPS moved half the captive foxes into a second breeding facility on San Miguel Island in October 2001 to minimize this risk (T. Coonan, pers. comm. 2001b).

Santa Rosa Island Fox (Urocyon littoralis santarosae)

The earliest island fox trapping study from Santa Rosa reported a trapping efficiency of 50 percent and a density of 4.2 foxes per km^2 (11 foxes per mi^2) (Laughrin 1973). Little population data has been collected on Santa Rosa Island foxes since Laughrin's studies. However, recent trapping data in 1998 and 2000 as well as anecdotal evidence suggests that Santa Rosa has experienced a decline similar to those on Santa Cruz and San Miguel Islands (Roemer 1999; Coonan 2001). During 132 trap nights in 1998, trap success was 4.8 percent, and only nine individuals were captured (Roemer 1999). Anecdotal sightings by park and ranch staff became much less frequent than in previous years (Coonan 2001).

Believing that fewer than 100 island foxes remained on Santa Rosa Island (T. Coonan pers. comm. 1999), the NPS captured 10 adult foxes (four males and six females) to initiate captive breeding in March 2000. Two seasons of captive breeding have increased the captive population to 22 adults (9 males and 13 females) and 10 pups (3 males and 7 females). The last known fox in the wild on Santa Rosa Island was brought into captivity in May 2001 (T. Coonan, pers. comm. 2001a). As with San Miguel Island, approximately half the captive foxes were moved to a second facility in October 2001 (T. Coonan, pers. comm. 2001b).

Santa Cruz Island Fox (Urocyon littoralis santacruzae)

Santa Cruz Island is the largest of the Channel Islands and has supported the highest known densities of island fox in the past (Laughrin 1973). Laughrin (1971) estimated the island fox population of Santa Cruz Island to be approximately 3,000 individuals. Average density between 1973 and 1977 was 7.9 foxes per km^2 (20.4 foxes per mi^2) (Laughrin 1980). Following Laughrin's studies, island fox populations on Santa Cruz Island were not surveyed again until 1993, when island foxes were found to be at an average density of 8.2 foxes per km^2 (21.2 foxes per mi^2) (Roemer *et al.* 1994). Since that time, the population has decreased from an estimated 1,312 in 1993 to an estimated size of 133 in 1999 (Roemer 1999; Roemer *et al.* 1994; Roemer *et al.* in press). In 1998, trapping efficiency was low (2.9 percent), and island fox density ranged from 0.0 to 2.4 foxes per km^2 (0.0 to 6.2 foxes per mi^2), the lowest ever reported from Santa Cruz Island (Roemer 1999).

Population monitoring efforts in 2001 have yielded captures of 75 individual foxes. Of these, 27 have been outfitted with radio collars. The highest numbers of foxes were captured in the areas of relatively high cover. Five radio-collared fox carcasses have been retrieved, and all deaths have been attributable to predation by golden eagles (David Garcelon, Institute for Wildlife Studies, pers. comm. 2001). The Island Fox Conservation Working Group, a team of experts convened by the NPS to recommend appropriate recovery actions for the island fox, found that ''the existence of one pair of golden eagles on the island as of October 1, 2001, will warrant bringing foxes into captivity as the necessary conservative step in preserving the Santa Cruz Island fox population.'' Intensive trapping efforts to capture and relocate the remaining golden eagles in the spring and summer of 2001 have resulted in three captures; however, four eagles remain on the island (Brian Latta, Santa Cruz Predatory Bird Research Group (SCPBRG), pers. comm. 2001b). Thus, captive breeding of foxes will be initiated on Santa Cruz Island in early 2002 (T. Coonan, pers. comm. 2001b).

Santa Cruz Island is currently occupied by a large feral pig population (estimated at approximately 3,000 to 5,000 individuals), which facilitates the colonization of the island by golden eagles. The Nature Conservancy and the NPS are planning an island-wide pig eradication program which will take years to complete.

Santa Catalina Island Fox (Urocyon littoralis catalinae)

Santa Catalina Island has the largest human population, a large population of domestic dogs, and the highest degree of human activity and accessibility of the Channel Islands. Island fox numbers on Santa Catalina Island have fluctuated widely over the past 30 years. In Laughrin's early 1970s studies, only 2 island foxes were trapped on Santa Catalina Island for a trap efficiency of 6 percent and an average density of 0.1 fox per km^2 (0.3 foxes per mi^2) (Laughrin 1973). This density was 37 percent lower than any other island during this study. The reason for past low island fox numbers on Santa Catalina Island is unknown; the available food and habitats are comparable to that on the other islands. Island fox numbers on Santa Catalina Island increased slightly between 1975 and 1977 with average densities of 0.29 foxes per km^2 (0.77 foxes per mi^2) (Propst 1975) and 0.30 foxes per km^2 (0.8 foxes per mi^2) (Laughrin 1980). Between 1988 and 1991, average density increased, ranging from 2.6 to 12.8 foxes per km^2 (6.7 to 33.1 foxes per mi^2) (Garcelon *et al.* 1991). The Santa Catalina Island fox population increased to an estimated 1,342 foxes by 1994 (Roemer *et al.* 1994).

The Santa Catalina Island fox population has experienced a recent dramatic decline attributed to canine distemper, presumably introduced by domestic dogs, in the eastern portion of the island (Timm *et al.* 2000). Santa Catalina Island is separated into a large eastern side (40,000 acres) and a small western side (8,000 acres) by a narrow isthmus, which has apparently served as a barrier to the canine distemper virus. Trap success on the eastern side dropped from 26 percent in 1998 to 0.96 percent in 1999 and 2000, while remaining stable at approximately 36 percent on the western portion. Two live foxes and one deceased fox recovered from the eastern portion of the island tested positive for canine distemper virus, constituting the first positive record of canine distemper in island foxes (Timm *et al.* 2000). Island fox trapping efforts during 2000 and 2001 captured 137 island foxes on the western end and 37 on the eastern

portion of Santa Catalina Island (D. Garcelon, unpublished data).

A captive propagation program for the Santa Catalina Island fox is currently underway. The Institute for Wildlife Studies captured 16 adults (10 females and 6 males) between February and mid-March 2001 as the founder population for the captive breeding program. Of these, three were pregnant females, which gave birth to a total of 18 pups. Twelve of these pups died within 7 days of birth, likely due to stress to the females from capture during late pregnancy. The six remaining pups will be released onto the east end of the island in the fall of 2001 (Steve Timm, Institute for Wildlife Studies, pers. comm. 2001).

In addition to the captive breeding program, the Santa Catalina Conservancy and the Institute for Wildlife Studies initiated a translocation program in 2001 to repopulate island foxes on the east side of the island. Of the 10 island foxes relocated from the west end to the east end, one has died as a result of trauma, potentially from a vehicle strike (S. Timm, pers. comm. 2001). The remaining nine foxes appear to be alive and healthy.

Previous Federal Action

We published an updated candidate Notice of Review for animals on December 30, 1982 (47 FR 58454). This notice included all six subspecies of island fox in a list of category 2 candidate species. We maintained all six subspecies of island fox as category 2 candidates in subsequent notices: September 18, 1985 (50 FR 37958), January 6, 1989 (54 FR 554), November 21, 1991 (56 FR 58804) and November 15, 1994 (59 FR 58982). As announced in a notice published in the February 28, 1996, **Federal Register** (61 FR 7596), we discontinued the designation of category 2 candidates. Thus, all six subspecies of island fox were not included in this and subsequent notices of review. In our most recent Notice of Review, published on October 30, 2001 (65 FR 54808), we included the San Miguel, Santa Rosa, Santa Cruz and Santa Catalina island foxes as candidate species. Candidate species are those species for which listing is warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act.

On June 1, 2000, we received a petition from the Center for Biological Diversity (Center) in Tucson, Arizona, and the Institute for Wildlife Studies in Arcata, California, requesting that we add four subspecies of island fox, the San Miguel Island fox, Santa Rosa Island fox, Santa Cruz Island fox, and Santa Catalina Island fox to the list of endangered species pursuant to the Act. Due to a lack of funding, we did not issue a 90-day finding for the petition. In response to our lack of action on the petition, the Center sent us a 60-day notice of intent to sue on December 4, 2000. This proposed rule satisfies a measure in the settlement agreement with the Center (*Center for Biological Diversity, et al.* v. *Norton,* Civ. No. 01–2063 (JR) (D.D.C.), entered by the Court on October 2, 2001.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and its implementing regulations (50 CFR part 424) issued to implement the listing provisions of the Act establish procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to the four island fox subspecies are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Habitat on all islands occupied by island foxes has been heavily affected by a history of livestock grazing, cultivation, and other disturbance. A century and a half of overgrazing by non-native herbivores, including sheep (*Ovis aries*), goats (*Capra hircus*), rabbits (*Oryctolagus cuniculus*), deer (*Odocoileus hemionus*), elk (*Cervus elaphus*), cattle (*Bos taurus*), pigs (*Sus scrofa*), and horses (*Equus caballus*) resulted in substantial impacts to the soils, topography, and vegetation of the islands (Coblentz 1980; Johnson 1980; O'Malley 1994; Peart *et al.* 1994). Damage to native island plants and their habitats on the northern Channel Islands by introduced stock and game animals is evidenced by our 1997 listing of 13 endemic island plants as endangered or threatened (62 FR 40954). One result of overgrazing has been the replacement of much of the native coastal sage scrub, chaparral, and oak woodland habitats with other vegetation, especially non-native annual grasses such as *Avena* and *Bromus* spp. (Brumbaugh 1980; Klinger *et al.* 1994). Annual grasslands are less preferred as habitat by island foxes (Laughrin 1977; Kovach and Dow 1982). The California Department of Fish and Game (CDFG), in recommending the retention of the island foxes classification as threatened under State law, cited the continued habitat degradation by herbivorous mammals on Santa Rosa, Santa Cruz, Santa Catalina, and San Clemente islands (CDFG 1987). Since that time, alien species removal programs have eradicated or reduced the introduced herbivore populations on many islands, but pigs remain on Santa Cruz Island; deer, elk, and horses remain on Santa Rosa Island; and pigs and goats remain on Santa Catalina Island. Even though many of the introduced herbivores have been removed, their earlier presence facilitated the invasion of and spread of non-native annual grasses on the islands. This invasion continues to be a problem as native island habitats are replaced by annual grasslands, which constitute less preferred habitats for foxes. On Santa Rosa Island, the continued presence of deer likely results in less available food for foxes, as deer browse the flowering and fruiting branches of native shrubs such as manzanita and toyon, which can be an important component of island fox diets during some seasons.

Even after the removal of non-native grazers on some islands, habitat recovery is slow (Hochberg *et al.* 1979) and threatened by the spread of non-native plants that became established during the ranching era. These exotic species continue to invade and modify island fox habitat resulting in lower diversity of vegetation, less diverse habitat structure, and reduced food availability. The replacement of native shrub communities by non-native annual grasslands has reduced protective cover for island foxes, making them more vulnerable to predation (Roemer 1999; Coonan *et al.* in review). Annual grasslands also offer fewer food resources to foxes, and the seeds of annual grasses can become lodged in the eyes of island foxes, causing damage or temporary blindness (Laughrin 1977).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Although island foxes were used in the past for pelts and ceremonial uses by Native Americans (Collins 1991b), island foxes are not currently known to be exploited for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

Predation. Recent island fox declines on San Miguel, Santa Cruz, and Santa Rosa islands have been attributed to predation by golden eagles (Roemer 1999; Coonan *et al.* in review; Roemer *et al.* in press). Roemer (1999) linked 19 of 21 documented island fox mortalities on Santa Cruz Island between April 1994 and July 1997 to golden eagles. On

San Miguel Island, 5 of 7 mortalities of radio-collared foxes were attributed to golden eagle predation during 1998 to 1999 (Coonan *et al.* in review). No data exist from Santa Rosa Island, but due to its location between Santa Cruz and San Miguel islands, island foxes on Santa Rosa Island likely experience similar predation pressures from golden eagles. As island foxes did not evolve under the presence of a large avian predator, they are likely not vigilant towards avian predators, and thus provide an easy target for golden eagles (Roemer *et al.* in press). Golden eagle predation likely continues to be the leading cause of mortality of island foxes on Santa Cruz Island. The deaths of 5 radio-collared foxes during radio-tracking efforts in 2001 have been attributed to golden eagle predation, based on the state of the carcasses and the presence of golden eagle feathers or avian feces at the carcass site (D. Garcelon, pers. comm. 2001).

The current level of golden eagle activity on the northern Channel Islands is historically unprecedented (Paul Collins, Santa Barbara Museum of Natural History, unpublished data). Golden eagles were known to occasionally visit the islands but never to establish residence (Diamond and Jones 1980; Jones and Collins, in prep.). The first known active golden eagle nest from the Channel Islands was located on Santa Cruz Island in 1999 (Gary Roemer, New Mexico State University, pers. comm. 1999; SCPBRG 2001), but golden eagles were likely established on the island as early as 1994 (Roemer *et al.* in press). Island fox remains along with the remains of feral piglets (*Sus scrofa*), ravens (*Corvus corax*), Brandt's cormorants (*Phalacrocorax pencillatus*), and western gulls (*Larus occidentalis*) were found in the nest. In September 1999, surveys by SCPBRG identified 12 resident golden eagles, including possibly five breeding pairs on Santa Cruz Island. Santa Cruz Island is now the main nesting and roosting location for golden eagles on the northern Channel Islands, although one pair of golden eagles may have nested on Santa Rosa Island (B. Latta, pers. comm. 1999). Golden eagles breeding on Santa Cruz Island are thought to ''commute'' to Santa Rosa and San Miguel islands to feed, where eagles have fewer alternative prey species to island foxes (*i.e.,* no feral pigs as there are on Santa Cruz Island) and foxes have less cover from vegetation to hide them from avian predators (Roemer 1999).

Before golden eagles started utilizing the northern Channel Islands in the 1990s, the only known predator of island foxes was the red-tailed hawk (*Buteo jamaicensis*), which preyed only occasionally on young island foxes (Laughrin 1973; Moore and Collins 1995). The docile and inquisitive nature of the island fox (Laughrin 1977) suggests an evolutionary history lacking predation (Carlquist 1974).

The recent colonization of the northern Channel Islands by golden eagles is likely a combination of two factors: (1) Introduction of exotic mammals on the northern Channel Islands resulting in a historically unprecedented prey base, and (2) the extirpation of bald eagles (*Haliaeetus leucocephalus*) from the islands as a result of dichlorodiphenyltrichloroethane (DDT) poisoning. Historically, the small population of vertebrate island fauna would have provided little prey for golden eagles, which rely on a diet of small terrestrial vertebrates. Before the ranching era on the Channel Islands, transient golden eagles landing on the islands would have found little prey to encourage them to establish permanent residence. Furthermore, nesting bald eagles would have discouraged foraging golden eagles from establishing residence by aggressively defending their already established territories. Bald eagles are represented in the prehistoric fossil record of the northern Channel Islands (Guthrie 1993) and bred there until 1960 when nest failures, as a result of DDT contamination, extirpated them from the northern Channel Islands (Kiff 1980).

Roemer *et al.* (in press) modeled time-energy budgets and predation rates of golden eagles on Santa Cruz Island to determine if the precipitous decline in island foxes could be attributed to predation alone. They concluded that the island fox declines on the northern Channel Islands are a consequence of hyper-predation, defined as when a prey species that can sustain high predation rates subsidizes the extinction of another prey species by acting as an alternate food resource for a shared predator (Courchamp *et al.* 1999). In this case, the large feral pig population enabled the golden eagle to colonize Santa Cruz Island; a resident golden eagle population could not have been supported by the native terrestrial vertebrate fauna (Roemer *et al.* in press). Their model indicates that as few as six golden eagles could have driven the island fox populations to the current low levels. Between 1999 and the present, 19 golden eagles have been translocated from Santa Cruz Island (SCPBRG 2001).

To protect island foxes on the northern Channel Islands from further declines, the National Park Service, the Service, and The Nature Conservancy funded a golden eagle removal program beginning in August of 1999. Between the fall of 1999 and 2000, 13 golden eagles were captured from Santa Cruz Island and relocated to northern California. When trapping efforts ceased in the fall of 2000, an estimated seven golden eagles remained on the northern Channel Islands (Brian Walton, SCPBRG, pers. comm. 2000). Golden eagle trapping was resumed in 2001, with six eagles removed from Santa Cruz Island. Additional golden eagles seem to be coming from the mainland; currently, five eagles (two adult females, one adult male and two subadults) remain on Santa Cruz Island. Due to trap wariness, the abundance of feral pig prey, and the harsh topography of Santa Cruz Island, the remaining golden eagles have proven difficult to trap (B. Latta, pers. comm. 2001a). Thus, despite these efforts to remove golden eagles from the islands, golden eagle predation continues to be the main cause of mortality of island foxes on Santa Cruz Island, and would likely constitute a serious predation threat to any foxes subsequently released from captive breeding programs on Santa Rosa and San Miguel islands.

We are currently investigating the feasibility of reintroducing bald eagles to the northern Channel Islands (Valoppi *et al.* 2000). As part of this feasibility study, releases of juvenile bald eagles to Santa Rosa or Santa Cruz Island could begin as early as 2002 (Dan Welsh, U.S. Fish and Wildlife Service, pers. comm. 2001). The feasibility study is being conducted as a pilot project to assess the potential breeding success of bald eagles on the northern Channel Islands, and will include several aspects of monitoring bald eagle movement and exposure to 2, 2-Bis (p-chlorophenyl)-1, 1-dechloroethylene (DDE), the metabolized form of DDT. The presence of territorial golden eagles on the islands may hinder bald eagle reintroduction, because territorial golden eagles may chase away non-nesting bald eagles (B. Latta, pers. comm. 2001a). Currently, the NPS is in the process of capturing golden eagles on the northern Channel Islands as part of an overall island fox recovery strategy. The presence of territorial bald eagles on the northern Channel Islands may assist in discouraging transient golden eagles from establishing breeding territories on the islands. However, the success of bald eagle introduction efforts is uncertain, and would take years to discern, due to the long time it takes for bald eagles to reach sexual maturity (4 years or more). Therefore, if

reintroduction efforts are successful, bald eagles will not nest on this island until 2006. To ensure that no golden eagles return to the northern Channel Islands, a large resident bald eagle population would be necessary, because Santa Cruz Island is large enough for many eagle breeding territories.

Disease. On Santa Catalina Island, the large sudden decline in island foxes has been attributed to canine distemper, most likely brought to the island by a domestic dog (Timm *et al.* 2000). The steep and sudden pattern of decline on Santa Catalina Island is more indicative of a disease outbreak rather than the slower decline due to predation seen on the northern Channel Islands (Timm *et al.* 2000). In addition to positive testing for canine distemper in foxes caught on the east end of Santa Catalina Island, the evidence suggesting a disease-related decline versus other causes are: (1) The population decline on Santa Catalina Island is of a similar magnitude (90 percent) as on the northern Channel Islands, but has occurred within 1 year rather than the steady 6-year decline seen on San Miguel, Santa Cruz, and Santa Rosa Islands; (2) the declines on the northern islands are island-wide, while the geographically restricted western population on Santa Catalina Island has remained relatively healthy; and (3) sick foxes have been seen on Santa Catalina Island but not on the northern islands (G. Roemer, pers. comm. 2000).

Two healthy adult foxes caught on the east end of Santa Catalina Island in 1999 tested positive for canine distemper, constituting the first positive records of canine distemper in island fox. A necropsy of one island fox identified the cause of death as canine distemper (Timm *et al.* 2000). No island foxes tested positive for canine distemper in a previous comprehensive serologic survey of all islands (Garcelon *et al.* 1992), nor did any foxes from San Clemente, Santa Cruz, or San Miguel test positive for canine distemper virus during the period (1994 to 1997) of the fox decline on the northern islands (Roemer *et al.* in press). The absence of antibodies to canine distemper virus in any island foxes during these studies implies that either the virus had never been introduced to the islands, or the species is highly susceptible to the virus and none survive infection. As the closely related mainland gray fox is highly susceptible to canine distemper virus, island foxes likely have high susceptibility as well (Garcelon *et al.* 1992). This hypothesis is supported by the deaths of two island foxes in zoos from the inappropriate administration of modified live canine distemper vaccine (Linda Munson, University of California at Davis, pers. comm. 2001). Although the outbreak of canine distemper that precipitated the sudden decline of island foxes on Santa Catalina Island has apparently run its course, the Santa Catalina Island subspecies remains susceptible to another outbreak of the disease due to the continued exposure to domestic dogs that may transmit the virus.

Administration of an experimental canine distemper vaccine developed for ferrets (another species highly susceptible to canine distemper) to some island foxes captured on Santa Catalina Island has had promising preliminary results (S. Timm, pers. comm. 2001). With further testing, the vaccine may prove useful for protecting island foxes on all islands from future canine distemper outbreaks.

All island fox populations have been surveyed for other canine diseases and parasites. Although island foxes are known to carry antibodies for a variety of canine diseases, none of these could explain the type or geographic distribution of the observed decline on the northern Channel Islands (Garcelon *et al.* 1992; Coonan *et al.* 2000; Roemer 1999; Roemer *et al.* in press). Although pathology work has not identified a specific cause of population decline (with the exception of canine distemper virus on Santa Catalina Island), some underlying diseases or parasites may also affect population viability or individual health (L. Munson, pers. comm. 2001). The most common antibodies found in island foxes are canine adenovirus and canine parvovirus (Garcelon *et al.* 1992). Canine herpesvirus, coronavirus, leptospirosis, and toxoplasmosis have been recorded at low levels (Garcelon *et al.* 1992, Coonan *et al.* 2000, Roemer *et al.* in press). The relative occurrence of canine adenovirus was similar before and after the population crashes on these islands, while antibodies for parvovirus were detected from a small number of samples from 1994, but not detected in 1995 or 1997 samples (Coonan *et al.* 2000). Canine adenovirus may be typically present in the island fox populations (Garcelon *et al.* 1992), with little effect on individual health. Canine parvovirus has been found in other wild canids and can result in mortality of pups, prior to emergence from the den (Garcelon *et al.* 1992).

Canine heartworm (*Dirofilaria immitis*) has been documented in four island fox subspecies (San Miguel, Santa Cruz, Santa Rosa, and San Nicolas island foxes; Roemer *et al.* 2000). Despite the high seroprevalence or occurence of heartworm in these populations (between 58 and 100 percent in 1997–98), heartworm is not thought to be responsible for the decline of island foxes for the following reasons: (1) Seroprevalence on San Nicolas Island, where the population is stable, is higher than on Santa Cruz Island, where the population is decreasing (Roemer *et al.* in press), (2) heartworm was present in all four subspecies in or before 1988, pre-dating the population declines, (3) seroprevalence in the San Miguel population was high in 1994, when densities on that island reached the highest levels ever recorded for island foxes, and (4) necropsy results have found few adults worms in the hearts of island foxes and no evidence of heartworm disease (Roemer 1999). However, heartworm may have contributed to mortality in older foxes (Roemer *et al.* in press), exacerbating the conservation crisis for the island fox.

Necropsies performed at the University of California at Davis have detected an unusually high degree of thyroid atrophy (characterized by a complete absence of colloid in the thyroid gland) in island foxes from San Clemente, Santa Catalina, San Nicolas, and San Miguel islands (L. Munson, pers. comm. 2001). The cause of thyroid atrophy in island foxes has yet to be investigated; thyroid atrophy in other species has been linked to high levels of polychlorinated biphenyl (PCBs). It is unclear how thyroid atrophy is affecting fox populations (L. Munson, pers. comm. 2001). Pathology work on 89 foxes has also detected an increased prevalence of emaciation (20 percent pre-1994; 47 percent post-1994); it is unknown why increased emaciation has occurred.

Island foxes held in captivity are likely to be exposed to increased parasite loads due to artificial densities and unnaturally low mobility. On San Miguel Island, captive island foxes have been found to have high parasite loads of *Angiocaulus* spp., *Spirocerca* spp., and *Uncinaria* spp. (L. Munson, unpublished data). These parasites, thought to have had minor effects on the population in the past (see Coonan *et al.* in review), may have significant effects on individual fox health due to the facilitation of their spread and density by the captive breeding situation. For example, fox handlers have noticed high incidence of rectal bleeding in the captive San Miguel population, likely due to *Uncinaria* (a type of hookworm). Hookworms feed on the inner lining of the small intestine and cause loss of blood or hemorrhaging to the host, sometimes to the point of severe anemia and death. The NPS is working to address this threat by developing a

treatment process for hookworm in coordination with the veterinary team of the Island Fox Conservation Working Group. Captive breeding programs to facilitate recovery are planned to continue for these four island fox subspecies. Therefore, exposure to increased parasitic loads will continue to be a threat.

D. The Inadequacy of Existing Regulatory Mechanisms

The primary causes of the decline of the island fox are the degradation of habitat by introduced herbivores, unprecedented predation by golden eagles, and the rapid transmission of canine distemper through the Santa Catalina subspecies. Federal, State and local laws have not been sufficient to prevent past and ongoing losses of island foxes.

In 1971, the State of California listed the island fox as State-rare (a designation later changed to threatened), which means that it may not be taken without a special (*i.e.,* scientific collecting) permit (CRC, Title 14, Section 41) or an incidental take permit issued pursuant to section 2081 of the California Endangered Species Act. However, this protection applies generally only to actual possession or intentional killing of individual animals, or actual death of individual animals incidental to otherwise lawful activity, and may afford little or no protection to habitat. State law does not require Federal agencies to avoid or compensate for impacts to the island fox and its habitat. There are currently no State regulatory mechanisms designed to protect island foxes on federally managed lands, including San Miguel, Santa Rosa, and Santa Cruz islands.

Federal law governs the management of NPS and Navy lands, including the National Environmental Policy Act (NEPA), the Endangered Species Act, the National Park Service Organic Act, and the Marine Mammal Protection Act. Many federally listed plant and animals species, including 14 listed plants, the brown pelican (*Pelecanus occidentalis*), the southern sea otter (*Enhydra lutris nereis*), the island night lizard (*Xantusia riversiana*), and the western snowy plover (*Charadrius alexandrinus nivosus*), occur on the Channel Islands. NPS management is further dictated by Department of the Interior policies and NPS policies and guidelines, including NPS guidelines for natural resources management (NPS 1991), and the Channel Islands National Park Management Plan (NPS 1985). Both the NPS and the Navy have adequate authority to manage the land and activities under their administration to benefit the welfare of the island fox. The NPS developed a draft recovery plan for island foxes on the northern Channel Islands to guide their recovery options. Steps are being taken to eliminate feral pigs on Santa Cruz Island and decrease predation pressure on island foxes by relocating golden eagles from the northern Channel Islands. However, in some cases because of conflicting management concerns, other priorities, and lack of funding, conservation efforts are not proceeding as quickly as necessary. In addition to removing golden eagles, their feral pig prey base must be removed to prevent golden eagles from recolonizing the islands.

San Miguel Island is under the jurisdiction of the Navy, but the NPS assists in managing the natural, historic, and scientific values of San Miguel Island through a Memorandum of Agreement (MOA) originally signed in 1963, an amendment signed in 1976, and a supplemental Interagency Agreement (IA) signed in 1985. The MOA states that the ''paramount use of the islands and their environs shall be for the purpose of a missile test range, and all activities conducted by or in behalf of the Department of the Interior on such islands, shall recognize the priority of such use'' (Navy 1963). In addition to San Miguel, Santa Cruz and Santa Rosa lie wholly within the Navy's Pacific Missile Test Center (PMTC) Sea Test Range. The 1985 IA provides for PMTC to have access and use of portions of those islands, for expeditious processing of any necessary permits by NPS, and for mitigation of damage of park resources from any such activity (Navy 1985). Should the Navy no longer require use of the islands, NPS would seek authorization for the islands to be preserved and protected as units within the NPS system (Navy 1976). To date, conflicts concerning protection of sensitive resources on San Miguel Island have not occurred. However, if the Navy were to resume use of San Miguel Island, there are no mechanisms in place to protect the island fox.

On islands managed by Federal agencies, prohibitions against bringing domestic pets to the islands exist. These prohibitions are difficult to enforce and violations are known to occur. Boaters have been observed bringing pets onshore to all three northern Channel Islands with island fox populations. On Santa Catalina Island, health certificates or quarantines are not necessary to bring domestic pets to the islands, exposing island foxes to increased risk of disease. On Santa Rosa Island, a ranching enterprise operating under a special use permit from the NPS is allowed to have ranch dogs on the island provided that the dogs have proof of vaccination in compliance with Santa Barbara County regulations, which requires only rabies shots.

Federal protection of golden eagles by the Bald and Golden Eagle Protection Act of 1962, as amended, has increased the golden eagle population on mainland California (B. Walton, pers. comm. 2000). As a result, golden eagles have expanded their range in order to establish breeding territories. The protections afforded golden eagles limit management alternatives to protect island foxes. Lethal removal of golden eagles would require a depredation permit from the Service. Such a permit would allow golden eagles to be taken by firearms, traps, or other suitable means except by poison or from aircraft (50 CFR 22.23). The regulatory restrictions on taking golden eagles limit the effectiveness of golden eagle removal, as the very steep topography on Santa Cruz Island makes lethal removal of golden eagles from the ground unfeasible.

California State law (Food and Agricultural Code 31752.5) prohibits lethal control of feral cats unless cats are held for a minimum of six days. This law prevents the Catalina Island Conservancy from taking steps to eradicate feral cats on the island, as it does not have adequate facilities to hold cats (see Factor E).

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Several other factors, including competition from introduced species and stochastic environmental factors, may have negative effects on island foxes and their habitats.

Competition with feral cats. CDFG, in recommending the retention of the threatened classification of the island fox under State law, cited competition with feral cats on Santa Catalina, San Nicolas, and San Clemente islands (CDFG 1987). The effects of cats on island foxes are unknown and may differ among islands. Feral cats outweigh island fox by an average of 2 to 1 and may negatively affect island foxes by direct aggression, predation on young, disease transmission, and competition for food resources (Laughrin 1978). Island fox population decreases on San Nicolas Island were accompanied by a concomitant increase in feral cat populations (Laughrin 1978). The presence of feral cats increases the risk of a transfer of infectious disease to island foxes (Roelke-Parker *et al.* 1996). Feral cats have been found to displace island foxes from habitats on San Nicolas Island (Kovach and Dow 1985).

As has been seen on San Nicolas and San Clemente islands, feral cats are extremely difficult to eradicate, requiring ongoing yearly programs to keep numbers controlled (Phillips and Schmidt 1997). No feral cat control exists on Santa Catalina Island due to local ordinances and resistance to lethal control from the residents of the island.

Lack of genetic variability. As a population becomes genetically homogenous, its susceptibility to disease, parasites, and extinction increases (O'Brien and Evermann 1988) and its ability to evolve and adapt to environmental change is diminished (Templeton 1994). The four island fox subspecies that have suffered large population declines could be at risk of having reduced genetic variability. Such population or demographic ''bottlenecks'' may result in reductions in genetic variation, depending on the size of the bottleneck and the growth rate of the population afterward (Meffe and Carroll 1997). In fact, at least one previously variable microsatellite locus is now fixed (i.e., one DNA marker no longer exhibits any genetic variability) in the San Miguel Island captive population following the decline (Gray *et al.* 2001). The San Nicolas Island fox has an unusually low degree of genetic variability (Gilbert *et al.* 1990; Wayne *et al.* 1991a; Goldstein *et al.* 1999), which may have been due to a major historical bottleneck (Gilbert *et al.* 1990). A lack of genetic variability can correspond to a reduced resistance to disease or physical abnormalities due to inbreeding. Due to the low numbers of individuals in the captive breeding programs and the lack of wild populations on San Miguel and Santa Rosa Islands, the lack of genetic variability threatens the island foxes from these islands.

Stochastic environmental and population factors. Island endemic species have high extinction risk due to isolation and small population sizes (MacArthur and Wilson 1967). Because the island fox is restricted to small islands, it is more subject to the effects of environmental perturbations and decline of birth rates due to low densities (*i.e.,* Allee effects; Allee 1931) than species occurring on the mainland. Reduced population size exposes the island fox to both catastrophic environmental events (*e.g.,* drought, wildfire, or disease) and demographic factors (*e.g.,* skewed sex ratios) that could cause or hasten extinction. Wildfires could affect island foxes by reducing food availability, altering vegetation or resulting in the death of individual foxes (especially pups during the denning season). On San Miguel and Santa Rosa islands, which no longer have wild populations, the concentration of all island foxes into small geographic areas increases the vulnerability of these subspecies to disease outbreaks. The extremely small island fox population sizes on San Miguel, Santa Rosa and Santa Cruz islands puts those populations at risk of extinction due to demographic factors as well. For example, 4 of the 14 original island foxes brought into the captive propagation program on San Miguel Island were male. Skewed sex ratios may hinder recovery efforts for the species, because island foxes typically form long-standing pair bonds and unpaired females have never been recorded to raise a litter.

Road mortalities. The fearless nature of island foxes, coupled with relatively high vehicle traffic on the southern Channel Islands, results in a number of vehicle collisions each year on islands with human populations (Wilson 1976; Garcelon 1999; G. Smith, unpublished data). For example, on San Nicolas Island where vehicle collisions are the largest documented mortality source, an average of 13 fox carcasses attributed to vehicle collisions are recovered each year (G. Smith, unpublished data). On San Clemente Island, vehicle strikes claimed a minimum of 26 foxes between the years 1991 and 1995 (Garcelon 1999), while in earlier times, Wilson (1976) estimated that approximately 25 island foxes were killed each year. Although no records have been kept, vehicle collisions on Santa Catalina Island likely cause a number of deaths comparable to San Nicolas and San Clemente Islands. Vehicle collisions on the northern Channel Islands are uncommon due to low traffic volume and the rough unpaved nature of most roads.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to propose this rule. The precipitous declines of all four island fox subspecies addressed in this rule are due to the indirect and direct effects of the introduction of non-native mammals on all islands. Other threats include disease and competition from feral cats, road mortality on Santa Catalina Island, and natural events which could diminish or destroy the small extant populations. Existing regulatory mechanisms are inadequate to protect these taxa. Based on our evaluation, the preferred action is to list the San Miguel Island fox, Santa Cruz Island fox, Santa Rosa Island fox, and Santa Catalina Island fox as endangered.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and, (ii) specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of section 4 of the Act, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1) state that the designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

In the case of these subspecies, designation of critical habitat would not be expected to increase the threats to the subspecies and may provide some benefits. The primary regulatory effect of critical habitat is the section 7 requirement that agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. Designating critical habitat may also produce some educational or informational benefits. Therefore, designation of critical habitat is prudent for the San Miguel, Santa Rosa, Santa Cruz, and San Clemente Island foxes.

However, our budget for listing activities is currently insufficient to allow us to immediately complete all the listing actions required by the Act. Listing these four island fox subspecies without designation of critical habitat will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, while allowing us to put in place protections needed for the conservation of these island fox subspecies without further delay. This is consistent with section 4(b)(6)(C)(i) of the Act, which states that final listing decisions may be issued without critical habitat designations when it is essential that such determinations be promptly published. We will prepare a critical habitat designation in the future at such time when our available resources allow it.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages public awareness and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Funding may be available through section 6 of the Act for the State to conduct recovery activities. The protection required of Federal agencies and the prohibitions against certain activities involving listed animals are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service, under section 7(a)(2) of the Act. San Miguel and Santa Rosa islands are entirely federally owned and managed. Although 75 percent of Santa Cruz Island is owned by The Nature Conservancy, the entire island lies within the Channel Islands National Park and Channel Islands National Marine Sanctuary, and The Nature Conservancy and the NPS coordinate many of the resource management activities occurring on the island. Santa Catalina Island is the only island fox locality that does not have substantial Federal involvement. Federal agency actions that may affect the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes and may require conference and/or consultation with us include, but are not limited to, those within the jurisdiction of the U.S. Army Corps of Engineers, the Navy, the NPS, and the National Oceanic and Atmospheric Administration.

The listing of the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes as endangered would provide for the development and implementation of a recovery plan for these taxa. Such a plan will bring together Federal, State, and local efforts for the conservation of these taxa. The plan will establish a framework for agencies to coordinate activities and to cooperate with each other in conservation efforts. The plan will set recovery priorities and estimate the costs of the tasks necessary to accomplish the priorities. It will also describe site-specific management actions necessary to achieve the conservation of the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes. Additionally, pursuant to section 6 of the Act, we would be able to grant funds to the State for management actions promoting the protection and recovery of the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina island foxes.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.21 for endangered species, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, 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 listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Further, it is illegal for any person to attempt to commit, to solicit another person to commit, or to cause to be committed, any of these acts. Certain exceptions apply to our agents and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in the course of otherwise lawful activities. Permits are also available for zoological exhibitions, educational purposes, or special purposes consistent with the purposes of the Act. Requests for copies of the regulations on listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (503/231–2063, facsimile 503/231–6243).

As published in the **Federal Register** on July 1, 1994 (59 FR 34272), it is our policy to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range.

We believe that, based on the best available information, the following actions are not likely to result in a violation of section 9, provided these activities are carried out in accordance with existing regulations and permit requirements:

(1) Possession, delivery, or movement, including interstate transport and import into or export from the United States, involving no commercial activity, of dead specimens of these taxa that were collected prior to the date of publication in the **Federal Register** of a final regulation adding these taxa to the list of endangered species;

(2) Actions that may affect the San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes that are authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with an incidental take statement issued by us under section 7 of the Act;

(3) Actions that may affect the Santa Cruz or Santa Catalina island foxes that are not authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with

an incidental take permit issued by us under section 10(a)(1)(B) of the Act. To obtain a permit, an applicant must develop a habitat conservation plan and apply for an incidental take permit that minimizes and mitigates impacts to the species to the maximum extent practicable; and

(4) Actions that may affect the San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes that are conducted in accordance with the conditions of a section 10(a)(1)(A) permit for scientific research or to enhance the propagation or survival of the species.

We believe that the following actions could result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized collecting, trapping, capturing, killing, harassing, sale, delivery, or movement, including interstate, and foreign commerce, or harming, or attempting any of these actions, of San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes without a permit (research activities where San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes are trapped or captured will require a permit under section 10(a)(1)(A) of the Endangered Species Act);

(2) The transportation of unvaccinated domestic animals, which transmit diseases or parasites to island foxes causing serious injury or death on the San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina islands;

(3) Destruction or alteration of occupied habitat of the San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes (e.g., excavating, compacting, grading, discing, or removing soil or vegetation);

(4) Destruction or alteration of San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island fox dens, even when seasonally unoccupied when the destruction results in irreparable harm; and

(5) Discharges or dumping of toxic chemicals, or other pollutants into San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island fox habitat, including dens or burrows, that results in death or injury of the species or that results in degradation of their occupied habitat.

Questions regarding whether specific activities would constitute a violation of section 9 should be directed to our Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, trade, or other relevant data concerning any threat (or lack thereof) to San Miguel, Santa Rosa, Santa Cruz, or Santa Catalina island foxes;

(2) The reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the essential habitat features (biotic and abiotic), range, distribution, and population size of these taxa; and

(4) Current or planned activities in the subject area and their possible impacts on these taxa.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods, as listed above in **ADDRESSES.** If you submit comments by e-mail, please submit comments as an ASCII file format and avoid the use of special characters and encryption. Please include ''Attn: [RIN 1018–AI28]'' and your name 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 Ventura Fish and Wildlife Office at phone number 805/644–1766. Please note that this e-mail address will be closed out at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Commenters may request that we withhold their home address, which we will honor to the extent allowable by law. In some circumstances, we may also withhold a commenter's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

You may request a public hearing on this proposal. Your request for a hearing must be made in writing and filed within 45 days of the date of publication of the proposal in the **Federal Register**. Address your requests to the Field Supervisor (see **ADDRESSES** section).

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek expert opinions of at least three appropriate independent specialists regarding this proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analysis. We will send copies of this proposed rule immediately following publication in the **Federal Register** to these peer reviewers. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

Executive Order 12866

Executive Order 12866 requires agencies to write regulations that are easy to understand. We invite your comments on how to make this proposal easier to understand including answers to questions such as the following: (1) Is the discussion in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposal? (2) Does the proposal contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposal (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? What else could we do to make the proposal easier to understand?

National Environmental Policy Act

We have determined that an environmental impact statement and environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any information collection requirements for which Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is required. Any information collection related to the rule pertaining to permits for endangered and threatened species has

OMB approval and is assigned clearance number 1018–0094. This rule does not alter that information collection requirement. For additional information concerning permits and associated requirements for endangered wildlife species, see 50 CFR 17.22.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

References Cited

A complete list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Bridget Fahey, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.11(h) is amended by adding the following, in alphabetical order under MAMMALS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*	*	
Fox, San Miguel Island.	*Urocyon littoralis littoralis*.	U.S.A., CA	U.S.A., CA	E	.....	NA	NA
Fox, Santa Catalina Island.	*Urocyon littoralis catalinae*.	U.S.A., CA	U.S.A., CA	E	.....	NA	NA
Fox, Santa Cruz Island.	*Urocyon littoralis santacruzae*.	U.S.A., CA	U.S.A., CA	E	.....	NA	NA
Fox, Santa Rosa Island.	*Urocyon littoralis santarosae*.	U.S.A., CA	U.S.A., CA	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: November 29, 2001.

Marshall P. Jones, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 01–30188 Filed 12–7–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 20 and 21

RIN 1018–AI07

Migratory Bird Hunting and Permits; Regulations for Managing Harvest of Light Goose Populations; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is extending the comment period on a proposed rule published in the **Federal Register** on October 12, 2001. The rule would implement our preferred alternative identified in a Draft Environmental Impact Statement (DEIS) on light goose management. The rule would authorize new methods of take for light goose hunting. In addition, the rule would revise the regulations for the management of overabundant light goose populations and modifies the conservation order that will increase take of such populations.

DATES: Written comments on the proposed rule must be received on or before January 25, 2002.

ADDRESSES: Comments on the proposed rule should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street NW., Washington, DC 20240. Requests for copies of the DEIS should be mailed to the above address. Copies of the DEIS can be downloaded from the Division of Migratory Bird Management web site at *http://migratorybirds.fws.gov/issues/snowgse/tblcont.html.* Comments on the DEIS should be sent to the above address. Alternatively, comments may be submitted electronically to the following address: *white_goose_eis@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, (703) 358–1714.

SUPPLEMENTARY INFORMATION: On September 28, 2001 (66 FR 49668), and October 5, 2001 (66 FR 51274), notices were published in the **Federal Register** announcing the availability of our DEIS on light goose management. The DEIS evaluates four management alternatives to address habitat destruction and agricultural depredations caused by light geese on various breeding, migration, and wintering areas: (1) No Action or a continuation to manage light goose populations through existing wildlife management policies and practices (Alternative A); (2) modify harvest regulation options and refuge management (Alternative B) (PREFERRED); (3) implement direct agency control of light goose populations on migration and wintering

areas in the U.S. (Alternative C); (4) seek direct light goose population control on breeding grounds in Canada (Alternative D). Our preferred alternative (Alternative B) modifies existing light goose hunting regulations to expand methods of take during normal hunting season frameworks. In addition, we propose to create a conservation order to allow take of light geese outside of normal hunting season frameworks. On October 12, 2001 (66 FR 52077) we published a proposed rule in the **Federal Register** that would implement our preferred alternative. On November 7, 2001 (66 FR 56266) we published a correction in the **Federal Register** that added New Jersey to the list of States eligible to implement special light goose regulations. We inadvertently omitted New Jersey from the list of States contained in the proposed rule.

We have received a request to extend the comment period on the DEIS. The Service invites careful consideration by all parties, and welcomes serious scrutiny from those committed to the long-term conservation of migratory birds. Therefore, to facilitate substantive public review, we are also extending the comment period on the proposed rule from December 11, 2001, to January 25, 2002. Extension of the comment period on the DEIS is made through a separate notice in this issue of the **Federal Register**.

In order to be considered, electronic submission of comments must include your name and postal mailing address; we will not consider anonymous comments. All comments received, including names and addresses, will become part of the public record. The public may inspect comments during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Policy Act regulations [40 CFR 1506.6(f)]. Our practice is to make comments available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

Dated: November 21, 2001.

Joseph E. Doddridge,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–30411 Filed 12–7–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 112701C]

Fisheries of the Northeastern United States; Northeast Monkfish Fishery; Scoping Process

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

ACTION: Notification of intent to prepare a Supplemental Environmental Impact Statement (SEIS) and notice of scoping process; request for comments.

SUMMARY: The New England and Mid-Atlantic Fishery Management Councils (Councils) announce their intent to prepare Amendment 2 to the Monkfish Fishery Management Plan (FMP) and to prepare an SEIS in accordance with the National Environmental Policy Act (NEPA) to analyze the impacts of any proposed management measures on the human environment. The Councils, with New England Council having the lead authority, jointly manage the fishery. The amendment would be developed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Councils also formally announce the initiation of a public process to determine the scope of issues to be addressed in the environmental impact statement (EIS). The purpose of this notice is to alert the interested public of the scoping process and to provide for public participation in compliance with NEPA.

DATES: The Councils will discuss and take scoping comments at public meetings in January and February 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times. Written scoping comments must be received on or before 5 p.m. local time, February 11, 2002.

ADDRESSES: Written comments and requests for copies of the scoping document and other information should be directed to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA, 01950, Telephone (978) 465–0492. Comments may also be submitted via facsimile (fax) to (978) 465–3116. Comments and requests for information should be marked ''Monkfish Amendment 2.'' The Council will not accept unsigned faxes or comments by email.

FOR FURTHER INFORMATION CONTACT: Contact Paul J. Howard, Executive Director, telephone (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Background

The FMP, implemented November 8, 1999 (64 CFR 54732, October 7, 1999), contains management programs for the Northern and Southern Fishery Management Areas (NFMA and SFMA, respectively) based on incremental reductions in fishing mortality rates to stop overfishing and rebuild monkfish stocks by 2009. The FMP calls for elimination of the directed fishery for monkfish in Year 4, starting May 1, 2002, unless a plan review during Year 3 indicates that the Councils should use another management measure. The 31st Northeast Regional stock Assessment Workshop SAW 31) conducted by NMFS in 2000 concluded that the current proxy-based biological reference points on which the plan is based are unreliable, and that current fishing mortality rates could not be reliably estimated. Based on this assessment, the Councils are considering a 1-year delay in the Year 4 default measures.

A new assessment, scheduled for January, 2002 will address many of the issues raised at SAW 31, and incorporate data collected during a cooperative survey with the monkfish industry in the spring of 2001. The Councils intend to consider this new scientific information and take appropriate action to modify the FMP so that the goal of rebuilding the stocks can be achieved by 2009.

In addition, while the Councils were developing the original Monkfish FMP, a new fishery for monkfish emerged in the waters south of the North Carolina/Virginia border. Some vessels from that area began participating in the fishery shortly after publication of a notice of control date for limited entry into the Atlantic monkfish fishery on February 27, 1995 (60 FR 10574). These vessels did not hold any northeast fishery permits and, therefore, did not receive timely notice of the actions related to the monkfish fishery being considered by the Councils. Although the management unit for the FMP was initially defined as ending at the North Carolina/Virginia border, which would have excluded those vessels from the FMP provisions, the boundary was

shifted southward (to the North Carolina/South Carolina border) during the development of the FMP. Meanwhile, the public hearing document mistakenly retained the original management unit definition with the North Carolina/Virginia boundary as its Southern border. As a result of the circumstances described above, a number of vessels failed to qualify for limited access permits. Because of some confusion regarding the correct southern boundary line, the Councils are considering options for addressing this issue in Amendment 2.

Third, in response to a U.S. District Court Order (*AOC* v. *Daley*, September 14, 2000), NMFS and the Councils are re-evaluating the essential fish habitat (EFH) components of the FMP. NMFS has already initiated scoping on this matter (66 FR 46979, September 10, 2001) and the Councils will consider scoping comments submitted in that process when preparing Amendment 2. NMFS and the Councils will jointly develop EFH analysis and management alternatives to minimize adverse effects of fishing activities on EFH for consideration in the FMP.

Scoping Process

The public will have an opportunity to provide oral comments at the January meetings of the Councils and may submit written comments through February 11, 2002 [see **DATES** and **ADDRESSES**]. The New England Council meeting is scheduled for January 15-17, 2002 at the Courtyard by Marriott, Portsmouth, NH and the Mid-Atlantic Council meeting for January 29-31 at the Meadowlands Plaza Hotel, Secaucus, NJ. The Councils will notify the public of the specific times on the agendas where the public scoping comments will be heard when those agendas are finalized.

All persons affected by, or otherwise interested in monkfish fisheries management, are invited and encouraged to participate in this process, and to assist the Councils in developing the scope of issues to be considered and alternatives to be analyzed in the SEIS. The Councils will also use the scoping process to identify and eliminate from consideration issues that are not significant.

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

Dated: December 4, 2001.

Valerie L. Chambers,

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

[FR Doc. 01–30464 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 237
Monday, December 10, 2001

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

Farm Service Agency

Request for Extension of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the Farm Service Agency (FSA) to request an extension of currently approved information collection for a regulation used in support of the FSA Farm Loan Programs (FLP). This renewal does not involve any revisions to the program rules.

DATES: Comments on this notice must be received on or before February 8, 2002 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Michael Cumpton, Senior Loan Officer, USDA, Farm Service Agency, Farm Loan Programs, Loan Servicing Division, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250–0523; Telephone (202) 690–4014; Electronic mail: *mike.cumpton@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: (7 CFR 1965–A) Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases.

OMB Control Number: 0560–0158.

Expiration Date: Jan. 31, 2002.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: This regulation promulgates provisions of sections 331 and 335 of the Consolidated Farm and Rural Development Act (Act) (7 U.S.C. Secs. 1981 and 1985). Section 331 of the Act, in part, authorizes the Secretary of Agriculture to modify, subordinate and release terms of security instruments, leases, contracts, and agreements entered into by FSA. That section also authorizes transfers of security property as the Secretary deems necessary to carry out the purpose of the loan or protect the Government's financial interest. Section 335 of the Act provides servicing authority for real estate security, operation or lease of realty, disposition of property, conveyance of real property interests of the United States, including dispositions for easements and rights of way. The information collection required by this subpart relates to a program benefit recipient or loan borrower requesting action on security which they own which has been mortgaged to the Agency to secure a Government loan. The information to be collected will primarily be financial data not already on file, such as borrower asset values.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .42 hours per response.

Respondents: Individuals or households, businesses or other for profit farming entities.

Estimated Number of Respondents: 15,246.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6,436 hours.

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 will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. These comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Michael Cumpton, Senior Loan Officer, USDA, FSA, Farm Loan Programs, Loan Servicing Division, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250–0523.

Comments will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC, on November 20, 2001.

John W. Williams,

Acting Administrator, Farm Service Agency.

[FR Doc. 01–30392 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–038N]

Codex Alimentarius: Meeting of the Codex Committee on Meat and Poultry Hygiene

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting, request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), is sponsoring a public meeting on December 12, 2001, to provide information and receive public comments on agenda items that will be discussed at the Eighth Session of the Codex Committee on Meat and Poultry Hygiene, which will be held in Wellington, New Zealand, on February 18–22, 2002. The Under Secretary recognizes the importance of providing interested parties with information about the Codex Committee on Meat and Poultry Hygiene of the Codex Alimentarius Commission and to address items on the Agenda for the 8th Session of the Committee.

DATES: The public meeting is scheduled for Wednesday, December 12, 2001, from 9 a.m. to 12 p.m.

ADDRESSES: The public meeting will be held at the Washington Plaza Hotel in the Diplomat Room, 10 Thomas Circle, Washington, DC.

To receive copies of the documents referenced in the notice contact the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web

at the following address: *http://www.codexalimentarius.net/agend.htm.*

If you have comments, please send an original and two copies to the FSIS Docket Room at the address above and reference Docket 01–038N and the document number. All comments submitted will be available for public inspection in the Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and EPA manage and carry out U.S. Codex activities.

The Codex Executive Committee (CEC), at its 47th Session in 2000, asked that the Codex Committee on Meat Hygiene reconvene to redraft the existing codes on meat hygiene so that they reflect contemporary developments. The CEC also asked that the scope of the existing codes include poultry hygiene. These recommendations were confirmed by the 24th Session of the Codex Alimentarius Commission in July 2001, and it was agreed that the name of the Committee would be amended to the Codex Committee on Meat and Poultry Hygiene (CCMPH).

Issues To Be Discussed at the Public Meeting

The provisional agenda items to be discussed during the public meeting are:

—Proposed Draft General Principles of Meat Hygiene

—Proposed Draft Code of Hygienic Practice for Fresh Meat

Public Meeting

At the December 10th public meeting, the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments should state that they relate to activities of the 8th Session of the Codex Committee on Meat and Poultry Hygiene.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could effect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 01–30393 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Hackberry Draw Watershed, Eddy County, NM

AGENCY: Natural Resources Conservation Service

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Rules (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the rehabilitation of two dams (Sites 1 and 2) and a floodwater diversion (FD–1) in the Hackberry Draw Watershed.

FOR FURTHER INFORMATION CONTACT: Rosendo Treviño III; State Conservationist; Natural Resources Conservation Service; 6200 Jefferson, NE; Albuquerque, NM 87109–3734; telephone 505–761–4400.

SUPPLEMENTARY INFORMATION: The environmental assessment (EA) of this federally assisted action indicates that the project will not cause significant local, regional, or national effects on the human environment. As a result of these findings, Rosendo Treviño III, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is flood damage prevention. The action includes the rehabilitation of two floodwater retarding dams and one floodwater diversion. The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency; various Federal, state, and local agencies; and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address. Basic data developed during the EA are on file and may be reviewed by contacting Rosendo Treviño III. No administrative action on implementation of the proposed action will be taken until 30 days after the date of this publication in the **Federal Register**.

Rosendo Treviño III,

State Conservationist.

[FR Doc. 01–30398 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from Georgia Transmission Corporation for assistance from the RUS to finance the

construction of a 230 kV transmission line in Mitchell County, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, fax (202) 720–0820, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: No comments were received by RUS via e-mail or telephone during the 30-day comment period, which closed on November 5, 2001. However, mail service to the U.S. Department of Agriculture has been disrupted during the comment period due to screening of mail for potential anthrax contamination. Any person that sent written comments on the environmental assessment through the U.S. Postal Service to RUS during the comment period should contact RUS at the telephone number listed above within 5 working days of this notice to ensure their comments are considered prior to project construction. Should RUS conclude that any written comments that may have been submitted during the official comment period warrant further review and would cause reconsideration of RUS' decision, the public would be so notified. Otherwise, this FONSI notice will serve as the final public notice of this project.

The project is to be named the Raccoon Creek Transmission Line. Georgia Transmission Corporation proposes to construct the 230 kV electric transmission line south of Albany, Georgia, in Mitchell County. The approximate length of the transmission line is 6 miles. It will traverse between Plant Mitchell located west of Route 19 near the Dougherty/Mitchell County line to the 500/230 kV Raccoon Creek Substation which is currently under development near the intersection of Jackson Darry Road and Stagecoach Road.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. John Lasseter, Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088, telephone (770) 270–7710. Mr. Lasseter's e-mail address is *john.lasseter@gatrans.com.*

Dated: December 4, 2001.

Alfred Rodgers,

Acting Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 01–30453 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from Georgia Transmission Corporation for assistance from the RUS to finance the construction of a 230 kV transmission line and a 230/25 kV substation in Hall County, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, fax (202) 720–0820, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: No comments were received by RUS via e-mail or telephone during the 30-day comment period, which closed on November 23, 2001. However, mail service to the U.S. Department of Agriculture has been disrupted during the comment period due to screening of mail for potential anthrax contamination. Any person that sent written comments on the environmental assessment through the U.S. Postal Service to RUS during the comment period should contact RUS at the telephone number listed above within 5 working days of this notice to ensure their comments are considered prior to project construction. Should RUS conclude that any written comments that may have been submitted during the official comment period warrant further review and would cause reconsideration of RUS' decision, the public would be so notified. Otherwise, this FONSI notice will serve as the final public notice of this project.

The transmission line will tap off of the existing 230 kV Gainesville #2—Winder transmission line at a point approximately ½ mile southeast of the junction of Lee Land Road and Webb Girth Road. The transmission line will traverse approximately 8.25 miles in a southwesterly direction paralleling Georgia Power Company's 500 kV Norcross-Oconee transmission line to the proposed 230/25 kV Spout Spring Substation which is to be located approximately 2000 feet east of the intersection of Williams Road and Spout Springs Road. The transmission line and substation would require virtually no clearing or major earth movement activities. The transmission line support structures will be between 60 and 80 feet tall. The substation will require 2.25 acres.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Ms. Wende Martin, Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088, telephone (770) 270–7591. Ms. Martin's e-mail address is *wende.martin@gatrans.com.*

Dated: December 4, 2001.

Alfred Rodgers,

Acting Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 01–30454 Filed 12–7–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty order and amendment to final determination.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza, Charles Rast, or Donna Kinsella at (202) 482–3019, (202) 482–1324, or (202) 482–0194, respectively; Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations codified at 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this investigation, the products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this investigation is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the harmonized tariff schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, the Department's written description of the merchandise under investigation is dispositive.

Amendment to the Final Determination

On September 26, 2001, the Department determined that honey from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act. *See Notice of Final Determination of Sales at Less Than Fair Value; Honey from the People's Republic of China,* 66 FR 50608 (October 4, 2001). On October 10, 2001, respondents Zhejiang Native Produce and Animal By-Products Import and Export Corporation (Zhejiang), Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import and Export Corporation (Inner Mongolia), and Kunshan Foreign Trade Co., Ltd. (Kunshan), filed timely allegations that the Department made ministerial errors in the final determination. On October 15, 2001, petitioners filed timely comments in rebuttal to respondents' ministerial error allegations.

Section 735(e) of the Act defines a ''ministerial error'' to include ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.'' *See also* section 351.224(f) of the Department's regulations.

Comment 1: Zhejiang, Inner Mongolia, and Kunshan argue that the Department erred in its calculation of total raw honey costs by including the freight expenses associated with raw honey purchased during the period of investigation (POI). They argue that the Department should have included only the freight expenses associated with raw honey consumed in the production of processed honey during the POI.

Petitioners argue that, contrary to respondents' claims, the Department did in fact calculate raw honey expenses based on the freight costs associated with raw honey consumed in the production of processed honey during the POI.

Department's Position: We disagree with Zhejiang, Inner Mongolia, and Kunshan that our method of calculating inland freight for raw honey constitutes a ministerial error. Our computations for each respondent are shown in the final determination analysis memoranda. *See* Memorandum to the File from Fred Baker through Donna Kinsella, dated September 26, 2001 at Appendix V and Memoranda to the File from Angelica Mendoza through Donna Kinsella, dated September 26, 2001 at Appendix V. These memoranda show that we used both raw honey purchase volumes and raw honey consumption volumes in calculating the total raw honey inland freight costs. We used the volumes of raw honey *consumed* (column E) to represent the quantity to which freight costs should be attributed. We used the volumes of raw honey *purchased* (column C) as the basis for allocating a percentage of the total cost of inland freight to each individual supplier of raw honey. The volumes purchased from each supplier during the POI were the only supplier-specific volumes on the record, and were identified in the analysis memorandum for each company as the quantities we intended to use for allocation purposes.

Comment 2: Kunshan argues that the Department used an incorrect surrogate labor rate to calculate direct labor, indirect labor, and packing labor.

Department's Position: We agree. In the final determination, the Department calculated Kunshan's direct labor, indirect labor, and packing labor, using a standard country-wide rate from the Department's website, but from a country other than the PRC. We have corrected this error in this amended final determination.

We are amending the final determination of the antidumping duty investigation of honey from the PRC to reflect the correction of a ministerial error with respect to Kunshan. As a result of this correction the margin has also changed for the four cooperative respondents who were not selected as mandatory respondents but who were given separate rates. Those four respondents are High Hope, Shanghai Eswell, Anhui, and Henan. The revised final weighted-average dumping margins are shown below.

Antidumping Duty Order

On November 19, 2001, the U.S. International Trade Commission (the ITC) notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of LTFV imports of subject merchandise from the PRC. In addition, the ITC made an affirmative determination that critical circumstances exist with respect to subject imports from the PRC for which the Department made affirmative critical circumstances determinations. In rendering its critical circumstances determination, we note that three ITC Commissioners found that critical circumstances exist with regard to such merchandise, and three Commissioners found that critical circumstances do not exist with regard to imports of subject merchandise from the PRC. Section 771(11) of the Act provides that if the Commissioners voting on a determination ''are evenly divided as to whether the determination should be affirmative or negative, the ITC shall be deemed to have made an affirmative determination.'' We consider that the tie-vote provision in section 771(11) applies to critical circumstances determinations.

We note that critical circumstances decisions are referred to as both ''determinations'' and ''findings'' in the statute. Moreover, while the legislative history will sometimes refer to the ITC's critical circumstances decisions as ''findings'' (*see, e.g.,* H.R. Rep. No. 96–317, at 69 (1979), these decisions are more often identified as ''determinations.'' *See, e.g.,* S. Rep. No. 96–249, at 74 (1979); H.R. Rep. No. 103–826 (Part 1), at 50 (1994). Since the terms ''findings'' and ''determinations'' are used interchangeably in the statute and legislative history, the use of one or the other does not preclude the application of section 771(11) to the ITC's consideration of the critical circumstances issue.

Congress promulgated the critical circumstances provision in order ''to provide prompt relief to domestic industries suffering from large volumes of, or a surge over a short period of, imports and to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by the [Department].'' H.R. Rep. 96–317, at 63 (1979). In

amending the critical circumstances provisions in 1988, Congress developed ''an improved critical circumstances procedure [that] will significantly strengthen antidumping and countervailing duty procedures by revitalizing a provision that has up to now been ineffective.'' H.R. Rep. No. 100–576, at 611 (1988). Considering this legislative history, we conclude that Congress did not intend to limit the availability of retroactive relief in cases such as this one to only those instances where two-thirds of the ITC votes to grant such relief. Moreover, as noted above, the ITC itself explicitly stated in its final injury determination that it made ''an affirmative determination that critical circumstances exist with respect to subject imports from China for which Commerce made affirmative critical circumstances determinations.'' *See Honey from Argentina and China,* Inv. Nos. 701–TA–402 and 731–TA–892–893 (Final), USITC Pub., 3470 (November 19, 2001).

Therefore, for all the reasons discussed above, we consider the ITC to have made an affirmative critical circumstances determination. The Department's finding in this regard is consistent with the Department's treatment of this issue in previous critical circumstances cases involving tie votes at the ITC. *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from the PRC,* 64 FR 8308 (February 19, 1999) and *Notice of Antidumping Order: Coumarin from the People's Republic of China,* 60 FR 7751 (February 9, 1995).

In accordance with section 736(a)(1) of the Act, the Department will direct Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the subject merchandise exceeds the U.S. price of the subject merchandise for all relevant entries of honey from the PRC. These antidumping duties will be assessed on all unliquidated entries of honey from the PRC entered, or withdrawn from warehouse, for consumption on or after May 11, 2001, the date on which the Department published its notice of preliminary determination for this investigation in the **Federal Register**, except for subject merchandise exported by Kunshan, High Hope, Zhejiang, or other companies not specifically named below. For merchandise exported by Kunshan, High Hope, Zhejiang, or by other companies not specifically named below, we are directing the Customs Service to assess antidumping duties on all unliquidated entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after February 10, 2001, the date 90 days prior to the date of publication of the preliminary determination in the **Federal Register** (*see Notice of Preliminary Determination of Sales at Less Than Fair Value; Honey from the PRC,* 66 FR 24101, (May 11, 2001)), in accordance with the critical circumstances finding in the final determination.

On or after the date of publication of this notice in the **Federal Register**, Customs must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins noted below:

Exporter/Manufacture	Margin (percent)	Critical circumstances
Inner Mongolia	57.13	No.
Kunshan	49.60	Yes.
Zhejiang	25.88	Yes.
High Hope	45.46	Yes.
Shanghai Eswell	45.46	No.
Anhui	45.46	No.
Henan	45.46	No.
PRC-wide Entity	183.80	Yes.

The ''PRC-wide'' rate applies to all exporters in the PRC of subject merchandise not specifically listed above.

In accordance with section 735(c)(1)(B) of the Act, we are directing the United States Customs Service to continue suspending liquidation of all imports of the subject merchandise from the PRC. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which normal value exceeds the export price as indicated in the chart above. These suspension-of-liquidation instructions will remain in effect until further notice.

This notice constitutes the antidumping duty order with respect to honey from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of the antidumping duty orders currently in effect.

This determination and order are issued and published in accordance with sections 735(d), 736(a), and 777(i)(1) of the Act.

Dated: November 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30468 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–812]

Notice of Antidumping Duty Order; Honey From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Antidumping Duty Orders.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge at (202) 482–3518 or Donna Kinsella at (202) 482–0194, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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 Tariff Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (2000).

Scope of the Order

For purposes of this order, the products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this order is currently classifiable under subheadings 0409.00.00, 1702.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (U.S. Customs) purposes, the Department's written description of the merchandise under investigation is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act, as amended, the Department made its final determination that honey from Argentina is being sold at less than fair value (*see Notice of Final Determination*

of Sales at Less Than Fair Value: Honey From Argentina, 66 FR 50611 (October 4, 2001)). On November 9, 2001, the Department issued an amended final determination (*see Notice of Amended Final Determination of Sales at Less Than Fair Value: Honey,* 66 FR 58434 (November 21, 2001)). On November 13, 2001, the International Trade Commission (the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Argentina.

In accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of honey from Argentina. These antidumping duties will be assessed on all unliquidated entries of honey from Argentina entered, or withdrawn from warehouse, for consumption on or after May 11, 2001, the date on which the Department published its notice of preliminary determination in the **Federal Register** (66 FR 24108). Effective on the date of publication of the order, customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of honey not specifically listed.

Article VI.5 of the General Agreement on Tariffs and Trade (GATT 1994) prohibits assessing antidumping duties on the portion of the margin attributable to an export subsidy. In this case, the product under investigation is subject to a countervailing duty investigation. *See Notice of Final Affirmative Countervailing Duty Determination: Honey from Argentina,* 66 FR 50613 (October 4, 2001). Therefore, for all entries of honey from Argentina entered, or withdrawn from warehouse, for consumption on or after the date on which the order in the companion countervailing duty investigation is published in the **Federal Register**, we will request for duty deposit purposes that the Customs Service deduct the portion of the margin attributable to export subsidies as determined in the countervailing duty investigation. The antidumping duty cash deposit rates, as adjusted for export subsidies, are as follows:

Producer/manufacturer/ exporter	Cash deposit rate (percent)
Asociacion Cooperativas Argentinas (ACA)	31.92
Radix S.R.L. (Radix)	27.04
ConAgra Argentina	55.15
All Others	30.24

This notice constitutes the antidumping duty order with respect to honey from Argentina. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Tariff Act.

Dated: November 30, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30469 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–813]

Notice of Countervailing Duty Order: Honey From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn at (202) 482–4236, or Holly Hawkins at (202) 482–0414, Office of AD/CVD Enforcement VII, Group III, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2000).

Scope of Order

The merchandise subject to this investigation is natural honey, artificial honey containing more than 50 percent natural honeys by weight, preparations of natural honey containing more than 50 percent natural honeys by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, combs, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this investigation is currently classifiable under subheadings 0409.00.00, 1702.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, the Department's written description of the merchandise under investigation is dispositive.

Countervailing Duty Order

In accordance with section 705(d) of the Act, on October 4, 2001, the Department published in the **Federal Register** its final affirmative determination in the countervailing duty investigation of Honey from Argentina (66 FR 50613). On November 19, 2001, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of imports of honey from Argentina.

Therefore, countervailing duties will be assessed on all unliquidated entries of honey from Argentina entered, or withdrawn from warehouse, for consumption on or after March 13, 2001, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, and before July 11, 2001, the date that the Department instructed the U.S. Customs Service to terminate the suspension of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals on or after the date of publication of this countervailing duty order in the **Federal Register**. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for longer than four months. Entries of honey made on or after July 11, 2001, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's termination, effective July 11, 2001, of suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstate the suspension of liquidation effective the date of publication of this notice in the **Federal Register** and to assess, upon

further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the countervailable subsidy rate for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the countervailable subsidy rate noted below. In accordance with section 777A(e)(2)(B) of the Act, we have calculated an aggregate or industry-wide rate for all of the producers/exporters of honey under investigation. We have determined that the total estimated countervailable subsidy rate is 4.53 percent *ad valorem*. However, due to a program-wide change, we have established a cash deposit rate of 5.85 percent *ad valorem* in accordance with section 351.526(a) of the Department's regulations.

This notice constitutes the countervailing duty order with respect to honey from Argentina pursuant to section 706(a) of the Act. Interested parties may contact the Central Records Unit, for an updated list of countervailing duty orders currently in effect.

This countervailing duty order is published in accordance with section 706(a) of the Act and 19 CFR 351.211.

Dated: November 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 01–30470 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–437–805]

Sulfanilic Acid From Hungary: Postponement of Preliminary Determination of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary determination.

SUMMARY: The Department of Commerce is postponing the preliminary determination of the countervailing duty investigation of sulfanilic acid from Hungary. This postponement is made pursuant to section 703(c) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Melani Miller at (202) 482-0116, Office of AD/CVD Enforcement I, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

Postponement of Preliminary Determination

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. All citations to the Department of Commerce's (''the Department'') regulations are to 19 CFR Part 351 (2001).

Statutory Time Limits

Section 703(b)(1) of the Act, requires the Department to make a preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiates an investigation. However, if the Department concludes that the parties concerned are cooperating and determines pursuant to section 703(c) of the Act that the case is extraordinarily complicated and additional time is necessary to make the preliminary determination, according to section 703(c) of the Act, the Department may postpone making the preliminary determination until no later than 130 days after the date of initiation of the investigation.

Background

On October 18, 2001, the Department initiated the countervailing duty investigation of sulfanilic acid from Hungary. See Notice of Initiation of Countervailing Duty Investigation: Sulfanilic Acid from Hungary, 66 FR 54229 (October 26, 2001). Currently, the preliminary determination must be issued by December 24, 2001.

Postponement of Preliminary Determination

Because of the complexity of certain issues in this investigation (*e.g.,* change in ownership and privatization and new subsidy allegations), it is not practicable to complete the preliminary determination within the original time limit. *See* December 4, 2001 memorandum to Richard W. Moreland, *''Extension of Time Limit for the Preliminary Determination: Countervailing Duty Investigation of Sulfanilic Acid from Hungary.''* Therefore, pursuant to 703(c) of the Act and 19 CFR 351.205(b)(2), the Department is postponing the preliminary determination until no later than February 25, 2002.

We are issuing and publishing this notice in accordance with sections 703(c)(2) and 777(i)(1) of the Act.

Dated: December 4, 2001.

Bernard T. Carreau.

Acting Assistant Secretary, for Import Administration.

[FR Doc. 01–30471 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 000724217–1278–04]

Amendment to Selection Procedures To Include Site Visits

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: This notice announces the Minority Business Development Agency's (MBDA) amendment of prior **Federal Register** notices published by MBDA that identified selection procedures for MBDA's Minority Business Development Center Program and its Native American Business Development Center Program. MBDA amends the selection procedures to provide that the National Director or his designee reserves the right to conduct a site visit to the location of qualified applicants receiving an average of at least 70% of the total points available for all four evaluation criterion.

DATES: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita E. Berry at (202) 482–3262.

SUPPLEMENTARY INFORMATION: Under Executive Order 11625, MBDA provides business development services to persons who are members of groups determined by the U. S. Department of Commerce to be socially or economically disadvantaged, and to business concerns owned and controlled by such individuals.

MBDA has determined that site visits to qualified applicants would support MBDA's selection and would confirm the applicant's stated ability to best fulfill MBDA's Funding Priorities, particularly identifying and working to meet the needs of minority businesses seeking to obtain large-scale contracts with institutional customers, as set out

in the prior **Federal Register** Notices (65 FR 52069 and 66 FR 58990).

Therefore, MBDA's prior **Federal Register** notices (65 FR 52069 and 66 FR 41202 and 66 FR 58990) are hereby amended to provide that the National Director or his designee reserves the right to conduct a site visit to applicant organizations receiving an average of at least 70% of the total points available for all four evaluation criterion in order to assist with the application of the selection procedures provided at 65 FR 52083 and 52095 and 66 FR 59000.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), are applicable to this notice.

Executive Order 12866: This notice was determined to be not significant for purposes of E.O. 12866.

Administrative Procedure Act: The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this notice is a matter relating to public property, loans, grants, benefits, or contracts 5 U.S.C. 553(a)(2),

Regulatory Flexibility Act: Because a notice of proposed rulemaking and opportunities for public comment are not required to be given for this notice by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 are inapplicable.

Executive Order 13132: This notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Authority: 15 U.S.C. 1512 and Executive Order 11625.

Dated: December 4, 2001.

Juanita E. Berry,

Federal Register Liaison Officer, Minority Business Development Agency.

Ronald N. Langston,

National Director, Minority Business Development Agency.

[FR Doc. 01–30416 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 011113275–1275–01; I.D. 120401A]

RIN 0648–ZB11

Coral Reef Conservation Program Proposed Implementation Guidelines

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Request for comments on Proposed Implementation Guidelines for the Coral Reef Conservation Program.

SUMMARY: The purpose of this document is to request comments on NOAA's proposed Implementation Guidelines (Guidelines) for the Coral Reef Conservation Program (Program) under the Coral Reef Conservation Act of 2000 (Act). The Act authorizes the Secretary of Commerce (Secretary), through the NOAA Administrator (Administrator) and subject to the availability of funds, to provide matching grants of financial assistance for coral reef conservation projects under the Act (Coral Reef Conservation Program). As per the Act, NOAA has developed this set of proposed Implementation Guidelines for the Program for Fiscal Year (FY) 2002 through FY 2004. NOAA proposes to use several existing grant programs and mechanisms to implement the Program. Final Guidelines and specific Program information including available funding, dates, and detailed application requirements and proposal evaluation criteria will be published annually in a separate **Federal Register** solicitation. NOAA is in the process of developing a National Coral Reef Action Strategy (Strategy), as also required under the Act. The purpose of the Strategy is to provide an implementation plan to advance coral reef conservation, including a basis for funding allocations to be made under the Program. The Final Strategy will be published concurrently with the Final Program Guidelines and the FY 2002 Program Solicitation in the first quarter of calendar year 2002. The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), will be applicable to solicitations under this Program. This document is not a solicitation for FY 2002 project proposals.

DATES: In order to be considered, comments on this document must be received by NOAA on or before January 14, 2002.

ADDRESSES: Only written comments will be accepted. Please send your comments by mail or fax to: David Kennedy, NOAA Coral Program Coordinator, Office of Response and Restoration, N/ORR, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910, Fax: 301-713-4389.

FOR FURTHER INFORMATION CONTACT: Bill Millhouser, Pacific Regional Manager, CPD/OCRM, N/ORM-3, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910; 301–713–3155 extension 189, Internet: bill.millhouser@noaa.gov; or Robin Bruckner, Community-based Restoration Coordinator, NOAA Restoration Center, F/HC3, NOAA National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; 301–713–0174 extension 162, Internet: robin.bruckner@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*) was enacted on December 14, 2000, for the following purposes:

(1) To preserve, sustain and restore the condition of coral reef ecosystems;

(2) To promote the wise management and sustainable use of coral reef ecosystems to benefit local communities and the Nation;

(3) To develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

(4) To assist in the preservation of coral reefs by supporting conservation programs, including projects that involve affected local communities and non-governmental organizations;

(5) To provide financial resources for those programs and projects; and

(6) To establish a formal mechanism for the collecting and allocating of monetary donations from the private sector to be used for coral reef conservation projects.

Under section 6403 of the Act, the Secretary, through the NOAA Administrator (Administrator) and subject to the availability of funds, is authorized to provide matching grants of financial assistance for coral reef conservation projects. Section 6408(c)of the Act authorizes up to $8,000,000 in each of FY 2001 through FY 2004 for projects under the Program.

As required under section 6403(j) of the Act, NOAA has developed this set of proposed Implementation Guidelines for the Program and through this document, is making them available for public review and comment.

NOAA proposes to use several existing grant programs and mechanisms to implement the Program. Each fiscal year the Program will publish a **Federal Register** notice to describe the availability of funds and solicit project proposals. These annual solicitations, beginning in FY 2002, will provide greater detail on the year's program priorities, application process, and proposal evaluation criteria. This document is not a solicitation for project proposals.

II. Electronic Access

The Coral Reef Conservation Act of 2000 can be found on the Internet at: http://thomas.loc.gov/ (Select Bill Text, then select 106th Congress, search on Bill Number HR 1653, select H.R. 1653.EH). Information on the U.S. Coral Reef Task Force, established June 11, 1998 under Executive Order 13089, can be found at: http://coralreef.gov.

III. Coral Reef Conservation Program

The objective of the Program is to provide financial assistance for coral reef conservation projects consistent with the Act and National Coral Reef Action Strategy currently under development. NOAA's role in administering the Program is to strengthen and support the development and implementation of sound coral reef conservation projects, as well as ensure that the most beneficial projects are recommended for funding.

IV. Applicant Eligibility Requirements

As per section 6403(c) of the Act, eligible applicants include: any natural r esource management authority of a state or other government authority with jurisdiction over coral reefs or whose activities directly or indirectly affect coral reefs or coral reef ecosystems, or educational or non-governmental institutions with demonstrated expertise in the conservation of coral reefs. Each subcategory of funding under this Program, as described in section VII of this document, encompasses a specific subgroup of eligible applicants, per this section.

As a matter of policy, funding Federal agency activities under this Program will be a low priority unless such activities are an essential part of a cooperative project with other eligible governmental or non-governmental entities.

NOAA agencies are not eligible for funding under this Program, as funding for such activities is provided for under section 6406 of the Act (National Program).

V. Eligible Coral Reef Conservation Activities

As described in section 6403(g) of the Act, projects considered for funding under this Program must be consistent with the National Coral Reef Action Strategy, scheduled to be published concurrently in the **Federal Register** with the FY 2002 solicitation for proposals, in the first quarter calendar year 2002. In addition, per the same section, the Administrator may not approve a project proposal unless it will enhance the conservation of coral reefs by addressing at least one of the following:

(1) Implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reefs;

(2) Addressing the conflicts arising from the use of environments near coral reefs or from the use of corals, species associated with coral reefs, and coral products;

(3) Enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reefs or regulate the use and management of coral reef ecosystems;

(4) Developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems, including factors that cause coral disease;

(5) Promoting and assisting to implement cooperative coral reef conservation projects that involve affected local communities, non-governmental organizations, or others in the private sector;

(6) Increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long term conservation;

(7) Mapping the location and distribution of coral reefs;

(8) Developing and implementing techniques to monitor and assess the status and condition of coral reefs;

(9) Developing and implementing cost-effective methods to restore degraded coral reef ecosystems; or

(10) Promoting ecologically sound navigation and anchorages near coral reefs.

VI. Program Funding and Distribution

Section 6408(c) of the Act authorizes up to $8,000,000 for use by the Secretary for each of FY 2001 through FY 2004 for the Coral Reef Conservation Program. The number of individual awards to be made each year will depend on the total amount of funds appropriated for coral reef activities within NOAA and the portion of those funds that are allocated to this Program. The total annual Program funding amount, suggested ranges for funding requests, and specific funding categories under which an applicant may choose to be considered will be published in the Program's annual *Federal Register* solicitation.

Program funding awarded during any given fiscal year will be distributed, per section 6403(d) of the Act, in the following manner:

(1) No less than 40 percent of funds available shall be awarded for coral reef conservation projects in the Pacific Ocean within the maritime areas and zones subject to the jurisdiction or control of the United States;

(2) No less than 40 percent of funds available shall be awarded for coral reef conservation projects in the Atlantic Ocean, Gulf of Mexico and the Caribbean Sea within the maritime areas and zones subject to the jurisdiction or control of the United States; and

(3) Remaining funds shall be awarded for projects that address emerging priorities or threats, including international priorities or threats, identified by the Administrator. When identifying emerging threats or priorities, the Administrator may consult with the Coral Reef Task Force.

VII. Funding Categories and Mechanisms

In order to ensure adequate funding for each of the purposes envisioned under the Act and provide for a balanced overall Program, existing NOAA programs will be used to award funds in the five funding categories described below. Each of the five categories references the general activity and applicant eligibility requirements associated with proposals submitted therein. Specific activity and applicant eligibility information and proposal evaluation criteria for each category, consistent with Guideline sections IV. Applicant Eligibility Requirements, VI. Funding and Funding Distribution, VIII. Matching Funds, IX. Application Process, and X. Project Review, will be published in each year's solicitation for proposals.

(1) *U.S. state and territorial government coral reef conservation activities*, as described in section V(1-10) of the Guidelines (section 6403(g) of the Act) for the purposes of comprehensively managing coral reef ecosystems and associated fisheries within their jurisdictions. Eligibility to receive an award is limited to one agency in each state or territory with jurisdiction over coral reefs, as designated by the respective governors. These proposals will be reviewed and awarded by the National Ocean Service

(NOS) Office of Ocean and Coastal Resource Management (OCRM) per guidelines published June 28, 2001 in the **Federal Register** (66 FR 34425), and pursuant to Section 310 of the Coastal Zone Management Act, under title, Coastal Zone Management Administration Awards, CFDA 11.419.

(2) *U.S. state and territorial government coral reef ecosystem monitoring and/or assessment activities*, as described in section V(8) of the Guidelines (section 6403(g)(8) of the Act). Such activities include the collection, analysis, and reporting of long-term coral reef monitoring data pursuant to scientifically valid methodologies and protocols. Eligible applicants are limited to one natural resource management authority in each U.S. state or territory with jurisdiction over coral reefs, as designated by the respective governors. Cooperative agreements between these agencies and the NOS National Centers for Coastal and Ocean Science (NCCOS) will be developed without competition under title, Financial Assistance for National Centers of Coastal Ocean Science, CFDA 11.426.

(3) *U.S. state, territorial, or other governmental and non-governmental entities, not eligible under other categories*, for the purpose of implementing cooperative coral reef conservation, protection, restoration, research, or education projects, as described in section V(1-10) of the Guidelines (section 6403(g) of the Act). These proposals will be reviewed and awarded by the National Marine Fisheries Service (NMFS) Office of Habitat Conservation under title, Habitat Conservation, CFDA 11.463.

(4) *Projects to develop, improve, or amend Fishery Management Plans to conserve, protect and restore coral reef habitats and associated fishery populations within the U.S. Exclusive Economic Zone*; with the overall goal of improving the management of coral reefs and associated organisms through the avoidance of fishing impacts, ecosystem management or similar approaches and practices; as described in section V(3) of the Guidelines (section 6403(g)(3) of the Act). Eligible applicants include Regional Fishery Management Councils with jurisdiction over coral reefs, as established under the Magnuson-Stevens Fishery Conservation and Management Act (16 USC 1801 et seq.). These proposals will be reviewed and awarded by the NMFS Office of Habitat Conservation under title, Habitat Conservation, CFDA 11.463.

(5) *International coral reef conservation projects* for the purpose of implementing cooperative coral reef conservation activities as described in section V(1-10) of the Guidelines (section 6403(g) of the Act). Eligible applicants include all international governmental and non-governmental entities, including those in the Freely Associated States of the Pacific. These proposals will be reviewed and awarded by the NOS International Programs Office or the NMFS Office of Habitat Conservation, as appropriate, under title, Habitat Conservation, CFDA 11.463.

The annual solicitation will establish the range of funds available and specific evaluation criteria for each of these five categories. NOAA may add additional funding categories in the annual solicitation based on available funding and/or coral reef conservation priorities under the Strategy. Applicants will be required to specify in their application the category(s) under which they are applying for funding. Selected applications may be funded and awards administered by NOAA, through either NMFS or NOS. Generally, one award will be made for each proposal accepted for funding.

NOAA will determine the most appropriate funding mechanisms (grant, cooperative agreement, or interagency agreement) for selected individual projects, in consultation with the applicant, based on the degree of direct NOAA involvement with the project beyond the provision of financial assistance.

Proposals from non-Federal applicants that are selected for funding will be funded either through a project grant or cooperative agreement. Selected Federal proposals will be funded through interagency agreements; however, under the Program, such agreements must include a local sponsor of the coral reef conservation project.

VIII. Matching Funds

As per section 6403(b)(1) of the Act, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total costs of such project. The match may comprise a variety of public and private sources and can include in-kind contributions and other non-cash support. NOAA strongly encourages applicants to leverage as much investment as possible. Federal funds may not be considered as matching funds.

For applicants who cannot meet the match requirement, as per section 6403(b)(2) of the Act, the Secretary may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements:

(1) No reasonable means are available through which an applicant can meet the matching requirement, and

(2) The probable benefit of such project outweighs the public interest in such matching requirement.

Applicants must specify in their proposal the source and amount of the proposed match and may be asked to provide letters of commitment to confirm stated contributions. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver, as described in section IX(6) of these Guidelines.

Notwithstanding any other provision herein, and in accordance with 48 U.S.C. 1469a(d), this Program shall waive any requirement for local matching funds for any project under $200,000 (including in kind contributions) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

IX. Application Process

NOAA will publish in the **Federal Register** one annual notification soliciting project proposals, pursuant to these Guidelines. Applications submitted in response to solicitation notices will be screened for eligibility and conformance with the Program Guidelines.

To submit a proposal, a complete NOAA standard grants application package must be filed in accordance with the guidelines in this document and instructions in the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained the **Federal Register** notice of October 1, 2001 (66 FR 49917).

A more detailed description of specific application requirements will be published in the annual solicitation; however, pursuant to section 6403(e)of the Act and NOAA, each application must include the following elements:

(1) A cover sheet with the name of the individual or entity responsible for conducting the project;

(2) A description of the qualifications of the individual(s) who will conduct the project;

(3) A succinct statement of the purposes of the project, including the specific geographic location where the project will be carried out;

(4) An estimate of the funds and time required to complete the project including: a detailed breakdown by

category of cost estimates as they relate to specific aspects of the project, with appropriate justification for both the Federal and non-Federal shares;

(5) Evidence of support for the project by appropriate representatives of states or other government jurisdictions in which the project will be conducted, including obtaining or proceeding to obtain all applicable State and/or Federal permits, consultations, and consistencies. U.S. state or territorial applicants must also provide evidence of coordination with all relevant state or territorial agencies, including a list of agencies consulted in developing the proposal;

(6) Information regarding the amount of matching funding available to the applicant. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match;

(7) A description of how the project meets one or more the goals and objectives stated in section V of the Guidelines (section 6403(g) of the Act); and

(8) Any other information the Administrator considers to be necessary for evaluating the eligibility of the project for funding under this title.

In order to streamline the application and award process, and to allow NOAA to fully evaluate all coral reef conservation applications in the context of the overall Program, applicants must indicate under which category(s) (as described in section VII of these Guidelines) they are seeking funds, and are encouraged to submit only one comprehensive application per solicitation. The Program will give preference to projects where requested funding will be used to complete proposed coral reef conservation activities within a period of 12 months from the time the awards are distributed.

X. Project Review

As per section 6203(f) of the Act, NOAA will review eligible coral reef conservation proposals using an external governmental review and merit-based peer review. After such reviews, NOAA will implement an internal ranking and selection process. The overall project review and selection process will include the following five steps:

(1) NOAA will request and consider written comments on the proposal from each Federal agency, state government, or other government jurisdiction, including the relevant regional Fishery Management Councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), or any National Marine Sanctuary, with jurisdiction or management authority over coral reef ecosystems in the area where the project is to be conducted. Pursuant to this requirement of the Act, NOAA will apply the following standard in requesting comments:

(A) Proposals for projects in state or territorial waters, including Federal marine protected areas in such waters (e.g. National Marine Sanctuaries), will be submitted to that state or territorial government's designated U.S. Coral Reef Task Force point of contact for comment;

(B) Proposals for projects in Federal waters will be submitted to the relevant Fishery Management Council for comment;

(C) Proposals for projects which require Federal permits will be submitted to the Federal agency which issued the permit for comment;

(D) Proposals for projects in Federal marine protected areas managed by Federal agencies (e.g. National Wildlife Refuges, National Parks, National Marine Sanctuaries, etc.) will be submitted to the respective Federal management authority for comment; and

(E) NOAA will seek comments from other government entities, authorities, and/or jurisdictions, including international entities for projects proposed outside of U.S. waters, as necessary based on the nature and scope of the proposed project.

Specifically, agencies will be requested to comment on: the extent to which the project is consistent with locally established coral reef conservation priorities and projects; whether the project has been coordinated with existing or planned projects; suggestions for improving project coordination and/or technical approach; and appropriate staff points of contact. Each entity will be provided 21 days to review and comment on subject proposals. Comments submitted will be part of the public record.

(2) Each NOAA program office will provide for a merit-based peer review and standardized documentation of that review for proposals considered appropriate for funding under their respective category(s). Each proposal will be reviewed by a minimum of three individuals with knowledge of the subject of the proposal. Each reviewer will submit a separate and individual review and reviewers will not provide a consensus opinion. The identities of the peer reviewers will be kept anonymous to the degree permitted by law. Specific evaluation criteria for projects submitted under each funding category will be published in each annual **Federal Register** solicitation.

(3) Each NOAA Program Office will subsequently implement an internal review process to rank each proposal that is appropriate for funding under their program based upon consideration of: comments and recommendations from the reviews under paragraphs (1) and (2), and their evaluation of each proposal consistent with the five following criteria:

(A) *Direct Benefit to Coral Reef Resources and Ecosystems*. NOAA will evaluate proposals based on the potential of the project to meet goals and objectives stated in section 6403(g) of the Act.

(B) *Technical Merit and Adequacy of Implementation Plan*. Proposals will be evaluated on the technical feasibility of the project and the qualifications of project leaders and/or partners based on demonstrated abilities to:

(i) Deliver the conservation objective stated in the proposal;

(ii) Provide educational benefits, where appropriate;

(iii) Incorporate assessment of project success in terms of meeting the proposed objectives;

(iv) Demonstrate that the conservation activity will be sustainable and long-lasting;

(v) Provide assurance that implementation of the project will meet all state environmental laws and Federal consistency requirements by obtaining or proceeding to obtain applicable permits and consultations; and

(C) *Past Performance*. Proposals will be evaluated on the previous accomplishments of the applicants in achieving coral reef conservation objectives similar to those outlined in section V. Eligible Coral Reef Conservation Activities of these Guidelines. Applicants submitting their first coral reef conservation project should document past experience in related activities;

(D) *Consistency with the National Coral Reef Action Strategy and the National Action Plan to Conserve Coral Reefs*. Proposals will be evaluated on how well they meet the respective programmatic goals and objectives (e.g. goals and objectives for restoration) outlined in the National Coral Reef Action Strategy, currently under development pursuant to Section 6402 of the Act, and the National Action Plan to Conserve Coral Reefs (U.S. Coral Reef

Task Force, 2000, http://coralreef.gov). Applicants are strongly encouraged to review both documents and identify in their application the specific conservation objectives that their project proposal will address; and

(E) *Cost-effectiveness and Budget Justification.* Proposals will be evaluated on their ability to demonstrate that significant benefit will be generated for the most reasonable cost. Projects will also be reviewed in terms of their need for funding and the ability of NOAA funds to act as a catalyst to implement projects and precipitate partnerships and other sources of funding to achieve conservation objectives. Preference will be given to projects that will be completed within a period of 12 months from the time the awards are distributed;

(4) A NOAA review panel made up of representatives from each NOAA program office will review the project rankings from each program office and make consensus-based, final project selections and funding recommendations to be presented to the NOAA Administrator, or his designee, for final approval. The review panel and Administrator, or designee, will ensure that the Act requirements for geographic funding distribution and consistency with the overall Program goals outlined in the Strategy have been met. NOAA reserves the right to consult with applicants, prior to making an award, to determine the exact amount of funds to be awarded, as well as the most appropriate funding category and mechanism under which to consider the project for funding; and

(5) NOAA will provide written notification of a proposal's approval or disapproval to each applicant within 6 months of submitting a coral reef conservation proposal. Similarly, NOAA will also provide written notification of a project's approval to each State or other government jurisdiction that provided comments and/or reviews.

Definitions

In this Program:

(1) Administrator means the Administrator of the National Oceanic and Atmospheric Administration.

(2) Conservation means the use of methods and procedures necessary to preserve or sustain corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat; mapping; habitat monitoring; assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*); law enforcement; conflict resolution initiatives; community outreach and education; and that promote safe and ecologically sound navigation.

(3) Cooperative Agreement means a legal instrument reflecting a relationship between the Department of Commerce (DoC) and a recipient whenever: (1) the principal purpose of the relationship is to transfer money, property, services or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute, and (2) substantial involvement (e.g. collaboration, participation, or intervention by DoC in the management of the project) is anticipated between DoC and the recipient during performance of the contemplated activity.

(4) Coral means species of the phylum Cnidaria, including--

(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyanacea (soft corals), and Coenothecalia (blue coral), of the class Anthozoa; and

(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

(5) Coral Reef means any reefs or shoals composed primarily of corals.

(6) Coral Reef Ecosystem means coral and other species of reef organisms (including reef plants) associated with coral reefs, and the non-living environmental factors that directly affect coral reefs, that together function as an ecological unit in nature.

(7) Coral Products means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

(8) Grant means a legal instrument reflecting a relationship between DoC and a recipient whenever: (1) the principal purpose of the relationship is to transfer money, property, services, or anything of value in order to accomplish a public purpose of support or stimulation authorized by Federal statute, and (2) no substantial involvement is anticipated between DoC and the recipient during the performance of the contemplated activity.

(9) Interagency Agreement, for the purposes of these Guidelines, means a written document containing specific provisions of governing authorities, responsibilities, and funding, entered into between NOAA and another Federal agency where NOAA is funding the other Federal agency, pursuant to the Act.

(10) Secretary means the Secretary of Commerce.

(11) State means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

Classification: This is a new Program and will be added to the Catalog of Federal Domestic Assistance under the Coastal Zone Management Act (11.419), Financial Assistance for National Centers for Coastal Ocean Science (11.426), and Habitat Conservation (11.463). The Program uses only the existing NOAA Federal assistance application package requirements per 15 CFR parts 14 and 24.

The program will determine NEPA compliance on a project by project basis.

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

The use of the standard grants application package referred to in this notice involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

The proposed guidelines also contain new collection-of- information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. These requirements will be submitted to OMB for approval. Public reporting burden for these collections of information is estimated to average one hour per request for a matching funds waiver (section IX(6) of these Guidelines) and one hour per comment on proposals (section X(1) of these Guidelines), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information 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 of information, including through 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 NOAA Office of Response and Restoration at the **ADDRESSES** above, and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: November 30, 2001.

Scott Gudes,

Acting Under Secretary for Oceans and Atmosphere/Administrator and Deputy Under Secretary

[FR Doc. 01–30383 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–JE–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112101B]

Small Takes of Marine Mammals Incidental to Specified Activities; Repairs at the Carpinteria Oil and Gas Processing Facility, Carpinteria, CA

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of Pacific harbor seals (*Phoca vitulina richardsi*) by harassment incidental to repairs at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA., has been issued to Venoco, Inc.

DATES: Effective from November 28, 2001, until November 28, 2002.

ADDRESSES: The application, Wildlife Protection Plans, Project Execution Plans, and IHA are available by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225.

FOR FURTHER INFORMATION CONTACT: Simona P. Roberts, (301) 713–2322, ext. 106 or Christina Fahy, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce 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 either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization may be granted if NMFS finds, based on the best available scientific evidence, that the taking will have a negligible impact on the marine mammal species or stock(s). Negligible impact is defined in regulation (50 CFR 216.103) as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival''.

Summary of Request

On June 17, 2001, NMFS received an application from Venoco, Inc., the owner and operator of the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA, requesting an IHA for the take of small numbers of Pacific harbor seals incidental to repair of gas pipeline supports and pier pilings at Casitas Pier.

On October 24, 2001, Venoco notified NMFS that the project had been modified such that only repairs to the gas pipeline supports and not the pier were to be made. In addition, Venoco revised its original Project Execution Plan and Wildlife Protection Plan to better address the issue of acoustic harassment. A detailed description of the work proposed for 2001 is contained in the revised Project Execution Plan, which are available upon request (see **ADDRESSES**).

Venoco plans to complete all repair activities in a three-week period. However, to account for potential weather and logistical delays and reduce further paperwork, the IHA will be issued for a full 1–year period (November 2001–November 2002).

Comments and Responses

On September 12, 2001 (66 FR 47453), NMFS published a notice of receipt and a 30–day public comment period was provided on the application and proposed authorization. Comments were received from the Santa Barbara County Energy Division, the California Coastal Commission, the City of Carpinteria, and a private citizen.

Cumulative Impact Concerns

Comment 1: The California Coastal Commission recommended that the authorization address the potential for cumulative impacts from chronic disturbances to the Pacific harbor seal rookery located near the gas pipeline and the possibility that additional disturbances such as the proposed activity could cause the seal rookery to permanently abandon this location.

Response: Based on previous observations conducted in the vicinity of the gas pipeline and pier, as well as daily observations made by the Carpinteria Seal Watch, there is no evidence that chronic disturbances, such as people walking along the beach, are negatively impacting the Pacific harbor seals hauling out on the beach over the long-term (Seagars, 1986; Howorth,1995). From information provided by Howorth (1995), the most negative disturbance to date, resulting in haul-out abandonment, has been not from direct disturbance by humans but rather from disturbance and pup injury and predation by a coyote. Based on these previous documented observations at Carpinteria and nearby haul-out sites, there is very low probability that the harbor seals will completely abandon the Carpinteria haul-out site as a result of Venoco's repair activities. While there is evidence from other haul-out sites in San Francisco Bay that seals will abandon haul-out sites during chronic daytime disturbance, the San Francisco Bay seals did not completely abandon the site and continued to use the site during nighttime hours when there was no disturbance (Paulbitsky, 1975; Risebrough *et al.*, 1980).

Biologically, the primary concerns of harbor seal haul-out site abandonment are physiological stress resulting from the inability to find alternate haul-out sites and the inability to find alternate haul-out sites for pupping and molting. In the Carpinteria case, there are two alternate haul-out sites in the vicinity; offshore rocks west of the beach and off Carpinteria Beach State Park. Harbor seals have been observed hauling out in these locations after having been disturbed on the beach (Sadler, 1976;

Rambo, 1978; Bowland, 1978; Carpinteria Seal Watch records; Howorth, 1995). In order to minimize disturbance to the Carpinteria site as much as possible all activities undertaken by Venoco will be subject to the mitigation conditions in the IHA, which are designed to reduce the sights and sounds associated with human presence. Further, there will be no access to the beach from December 1–May 31, pursuant to the City of Carpineria's Municipal Code, eliminating potential disturbance from Venoco's activities during the pupping season.

Mitigation, Monitoring and Reporting Concerns

Comment 2: The County of Santa Barbara, Energy Division and the California Coastal Commission both recommended that NMFS require safety zones and ramp-up procedures for the pile driving operations occurring near the harbor seal haul-out area to address the potential for acoustic harassment and injury. Specifically, the County of Santa Barbara recommended that NMFS' mitigation requirements follow previous conditions imposed by the California Coastal Commission for work necessary to stabilize two leaking oil wells located in the surf zone, including designating a 500–foot (152–meter) safety zone around pile driving activity, an initial ramp up period at the commencement of pile driving activities, and scheduling of pile driving activities during periods of low tides to the maximum extent feasible.

Response: Under the IHA, Venoco must establish a 500–foot (152–meter) buffer zone around each of the pile driving sites. If any marine mammal is sighted within this 500–foot (152–meter) zone immediately prior to planned commencement of driving, pile driving must not occur until marine mammals have left the area. In addition, pile driving must not commence unless the buffer zone can be monitored for a minimum of 15 minutes immediately prior to the start-up of the pile driving episode. Due to the characteristics of the sounds produced by these pile-driving operations, NMFS does not support an initial ramp-up period during Venoco's repairs. Pile driving in a different sediment type (i.e., clay) than at Carpinteria has shown that instituting an initial ramp-up period at the commencement of pile-driving activities may lengthen the period of time and necessitate higher energy levels to adequately drive the piles, thus increasing the amount of time marine mammals are exposed to increased sound levels (California Department of Transportation, 2001). Until there is better data on the operational requirements of ramping-up pile driving activities in varying sediment types, NMFS will not require ramp-up for any pile-driving activity. In contrast, NMFS does support an initial ramp-up period at the commencement of seismic and shallow-hazard surveys.

NMFS found no scientific or anecdotal evidence that scheduling pile driving activities only during periods of low tides would reduce the disturbance to seals while they are hauled out. On the contrary, the greatest number of harbor seals observed hauled out at the Carpinteria site was in the month of September during an early morning low tide (Horworth, 1995). Clearly the tide cycles, as well as still undetermined environmental variables, play a significant role in harbor seal haul out behavior; however, Howorth (1995) noted that the most prevalent cause of natural disturbance to the Carpinteria haul out site was from waves striking the beach and washing over seals on the rising tides. If pile driving activities occurred during this rising tide phase, it may be very difficult for monitors to determine a causal relationship between seals entering the water, environmental variables, and repair activities. In order to gather more information on the relationship between harbor seal behavior, environmental factors, and the repair activities, the IHA requires the collection and reporting of the following information: tide height, sea state, weather conditions, type of repair activity being conducted, and harbor seal observations (including number and age ranges present and behavior).

Comment 3: The California Coastal Commission recommended that the authorization require the presence of one or more onsite biological monitors with the authority to suspend project operations if marine mammals are observed within or enter into established safety zones or if it is determined that impacts to marine mammals are greater than those authorized in the IHA.

Response: All IHA's require the presence of one or more onsite biological monitors, with relevant marine mammal experience and approved by NMFS, to document marine mammal presence and any disturbances. These monitors have the authority to suspend activities that are in violation of the conditions set out in the IHA.

Comment 4: The City of Carpinteria requested that the City's Municipal Code governing access to the city beach from December 1-May 31 each year be made part of the conditions of the proposed authorization. The City supports NMFS' proposals to condition the authorization so that all noise, sudden movement, and unnecessary personnel be minimized in or adjacent to the project site.

Response: NMFS has made the Municipal Code part of the IHA conditions by restricting work on the pipeline and other activities occurring on the beach or surf zone within 750 ft (230 m) of the harbor seal haul-out from December 1–May 31.

Comment 5: The private citizen who commented volunteers with the Carpinteria Seal Watch. This commentor protested the application for takings and requested that NMFS condition the authorization so that: (1) work would not occur between November 30 and May 31, (2) work would not occur during the molting season, (3) work would be ceased if the seals are not returning in ''usual'' numbers during the evening hours after the workday, and (4) monitoring biologist(s) would consult with Carpinteria Seal Watch representatives to discuss daily observations and data collection.

Response: The IHA issued by NMFS restricts work on the pipeline and other activities occurring on the beach or surf zone from December 1–May 31. However, based on previous harbor seal observations there is no scientific or anecdotal evidence to support restricting work during the molting season (SRS Technologies, 2001). Scientific research and monitoring studies carried out on haul-out sites on Vandenberg Air Force Base in California from 1997 through 2001 have shown that molting Pacific harbor seals entering the water because of disturbance from rocket launches are not adversely affected in their ability to molt and do not become subject to thermo-regulatory stress. Until similar site-specific research is carried out on the Carpinteria haul-out, NMFS accepts the Vandenberg evidence as the best scientific information available on the behavior of the California stock of Pacific harbor seals during molting. While on average the greatest number of harbor seals haul out during the molting season (starting in May and continuing through the summer), this is confounded at the Carpinteria site by a September estimate of 364 seals during an early morning low tide (Horworth, 1995). Clearly, not only molting and pupping, but tide cycle, as well as still undetermined environmental variables, play a significant role in harbor seal haul-out behavior.

Given this difficulty in determining the underlying natural factors involved

in harbor seal haul-out behavior, NMFS cannot assume that in all cases a failure of seals to return to the beach during the evening hours after work has finished is a direct result of the daytime work activities. However, in order to mitigate for disturbances that could result from Venoco's activities, the IHA is conditioned such that if the biological monitor(s) have direct evidence that work activities during the day resulted in 100 percent haul-out abandonment with no return to the haul-out site after work has ceased for a full 48–hour period, then the monitor must notify Venoco, and Venoco must contact NMFS to discuss appropriate changes to the mitigation plan.

NMFS agrees that the Carpinteria Seal Watch data will be an important contribution to the overall monitoring of the marine mammal impacts of Venoco's activities. In addition, the Seal Watchers provide an invaluable service in educating the public about the potential for human activities to negatively impact the harbor seals and their haul-out habitat. The biological monitor(s) will consult with Seal Watch representatives at the beginning and end of Venoco's repair activities to share observational data.

Description of Marine Mammals and Habitat Potentially Affected by the Activity

Harbor seals generally are non-migratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction (Scheffer and Slipp, 1944; Fisher, 1952; Bigg, 1969, 1981). They haul out on rocks, reefs, beaches, and drifting glacial ice, and feed in marine, estuarine, and occasionally fresh waters. Harbor seals have also displayed strong fidelity for haulout sites (Pitcher and Calkins, 1979; Pitcher and McAllister, 1981). The eastern Pacific harbor seal has an estimated population of 285,000 individuals distributed along the entire west coast of North America from the Pribilof and Aleutian Islands in Alaska to Baja, CA.

In Carpinteria, Pacific harbor seals haul out year round. This area is one of two along the mainland coast of southern California that is readily accessible to the public. The other haul out is in La Jolla, CA. There are four other sizable haul outs along the mainland coast of Santa Barbara County, one at Naples, one at Point Conception, and two at Vandenberg Air Force Base. However, unlike the Carpinteria haul out, these sites are on private land and not readily accessible to the public.

In Carpinteria, peak numbers are reached during the pupping season (late February through March) and molting season (summer months). The pups born at these sites are weaned in 4 to 6 weeks, so nearly all pups are independent by the end of May. Twenty to 30 pups are usually born there each year (Howorth, 1995, 1998). A peak abundance count made during the 1998 pupping season was 345 seals (Howorth, 1998).

The project site is adjacent to a small beach used by harbor seals as a haul-out and rookery area. Harbor seals continue to use this area despite pier activity and human presence (Howorth, 1995, 1998). Two-hundred and sixty-five feet (ft) (81 meters (m)) east of Casitas Pier, a small sandy beach and offshore rock area marks the western limits of the local harbor seal haul outs.

California sea lions (*Zalophus californianus*) do occasionally haul out on the beach or rocks adjacent to the project site. However, such individuals are usually not healthy and are taken to the Santa Barbara Marine Mammal Center (Howorth, 1995, 1998).

Bottlenose dolphins (*Tursiops truncatus*) and the eastern North Pacific gray whale (*Eschrichtius robustus*) have been reported near the project site (Howorth, 1995, 1998). Both species, when sighted near the project site, have consistently avoided the pier. Years of data from previous projects and from the Carpinteria Seal Watch have not observed any instances of cetaceans within the project area.

Potential Effects on Marine Mammals and their Habitat

Potential harassment may result from noise generated by repair activities to the pipeline as well as from the physical presence of people and machinery on the beaches.

Seals may be disturbed and leave the beach when pile driving activities are underway; however, previous monitoring has shown that all seals returned once activities had ceased (Venoco, 2001).

Number of Marine Mammals Potentially Harassed

During repair work carried out by Venoco an estimated 364 Pacific harbor seals have the potential to be incidentally harassed. This number is the maximum count documented by Howorth (1995, 1998) during the summer molting season.

Mitigation

Mitigation measures described in this section have been designed to reduce the potential for harassment and eliminate the potential for incidental injury and mortality due to repair activities.

If operationally feasible, all repairs will take place during daylight hours in a three-week period before the annual harbor seal pupping period and while the beach is open to the public. During this period few, if any, seals are present on shore because beachwalkers, dogs, joggers, kayakers, and others frequent the beach during daylight hours. During November, early storms and currents erode the sand covering the rocks and reefs, which will also reduce the amount of excavation necessary to expose the base of the pier pilings.

Work on pilings closest to the haul-out site will be conducted at the beginning of the project and only during low tides (American Marine Corp., 2000). Therefore, any potential for disturbing harbor seals would be limited to times of low tide or approximately 4 hours each 24–hour period.

To reduce the potential for acoustically and visually disturbing the seals, mitigation measures include: establishment of a 500–foot (152–meter) buffer zone around each of the pile driving sites; equipping the diving air compressor, trucks, and equipment motors with quiet mufflers; disconnecting backup alarms on trucks; securing all lines, floats, cables, etc. used in handling materials to the pier or removing them from the site; instruction of all personnel on avoidance of rapid or sudden movements, shouting, throwing objects or other actions that could startle the seals; allowing only the minimum number of people needed to perform the work on the beach; insuring divers stay submerged while performing their tasks; and using hand-held radio for verbal communications from the pier or other project site to divers or workers.

Successful implementation by Venoco and their contractors of additional mitigation measures specified by NMFS in the IHA are designed to further reduce the potential for adverse impacts on Pacific harbor seals in the area.

Monitoring

Issuance of the IHA requires Venoco to monitor the impact of pile driving and other repair activities on harbor seals. Monitoring will be conducted by one or more NMFS-approved biologists. As part of the IHA monitoring requirements, Venoco will notify the designated on-site biological monitor(s) at least 30 minutes before a pile driving session begins and if there are unexpected changes to the work plan. In addition, monitoring information should be collected a minimum of 1 hour before the work day begins, a minimum of 15 minutes prior to

planned pile driving sessions, during pile driving sessions, and for a minimum of 1 hour after pile driving or other work is completed.

On-site biological monitor(s) are required to collect the following information related to harbor seals: (1) date; (2) time of arrival/departure of monitor(s) and work crew; (3) number of harbor seals on the beach; (4) number of harbor seals in the water; (5) number of adults, subadults, and pups; (6) number of molting seals; (7) disturbance reactions observed; and (8) Concurrently, the monitor(s) will record type of repair activity (including specific equipment used), location of activity, and duration of activity. The monitor(s) will also collect the following information related to environmental conditions: (1) date; (2) time; (3) cloud cover; (4) visibility; (5) wind direction; (6) wind velocity; (7) swell direction; (8) swell height; and (9) tidal stage. The presence of other marine mammal species on the beach and in the water is also a requirement.

The NMFS-approved biological monitor has the authority under the IHA to prevent pile driving operations from commencing if a harbor seal pup is sighted on the beach. If a harbor seal pup is sighted after pile driving has begun, then the monitor is required to notify Venoco, who must stop pile driving as soon as operationally practicable and consult immediately with NMFS' Southwest Regional Office.

Reporting

During periods of operation, Venoco will provide weekly reports to NMFS' Southwest Regional Administrator, including a summary of the previous week's monitoring activities and an estimate of the number of seals that may have been disturbed as a result of repair activities. A description of the repair activities at the time of observation will also be provided.

An interim report must be submitted to the Southwest Regional Administrator on or about July 30, 2001. This report will contain a description of the methods, results, and interpretation of all monitoring tasks. A draft final report is due 90 days after expiration of the IHA. If comments are received from the Regional Administrator on the draft final report, then the final report must be submitted to the Southwest Regional Administrator within 30 days after receiving comments. If no comments are received from the Southwest Regional Administrator, the draft final report will be considered the final report.

Endangered Species Act (ESA) Consultation

This proposed authorization would not allow the take of any species listed as endangered or threatened under the ESA; therefore, no ESA Section 7 consultation was necessary for issuance of the IHA.

Coastal Zone Management Act Consistency

On November 19, 2001, the California Coastal Commission issued a conditioned emergency permit to Venoco, Inc. to begin repair activities on the Carpinteria pipeline. The determination to issue an emergency permit was based on the conclusion of the Commission that an imminent threat to the nearby seal haul-out and the marine environment will exist if repairs to the pipeline are not made due to inadequate support of the pipeline during the winter storm season. The Commission's emergency permit contains conditions similar to NMFS' IHA designed to prevent the ''take'' of marine mammals during the course of Venoco's activities. All of the marine mammal conditions were added to the Coastal Commission's permit in close consultation with NMFS.

Conclusions

NMFS has determined that the impact of conducting repair activities at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA, will have a negligible impact on Pacific harbor seal stocks in California. While behavioral modifications may be made by individuals to avoid the resultant noise and activities, the avoidance of the area is not reasonably expected to, and is not reasonably likely to, adversely affect the annual rates of recruitment or survival of the stock.

The number of potential harassment takings is estimated to be small. In addition, no take by injury or death is anticipated, and the potential for such taking will be avoided through the incorporation of the mitigation measures mentioned in this document and in the IHA. Haul-out sites, rookeries, mating grounds, areas of concentrated feeding, and other areas of special significance for harbor seals within or near the planned area of operations will be avoided in order to minimize any potential impacts.

Authorization

NMFS has issued an IHA for repair activities at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA from November 28, 2001, until November 28, 2002, provided the mitigation, monitoring, and reporting requirements defined by NMFS in the IHA are implemented successfully. NMFS has determined that the proposed activity would result in the harassment of only small numbers of Pacific harbor seals and would have a negligible impact on stocks of harbor seals in California waters.

Dated: December 3, 2001.

David Cottingham,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–30465 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

December 4, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

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.ustreas.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 import restraint limits for textile products, produced or manufactured in Pakistan and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002

(see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified and their limit has been revised, and other limits have been eliminated. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

Carryforward that has been applied to the 2001 limits is being deducted from the 2002 limits.

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). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 4, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following limits:

Category	Twelve-month restraint limit
Specific limits	
219	12,361,182 square meters.
226/313	169,841,711 square meters.
237	601,202 dozen.
239pt. [1]	2,596,432 kilograms.
314	8,989,949 square meters.
315	109,140,142 square meters.
317/617	48,310,478 square meters.
331pt./631pt. [2]	787,805 dozen pairs.
334/634	336,230 dozen.
335/635	548,386 dozen.
336/636	721,444 dozen.
338	6,238,373 dozen.
339	1,934,985 dozen.
340/640	961,925 dozen of which not more than 360,721 dozen shall be in Categories 340–D/640–D [3].
341/641	1,082,165 dozen.
342/642	535,616 dozen.
347/348	1,132,284 dozen.
351/651	455,399 dozen.
352/652	1,138,500 dozen.
359–C/659–C [4]	2,164,331 kilograms.
360	7,315,629 numbers.
361	8,506,544 numbers.
363	58,026,017 numbers.
369–S [5]	1,042,777 kilograms.
613/614	33,630,217 square meters
615	35,776,820 square meters.
625/626/627/628/629	110,033,519 square meters of which not more than 55,016,761 square meters shall be in Category 625; not more than 55,016,761 square meters shall be in Category 626; not more than 55,016,761 square meters shall be in Category 627; not more than 11,382,779 square meters shall be in Category 628; and not more than 55,016,761 square meters shall be in Category 629.
638/639	604,934 dozen.
647/648	1,146,931 dozen.
666–P [6]	1,018,061 kilograms.
666–S [7]	5,389,734 kilograms.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[3] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[4] 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.

[5] Category 369–S: only HTS number 6307.10.2005.

[6] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[7] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 2, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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.01–30435 Filed 12–7–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board (AFEB); Closed Meeting

AGENCY: Office of The Surgeon General, DoD.

ACTION: Notice of closed meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, this announces the forthcoming select AFEB subcommittee meeting. This Board will meet via teleconference on 20 December 2001. The purpose of the meeting is to review a draft manuscript and make recommendations on potential policy implications. The manuscript has not formally been published and is protected by intellectual property rights.

This meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Lt Col James R. Riddle, Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258, (703) 681–8012/3.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–30462 Filed 12–7–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DOD.

ACTION: Notice of partially closed meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The meeting will be held on Friday, December 14, 2001, from 8:30 a.m. to 1 p.m. The closed Executive Session will be from 12:15 p.m. to 1 p.m.

ADDRESSES: The meeting will be held in the Bo Coppedge Dining Room of Alumni Hall at the U.S. Naval Academy.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Thomas E. Osborn, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, telephone number (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information, which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552(b)(2), (5), (6), and (7) of title 5 U.S.C. Due to an unavoidable delay in administrative processing, the 15 days advance notice could not be provided.

Dated: December 5, 2001.

T.J. Welsh,

Lieutenant Commander, U.S. Navy, Judge Advocate General's Corps, Federal Register Liaison Officer.

[FR Doc. 01–30534 Filed 12–7–01; 8:45 am]

BILLING CODE 3810–FF–P

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 February 8, 2002.

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: December 4, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information, Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Field Test of Agency Capacity to Implement Reporting Requirements Associated with Draft Evaluation Standard 3 and section 101 (a)(10)(c) of the Rehabilitation Act, as Amended.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 81.

Burden Hours: 9,801.

Abstract: This field test will assess Designated State Unit (VR agency) capacity to obtain and use unemployment insurance wage record data maintained by the State Employment Security Agencies (SESAs) needed to implement a proposed evaluation standard and associated performance indicators mandated by the 1992 amendments to the Rehabilitation Act, as amended by the Workforce Investment Act of 1998.

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.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–30413 Filed 12–7–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory

Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory (NETL), Department of Energy (DOE).

ACTION: Notice of availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Program Solicitation No. DE-PS26–02NT40865 entitled ''Solid State Energy Conversion Alliance (SECA) Core Technology Program.'' The purpose of the SECA Core Technology Program is to develop science and technologies that address specific technical challenges and barriers faced by the SECA Industrial Teams. The goal for SECA Industrial Teams is to develop a 3 kilowatt (kW)–10kW solid-oxide fuel cell system including stack and balance of plant that has a Factory Cost of $400/kW by 2010. Additional information associated with the SECA program is located at *http://www.seca.doe.gov.*

DATES: The solicitation will be available on the ''Industry Interactive Procurement System'' (IIPS) Web page located at *http://e-center.doe.gov* on or about December 10, 2001. Prospective applicants can obtain access to the solicitation from the above Internet address or through the DOE/NETL's Internet address at *http://www.netl.doe.gov/business.*

ADDRESSES: The solicitation and any subsequent amendments will be published on the DOE/NETL's Internet address at *http://www.netl.doe.gov/business* and on the IIPS Web page located at http://e-center.doe.gov. Comments and/or questions prior to the issuance of the solicitation shall be forwarded to the mailing address or E-mail address provided below.

FOR FURTHER INFORMATION CONTACT: Mary S. Gabriele, MS I07, U.S. Department of Energy, National Energy Technology Laboratory, 3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507–0880, E-mail Address: *mgabri@netl.doe.gov,* Telephone Number: (304) 285–4253.

SUPPLEMENTARY INFORMATION: The subject solicitation will focus on specific sub-topics under the following six Core Technology topic areas:

1. Fuel Processing.
2. Manufacturing.
3. Controls & Diagnostics.
4. Power Electronics.
5. Modeling & Simulation.
6. Materials.

Each topic area contains one or more sub-topics that describe needs for specific science, engineering and technologies to support the SECA Industrial Teams. The Core Technology Program will focus on generating new scientific and engineering knowledge and on creating technology breakthroughs to address technical risks and barriers that limit achievement of the SECA performance and cost goals for solid-state fuel cell systems. Universities and small business research entities are considered well suited for this role of generating new knowledge and creating breakthroughs. The solicitation is however open to any nonprofit or for-profit organization, university or other institution of higher education, or non-federal agency, unless otherwise restricted by the Simpson-Craig Amendment.

The DOE anticipates award of multiple cooperative agreements in the various topic/subtopic areas; but the DOE reserves the right to award the agreement type and number deemed in its best interest. Each award will consist of two phases, and the selection for each phase will be based on a competitive process. Phase I will investigate the feasibility of the proposed concept/approach and will be limited to approximately $150,000 (DOE Funding) and twelve (12) months. Only Phase I recipients will have the opportunity to submit a renewal application to receive funds for Phase II research. If the Phase I work demonstrates feasibility, the selected Industrial Team members see sufficient commercialization merit, and adequate program funds are available, the recipient will be awarded a Phase II renewal agreement. Phase II work includes advancing the science and technology to a sufficient maturity level that it will be adopted by the Industrial Team(s). The Phase II effort will be limited to approximately $500,000 (DOE Funding) and twenty-four (24) months. Phase II renewal awards may be partially funded to pick only the aspects of the Phase II work that have sufficient merit to the SECA Industrial Team(s).

Applicants are advised that a minimum of 20% cost sharing will be required in Phase I and Phase II for technologies proposed under Topic Areas 1 through 5. Cost sharing is not mandatory for Phase I or Phase II under Topic Area 6, but is highly encouraged.

Once released, the solicitation will be available for downloading from the IIPS Internet page. At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751 or E-mail the Help Desk personnel at *IIPS—HelpDesk@e-center.doe.gov*. The solicitation will only be made available in IIPS, no hard (paper) copies of the solicitation and related documents will be made available.

Prospective applicants who would like to be notified as soon as the solicitation is available should subscribe to the Business Alert Mailing List at *http://www.netl.doe.gov/business*. Once you subscribe, you will receive an announcement by E-mail that the solicitation has been released to the public. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Morgantown, WV on November 30, 2001.

Randolph L. Kesling,

Director, Acquisition and Assistance Division.

[FR Doc. 01–30444 Filed 12–7–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration; Stewardship Science Academic Alliances Program Financial Assistance Number DE–PS03–01SF22349

AGENCY: National Nuclear Security Administration (NNSA), U.S. Department of Energy (DOE).

ACTION: Notice of competitive financial assistance solicitation.

SUMMARY: The DOE/NNSA, through the Oakland Operations Office, is seeking applications/proposals in specific areas of physical science with the principal goals of: (1) Grow the U.S. scientific community, through the funding of research projects at universities, in areas of fundamental science and technology relevant to stockpile stewardship, with a focus on those areas that have not been traditionally supported by other federal agencies and for which there is a recruiting need within the NNSA/DP laboratories complex; and (2) Providing fundamental-science information and developing advanced experimental measurement techniques in selected areas of physical sciences: condensed matter physics and materials science, hydrodynamics, plasma and high-energy-density physics, fluid dynamics, and low-energy nuclear science.

ADDRESSES: The formal solicitation document, Stewardship Science Academic Alliances Program (DE–PS03–01SF22349), is available through the Industry Interactive Procurement System (IIPS) located at the following URL: *http://e-center.doe.gov.* IIPS provides the medium for disseminating solicitations, receiving financial assistance applications and evaluating applications in a paperless environment. Completed applications are required to be submitted via IIPS. Individuals who have the authority to enter their university or academic institution into a financial assistance award and intend to submit proposals/applications via the IIPS system must register and receive confirmation that they are registered prior to being able to submit an application on the IIPS system. An IIPS ''User Guide for Contractor'' can be obtained by going to the IIPS Homepage at the following URL: *http://e-center.doe.gov* and then clicking on the ''Help'' button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPSHelpDesk@e-center.doe.gov* or call the help desk at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Ms Bertha Crisp, Contract Specialist, U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, N–700, Oakland, CA 94612–5208; e-mail *bertha.crisp@oak.doe.gov*

SUPPLEMENTARY INFORMATION: Proposals for Research Grants and Centers of Excellence are invited from universities or other academic institutions in the following specific areas of physical science: (1) Properties of materials under extreme conditions and hydrodynamics, (2) high-energy-density physics and fluid dynamics, and (3) low-energy nuclear science. The Stewardship Science Academic Alliances Program is an expansion of the currently funded ''Inertial Fusion Science in Support of Stockpile Stewardship'' Grant Program. The Office of Research, Development and Simulation anticipates supporting multiple awards in physical sciences totaling approximately $12.5M annually, subject to the availability of funds, as a result of this solicitation. Awards will be for one to three-year projects of work at a funding level appropriate for the proposed scopes. Funding of awards will range up to approximately $2,000,000 per year for Centers of Excellence and will range up to a few hundred thousand dollars per year for Research Grants. The solicitation document contains all the information relative to this action for prospective applicants. The North American Industry Classification System (NAICS) number for this program is 541.

Issued in Oakland, CA, on December 3, 2001.

R. Arlene Coleman,

Acting Director, Financial Assistance Center, Oakland Operations Office.

[FR Doc. 01–30443 Filed 12–7–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for emergency OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: Submission for Emergency OMB review; comment request.

SUMMARY: The EIA has submitted the energy information collections listed at the end of this notice to the Office of Management and Budget (OMB) for emergency processing under section 3507(j)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 et seq.). The DOE is requesting an emergency clearance from OMB for the Form EIA–417R by December 18, 2001. This form is used to collect information on emergency situations in U.S. electric power systems. Approval of the request will provide DOE with the time necessary to more thoroughly evaluate its information needs in light of the changed environment since September 11, 2001.

DOE has responsibilities for tracking actual and potential emergency situations on the U.S. electric energy supply system so that Federal emergency response and national security measures can be implemented in a timely and effective manner, as necessary. DOE has had regulations in place since the 1980's requiring electric energy entities to report on systems' incidents and disturbances.

In 1998, the DOE received OMB approval, under Form EIA–417R, to collect electric systems' emergency information through December 31, 2001. DOE is requesting emergency approval to continue use of the existing Form EIA–417R while the revised form is being prepared for submittal to OMB.

During the summer of 2001, DOE developed revised reporting requirements for the form and issued a request for public comments. The **Federal Register** notice (66 FR 47189) requesting public comments was published on September 11. Given the events of September 11, 2001, public comments received in response to the **Federal Register** notice, and consultations with affected groups, DOE is reassessing the information it will require on electric power systems' incidents and disturbances. DOE will not complete this reassessment prior to expiration of the EIA–417R's approval, and thus needs to request an emergency 6-month approval to continue collecting information under the existing regulations (10 CFR 205.350—353).

DATES: Comments must be filed with OMB by December 17, 2001.

ADDRESSES: Send comments to the Bryon Allen, OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX at 202–395–7285 or e-mail to *BAllen@omb.eop.gov* is recommended. The mailing address is 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–7318. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller,. To ensure receipt of the comments by the due date, submission by FAX at 202–287–1705 or e-mail to *herbert.miller@eia.doe.gov* is recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of

Energy, Washington, DC 20585–0670. Mr. Miller may be contacted by telephone at (202) 287–1711.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection number and title; (2) the sponsor (i.e., the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (i.e, new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Form EIA–417R, ''Electric Power System Emergency Report''.

2. Office of Emergency Management, Office of Security and Emergency Operations.

3. OMB Number 1901–0288.

4. Reinstatement (emergency clearance request).

5. Mandatory.

6. The Form EIA–417R serves the purpose of alerting the Federal government about actual or projected incidents that will impact the operational and/or reliability of the Nation's domestic electric power systems. Respondents are the owners and/or operators of the Nation's electric power systems. Data are used to examine the incidents and track recovery process, along with alerting the senior policy makers of the Executive branch.

7. Businesses or other for-profit; Federal Government; Not-for-profit institutions; and State, Local or Tribal Governments.

8. 139 total burden hours; (48 respondents × 1 report × 2.89 hours/report).

Statutory Authority: Section 3507(j)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., December 4, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 01–30445 Filed 12–7–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–59–000]

Algonquin Gas Transmission Company; Notice of Compliance Filing

December 4, 2001

Take notice that on November 28, 2001 Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the revised tariff sheets listed on Appendix A to the filing to become effective January 1, 2002.

Algonquin states that the purpose of this filing is to revise the Gas Research Institute (GRI) surcharges to be effective January 1, 2002 in compliance with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding approved by the Commission in Gas Research Institute, 83 FERC ¶ 61,093 (1998), order on reh'g, 83 FERC ¶ 61, 331 (1998).

Algonquin states that the filing complies with the surcharges set forth in Appendix A to the Stipulation and Agreement as adjusted upward by 10% consistent with Article II, Section 1.0 of the Stipulation and Agreement, which was approved for filing by GRI member pipelines to be effective on January 1, 2002 without suspension or potential refund obligation by OMTR letter order issued September 19, 2001 in GRI's Docket No. RP01–434.

Specifically, Algonquin states that the approved 2002 surcharges are as follows: (1) A GRI volumetric surcharge of 0.55¢ per dekatherm will be charged on all non-discounted firm commodity and interruptible transportation services; (2) a 0.88¢ per dekatherm surcharge will be charged on all non-discounted firm commodity units delivered to small customers qualifying for service under Algonquin's Rate Schedules AFT–1S and AFT–ES; (3) a reservation surcharge of 6.6¢ per dekatherm per month will be charged on non-discounted firm high load factor customers, *i.e.,* greater than 50% load factor; and (4) a reservation surcharge of 4.07¢ per dekatherm per month will be charged on non-discounted firm low load factor customers, *i.e.,* less than or equal to 50% load factor.

Algonquin states that copies of the filing were mailed to all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–30408 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–445–001]

Alliance Pipeline L.P.; Notice of Negotiated Rates

December 4, 2001.

Take notice that on November 26, 2001, Alliance Pipeline L.P. (Alliance) tendered for filing as part of its FERC Gas Tariff, Volume No. 1, the following tariff sheets to become effective January 1, 2002:

First Revised Sheet No. 11
First Revised Sheet No. 12
First Revised Sheet No. 13
First Revised Sheet No. 14

Alliance states that it provides firm service under Rate Schedule FT–1 for its existing shippers, all of whom have agreed to pay negotiated rates. The negotiated rate agreements provide that changes in Alliance's costs will be reflected in its negotiated rates from time to time. Alliance states that the tariff sheets listed above set forth the essential elements of its Rate Schedule FT–1 negotiated rate transactions, including the rates thereunder, and that it is filing the listed tariff sheets to reflect changes made to the rates charged under its negotiated rate agreements as a result of changes in its

costs. Alliance states that its filing is made pursuant to the authorization set forth in its negotiated rates agreements and section 39 of the General Terms and Conditions of its FERC Gas Tariff. Alliance states that copies of its filing have been mailed to all customers, state commissions, and other interested customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–30406 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–035]

Dominion Transmission, Inc.; Notice of Negotiated Rate

December 4, 2001.

Take notice that on November 27, 2001, Dominion Transmission, Inc. (DTI) filed with the Commission the following tariff sheets for disclosure of a recently negotiated rate transaction:

Sixth Revised Sheet No. 1300
Second Revised Sheet No. 1406

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–30404 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–58–000]

East Tennessee Natural Gas Company; Notice of Compliance Filing

December 4, 2001.

Take notice that on November 28, 2001, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Twenty-Second Revised Sheet No. 4 and First Revised Sheet No. 4A to become effective January 1, 2002.

East Tennessee states that the purpose of this filing is to revise the Gas Research Institute (GRI) surcharges to be effective January 1, 2002 in compliance with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding approved by the Commission in Gas Research Institute, 83 FERC ¶ 61,093 (1998), order on reh'g, 83 FERC ¶ 61,331 (1998).

East Tennessee states that the filing complies with the surcharges set forth in Appendix A to the Stipulation and Agreement as adjusted upward by 10% consistent with Article II, Section 1.0 of the Stipulation and Agreement, which was approved for filing by GRI member pipelines to be effective on January 1, 2002 without suspension or potential refund obligation by OMTR letter order issued September 19, 2001 in GRI's Docket No. RP01–434.

Specifically, East Tennessee states that the approved 2002 surcharges are as follows: (1) A GRI volumetric surcharge of 0.55¢ per dekatherm will be charged on all non-discounted firm commodity and interruptible transportation services; (2) a 0.88¢ per dekatherm surcharge will be charged on all non-discounted firm commodity units delivered to small customers qualifying for service under East Tennessee's Rate Schedule FT–GS; (3) a reservation surcharge of 6.6¢ per dekatherm per month will be charged on non-discounted firm high load factor customers, *i.e.*, greater than 50% load factor; and (4) a reservation surcharge of 4.07¢ per dekatherm per month will be charged on non-discounted firm low load factor customers, *i.e.*, less than or equal to 50% load factor.

East Tennessee states that copies of the filing were mailed to all affected customers of East Tennessee and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–30407 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–26–000]

Llano Estacado Wind, LP Shell WindEnergy Inc.; Notice of Filing

December 4, 2001.

Take notice that on November 14, 2001, Llano Estacado Wind, LP (Llano Estacado Wind) and Shell WindEnergy, Inc. (Shell WindEnergy) (collectively, Applicants) tendered for filing the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Shell WindEnergy will indirectly acquire all the interests in Llano Estacado Wind, including jurisdictional rate schedules and certain substation and interconnection facilities.

Llano Estacado Wind owns the Llano Estacado Wind Ranch at White Dear, a wind-powered generation facility and Qualifying Small Power Production Facility with a nameplate gross output rating of 79.8 megawatts. Applicants have requested confidential treatment of certain commercially sensitive information.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 14, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the 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. 01–30402 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–044]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate

December 4, 2001.

Take notice that on November 28, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Substitute Original Sheet No. 26T, to be effective November 21, 2001.

On November 21, 2001, Natural filed Original Sheet No. 26T at Docket No. RP99–176–043 to implement a negotiated rate transaction under Rate Schedule ITS with Nicor Enerchange, LLC. Subsequently, it was discovered that certain provisions were inadvertently omitted. Therefore, Natural is now submitting Substitute Original Sheet No. 26T reflecting the appropriate provisions to be accepted in lieu of Original Sheet No. 26T previously submitted on November 21, 2001.

Natural requests waivers of the Commission's Regulations, including the 30-day notice requirement of section 154.207, to the extent necessary to permit the proposed tariff sheet to become effective November 21, 2001.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–30405 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–99–000]

Shell Offshore Inc., Complainant, v. Transcontinental Gas Pipeline Corporation, Williams Gas Processing—Gulf Coast Company, L.P., and Williams Field Services Company, Respondents; Notice of Complaint

December 4, 2001.

Take notice that on November 30, 2001, pursuant to rule 206 of the rules of practice and procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206, Shell Offshore Inc. (Shell) tendered for filing a Complaint Requesting Fast Track Processing and Request for Interim Relief against Transcontinental Gas Pipeline Corporation (Transco), Williams Gas Processing—Gulf Coast Company, L.P.(WGP), and Williams Field Services Company (WFS). Shell alleges that Transco, in concert with its affiliates WGP and WFS, are acting in an anti-competitive manner in connection with the transportation of gas in interstate commerce. More specifically, Shell alleges that Transco and its affiliates are implementing the abandonment of the North Padre facilities in a manner that frustrates the Commission's expectation that the abandonment would foster competition within the gathering industry and in a manner contrary to the Commission's policies and effective regulation of the interstate transportation of natural gas.

Shell has requested the Commission to: (1) Reassert jurisdiction over Transco's integrated system to protect shippers such as Shell from the anti-competitive behavior of Transco and its affiliates; (2) protect Shell from the immediate danger of losing its essential service on the North Padre facilities and the jurisdictional IT-feeder facilities by providing immediate interim relief requiring Transco and its affiliates to continue service without interruption at the Pre-December 1, 2001 rates, and under the same terms and conditions of service; and (3) provide permanent

relief to Shell against the loss of essential service on the North Padre facilities and the jurisdictional IT-feeder facilities by requiring Transco and its affiliates to continue service without interruption at just and reasonable rates and terms and conditions of service.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 14, 2001. 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. Answers to the complaint shall also be due on or before December 14, 2001. 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. 01–30410 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP96–312–063]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate and Compliance Filing

December 4, 2001.

Take notice that on November 27, 2001, Tennessee Gas Pipeline Company (Tennessee), submitted for filing and approval a Gas Transportation Agreement between Tennessee and eCORP Marketing, L.L.C., pursuant to Tennessee's Rate Schedule FT–IL for service on Tennessee's Stagecoach Lateral, dated November 5, 2001 (November 5 Lateral Service Agreement).

Tennessee states that the filing is being made in compliance with the Commission's February 23, 2001 Order Issuing Certificates and Authorizing Abandonment in Docket Nos. CP00–65–000, *et al.,* and the Commission's November 2, 2001 letter order in Docket Nos. RP02–17–000 and CP00–65–005. Tennessee requests that the Commission accept and approve on an expedited basis the negotiated rates in the November 5 Lateral Service Agreement to be effective on December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–30403 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–60–000]

Texas Eastern Transmission, LP; Notice of Compliance Filing

December 4, 2001.

Take notice that on November 28, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, the revised tariff sheets listed on Appendix A to the filing, to become effective January 1, 2002.

Texas Eastern states that the purpose of this filing is to revise the Gas Research Institute (GRI) surcharges to be effective January 1, 2002 in compliance with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding approved by the Commission in Gas Research Institute, 83 FERC ¶ 61,093 (1998), order on reh'g, 83 FERC ¶ 61,331 (1998).

Texas Eastern states that the filing complies with the surcharges set forth in Appendix A to the Stipulation and Agreement as adjusted upward by 10% consistent with Article II, Section 1.0 of the Stipulation and Agreement, which was approved for filing by GRI member pipelines to be effective on January 1, 2002 without suspension or potential refund obligation by OMTR letter order issued September 19, 2001 in GRI's Docket No. RP01–434.

Specifically, Texas Eastern states that the approved 2002 surcharges are as follows: (1) A GRI volumetric surcharge of 0.55¢ per dekatherm will be charged on all non-discounted firm commodity and interruptible transportation services; (2) a 0.88¢ per dekatherm surcharge will be charged on all non-discounted firm commodity units delivered to small customers qualifying for service under Texas Eastern's Rate Schedule SCT; (3) a reservation surcharge of 6.6¢ per dekatherm per month will be charged on non-discounted firm high load factor customers, *i.e.,* greater than 50% load factor; and (4) a reservation surcharge of 4.07¢ per dekatherm per month will be charged on non-discounted firm low load factor customers, *i.e.,* less than or equal to 50% load factor.

Texas Eastern states that copies of the filing were mailed to all affected customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–30409 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–4–000, et al.]

GNE, LLC, et al.; Electric Rate and Corporate Regulation Filings

December 3, 2001.

Take notice that the following filings have been made with the Commission:

1. GNE, LLC

[Docket No. EG02–4–000]

Take notice that on November 30, 2001, GNE, LLC located at 1 Katahdin Avenue, Millinocket, Maine, 04462–1398, tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to application for exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

GNE, LLC is a Delaware limited liability company that will own and operate four hydroelectric plants located at or near Millinocket, Maine, with a total nameplate capacity of approximately 130 megawatts and certain undivided joint ownership interest in several transmission interconnection components that will be part of the eligible facility. GNE, LLC will be engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: December 24, 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. Portland General Electric Company

[Docket No. ES01–33–001]

Take notice that on November 28, 2001, Portland General Electric Company submitted an amendment to its original application pursuant to section 204 of the Federal Power Act. The amendment seeks authorization to issue short-term debt securities in an amount not to exceed $550 million.

Comment date: December 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company, Select Energy, Inc., Northeast Generation Company

[Docket No. ER96–496–010, Docket No. ER99–14–007, and Docket No. ER99–4463–001]

Take notice that on November 28, 2001, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service of New Hampshire (the NU Operating Companies), and Select Energy, Inc. (Select), and Northeast Generation Company (NGC) (collectively, Applicants) jointly filed with the Federal Energy Regulatory Commission (Commission), an updated market power analysis. This filing serves as the triennial updated market power analysis in Docket Nos. ER96–496–000 for the NU Operating Companies; ER99–14–000 for Select; and ER99–4463–000 for NGC. In addition, Applicants request the Commission to synchronize their future triennial market power updates.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Phoenix Wind Power LLC

[Docket No. ER02–417–000]

Take notice that on November 28, 2001, Phoenix Wind Power LLC filed with the Federal Energy Regulatory Commission (Commission) a Notice of Succession informing the Commission that the name of PPM One LLC had been changed to Phoenix Wind Power LLC. Phoenix Wind Power LLC included with the Notice of Succession its First Revised Rate Schedule No. 1, effective November 27, 2001, which was revised to reflect the name change and to satisfy the Commission's regulations in 18 CFR 35.9.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Klamath Generation LLC

[Docket No. ER02–418–000]

Take notice that on November 28, 2001, Klamath Generation LLC filed with the Federal Energy Regulatory Commission (Commission) a Notice of Succession informing the Commission that the name of PPM Four LLC had been changed to Klamath Generation LLC. Klamath Generation LLC included with the Notice of Succession its First Revised Rate Schedule No. 1, effective November 27, 2001, which was revised to reflect the name change and to satisfy the Commission's regulations in 18 CFR 35.9.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Southern Company Services, Inc.

[Docket No. ER02–419–000]

Take notice that on November 28, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies), filed eleven (11) service agreements for point-to-point transmission service under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5). Specifically, this filing concerns seven (7) agreements for short-term firm point-to-point transmission service executed between SCS, as agent for Southern Companies, and: (i) TXU Energy Trading Company; (ii) Enron Power Marketing, Inc.; (iii) Cinergy Services, Inc.; (iv) Cargill-Alliant, LLC; (v) Avista Energy, Inc.; (vi) Sempra Energy Trading Corporation; and (vii) NRG Power Marketing, Inc. This filing also concerns four (4) agreements for non-firm point-to-point transmission service executed between SCS, as agent for Southern Companies, and: (i) TXU Energy Trading Company; (ii) Cargill-Alliant, LLC; (iii) Sempra Energy Trading Corporation; and (iv) NRG Power Marketing, Inc.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Tucson Electric Power Company

[Docket No. ER02–420–000]

Take notice that on November 28, 2001, Tucson Electric Power Company tendered for filing one (1) Umbrella Service Agreement (for short-term firm service) and one (1) Service Agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreements are as follows:

Umbrella Agreement for Short-Term Firm Point-to-Point Transmission Service dated as of July 24, 2001 by and between Tucson Electric Power Company PPL EnergyPlus, LLC–FERC Electric Tariff Vol. No. 2, Service Agreement No. 182. No service has commenced at this time.

Form of Service Agreement for Non-Firm Point-to-Point Transmission

Service dated as of July 24, 2001 by and between Tucson Electric Power Company and PPL EnergyPlus, LLC—FERC Electric Tariff Vol. No. 2, Service Agreement No. 183. No service has commenced at this time.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Southwest Power Pool, Inc.

[Docket No. ER02–421–000]

Take notice that on November 28, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Notice of Cancellation for SPP Service Agreement Nos. 518 through 521, between SPP and McCurtain Energy Associates, LLC, and SPP Service Agreement Nos. 522 through 524, between SPP and Sequoyah Energy Associates, LLC (collectively, Transmission Customers).

SPP requests an effective date of November 6, 2001 for this cancellation.

Copies of this filing have been served upon the Transmission Customers.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. West Texas Utilities Company

[Docket No. ER02–422–000]

Take notice that on November 28, 2001, West Texas Utilities Company (WTU) submitted for filing revised tariff sheets under WTU's Wholesale Power Choice Tariff (WPC Tariff) to modify billing procedures.

WTU seeks an effective date of August 1, 2001.

WTU states that a copy of this filing has been served on all customers taking service under the WPC Tariff and the Public Utilities Commission of Texas.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Commonwealth Edison Company

[Docket No. ER02–423–000]

Take notice that on November 28, 2001 Commonwealth Edison Company (ComEd) submitted for filing a Form of Service Agreement for Firm Point-to-Point Transmission Service (Service Agreement) between ComEd and Exelon Generation Company, LLC (Exelon) under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of November 21, 2001.

Copies of this filing were served on Exelon.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Michigan Electric Transmission Company and Consumers Energy Company

[Docket No. ER02–424–000]

Take notice that on November 28, 2001, Consumers Energy Company (Consumers) and Michigan Electric Transmission Company (Michigan Transco) tendered for filing a Notice of Succession and several documents related to the transfer of specified Rate Schedules from Consumers to Michigan Transco. (The filing is intended to supplement a prior filing in Docket No. ER01–1683–000).

The changes therein noted are to become effective April 1, 2001.

A full copy of the filing was served upon the Michigan Public Service Commission, and the Customers served under the affected Rate Schedules.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Cleco Power LLC

[Docket No. ER02–425–000]

Take notice that on November 28, 2001, Cleco Power LLC (Cleco) filed a Revised Electric System Interconnection Agreement with Southwestern Electric Power Company that provides for a new delivery point for SWEPCO deliveries at Grand Bayou and the terms and conditions for the installation of new meter and communications equipment associated with that delivery point. The revised agreement is designated as Cleco Power LLC First Revised Rate Schedule FERC No. 17.

Comment date: December 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. American Transmission Company LLC

[Docket No. ER02–426–000]

Take notice that on November 28, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and Cloverland Electric Cooperative.

ATCLLC requests an effective date of June 29, 2001.

Comment date: December 19, 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. 01–30399 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–25–000]

Copiah County Storage Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Copiah Storage Project and Request for Comments on Environmental Issues

December 4, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Copiah Storage Project involving construction and operation of facilities by Copiah County Storage Company (Copiah) in Copiah County, Mississippi.[1] Copiah proposes to construct a compressor station, a natural gas storage cavern, approximately 635 feet of 20-inch-diameter pipeline, and up to five freshwater withdrawal/brine injection well sites. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about

[1] Copiah's application was filed with the Commissiion under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Copiah provided to affected landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

Summary of the Proposed Project

Copiah wants to provide a storage facility that would act as a reservoir for a supply of natural gas to the Mississippi regional area. The proposed project would meet load swings brought about by gas-fired electric generation and the peak winter heating load and growth of local distribution companies for rapid fuel delivery services to nearby pipeline systems. The storage facility would have an initial natural gas storage working capacity of approximately 3.3 billion cubic feet (Bcf) with 300,000 dekatherms per day (Dth/d) of deliverability capability and 150,000 Dth/d of injection capability. Specifically, Copiah seeks authority to construct and operate:

- A single 3.3 Bcf capacity gas storage cavern extending approximately 5,500 feet below the ground surface within an underground salt dome;
- 13,350 horsepower (hp) of gas engine-driven compression at the new Copiah Storage Project compressor station to provide compression for injection and withdrawal of natural gas from the gas storage cavern;
- Approximately 635 feet of 20-inch-diameter pipeline from the compressor station to the storage cavern wellhead; and
- Up to five well sites consisting of a freshwater withdrawal well and brine injection well at each site.

The location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Approximately 730 acres have been identified by Copiah as the project area. However, only 59 acres would be disturbed by construction and 53 acres would be necessary for the operation of the proposed project.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Land use
- Water resources, fisheries, and wetlands
- Endangered and threatened species
- Vegetation and wildlife
- Air quality and noise
- Cultural resources

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Copiah. This preliminary list of issues may be changed based on your comments and our analysis.

- The project would be located in a United States Environmental Protection Agency-designated sole-source aquifer area, the Southern Hills Regional Aquifer System.
- The project would require approximately 34 million barrels of non-potable freshwater for cavern solution leaching. The rate of withdrawal from each well would be approximately 600 to 1,000 gallons per minute (gpm). Brine resulting from cavern leaching would be disposed of by injection into disposal wells.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas/Hydro.
- Reference Docket No. CP02–025–000.
- Submit your comments so that they will be received in Washington, DC on or before January 15, 2002.

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

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

site at *http://www.ferc.gov* under the ''e-Filing'' link and link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

Everyone who responds to this notice or comments throughout the EA process will be retained on our mailing list. If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Due to current events, we cannot guarantee that we will receive mail on a timely basis from the U.S. Postal Service, and we do not know how long this situation will continue. However, we continue to receive filings from private mail delivery services, including messenger services in a reliable manner. The Commission encourages electronic filing of any comments or interventions or protests to this proceeding. We will include all comments that we receive within a reasonable time frame in our environmental analysis of this project.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214) (see appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC Web site (*www.ferc.gov*) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet Web site provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Web site, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30401 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–433–000]

Transcontinental Gas Pipe Line Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Station 35 Clean Air Project and Request for Comments on Environmental Issues

December 4, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Station 35 Clean Air Project involving construction and operation of facilities by Transcontinental Gas Pipe Line Corporation (Transco) in Harris County, Texas.[1] These facilities would consist of 14,910 horsepower (hp) of compression at an existing compressor station. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner you might have also received previous notification from Transco. FERC regulations require the applicant to notify all landowners within one-half mile of the compressor station. However, the proposed facility modifications will take place entirely within Transco property and no additional land will be required for this project.

Summary of the Proposed Project

Transco proposes to modify its existing compressor site at Compressor Station 35 in Harris County, Texas to comply with Clean Air Act Amendments (CAA) of 1990 and the Texas Natural Resource Conservation Commission for the Houston-Galveston Intrastate Air Quality Control Region. To reduce emissions and comply with the CAA, Transco proposes to:

- Install 2 electric motors driving two 7455 HP centrifugal compressors and associated equipment;
- Remove 4 existing gas-fired compressors;
- Construct a new 75 feet x 110 feet compressor building, a 35 feet x 72 feet auxiliary building, a 120 feet x 200 feet electrical auxiliary building and a 16 feet × 50 feet switchgear station;
- Demolish the old compressor building and remove associated equipment; and;
- Modify existing yard piping.

Land Requirements for Construction

Construction of the proposed facilities would require about 4 acres of land in a completely fenced site that has been previously disturbed.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

[1] Transco's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

1. Geology and soils.
2. Land use.
3. Water resources, fisheries, and wetlands.
4. Cultural resources.
5. Vegetation and wildlife.
6. Air quality and noise.
7. Endangered and threatened species.
8. Hazardous waste.
9. Public safety.
10. Water resources, fisheries, and wetlands.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 4.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Transco. This preliminary list of issues may be changed based on your comments and our analysis.

11. Air quality effects.
12. Noise impact.
13. Land-use compatibility.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

14 Send an original and two copies of your letter to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

15. Label one copy of the comments for the attention of (Gas/Hydro Branch).

16. Reference Docket No. CP01–433–000.

17. Mail your comments so that they will be received in Washington, DC on or before (January 15, 2002).

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 you do not want to send comments at this time but still want to remain on our mailing list, please return the Information request (appendix 2). If you do not return the Information Request, you will be removed from the environmental mailing list.

Due to current events, we cannot guarantee that we will receive mail on a timely basis from the U.S. Postal Service, and we do not know how long this situation will continue. However, we continue to receive filings from private delivery services, including messenger services in a reliable manner. The Commission encourages electronic filing of any comments or interventions or protests to this proceeding. We will include all comments that we receive within a reasonable time frame in our environmental analysis of this project.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214) (see appendix 2).[3] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

[3] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC Web site (*www.ferc.gov*) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet Web site provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Web site, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30400 Filed 12–7–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7114–8]

Equipment Containing Ozone Depleting Substances at Industrial Bakeries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed bakery partnership program and request for comments.

SUMMARY: In today's **Federal Register** the Environmental Protection Agency announces a unique voluntary Partnership Program for the baking industry. EPA believes that there are many bakeries that are leaking ozone depleting substances, including chlorofluorocarbons (CFCs), in excess of permitted levels, and therefore, intends to establish a voluntary program for reducing these emissions in an expeditious, highly cost-effective manner. This program generally requires participants to audit certain appliances and phase out Class I industrial process refrigeration appliances. It also provides incentives to replace existing appliances with non-ozone depleting systems, and requires compliance with the leak repair regulations.

Participation in the partnership program is purely voluntary, and this is not a rule, but it does combine the advantages of predictability and

reduced penalties with incentives to move away from the use of ozone depleting substances (ODS). Participating companies will be asked to agree to phase out use of the more hazardous Class I ODS by July 15, 2003, reflecting the fact that use of these substances is being rapidly phased out under existing rules. Bakeries that have installed non-ODS systems by March 15, 2002, can avoid all penalties under this agreement. Bakeries that install non-ODS systems after that date but no later than July 15, 2004 (unless an extension is granted) are limited to penalties of $10,000 per appliance. All other appliances must pay a per pound penalty for any leaks that cross a high threshold but again, this per pound penalty can be avoided by conversion to non-ODS systems. Companies already under national investigation for violations are not eligible to participate in this program. EPA solicits comments on the Bakery Partnership Program described below.

DATES: Comments should be submitted by January 9, 2002.

ADDRESSES: Comments should be submitted: Bakery Partnership Program Comments, the Docket Clerk, Enforcement and Compliance Docket and Information Center (Mail Code 2201A), Docket Number EC–2001–007, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave, NW., Washington, DC 20460 (in triplicate, if possible). Please use a font size no smaller than 12. Commenters are encouraged to submit their comments electronically in lieu of or in addition to standard delivery, by sending those comments electronically to a separate email box established for the purpose of receiving comments and other notices under this Bakery Partnership Program: *docket.oeca@epa.gov.* Attach electronic comments as an ASCii (text) file, and avoid the use of special characters and any form of encryption. Be sure to include the docket number, EC–2001–007 on your document. Comments may also be faxed to (202) 501–1011. In person, deliver comments to Enforcement and Compliance Docket and Information Center, U.S. Environmental Protection Agency, Ariel Rios Building, Room 4033, 1200 Pennsylvania Ave, NW., Washington, DC 20460. Persons interested in reviewing this docket may do so by calling (202) 564–2614 or (202) 564–2119.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Garlow, Air Enforcement Division (2242A), U.S. EPA, 1200 Pennsylvania Ave NW., Washington, DC 20460, telephone 202–564–1088.

SUPPLEMENTARY INFORMATION: Many industries, including most industrial bakeries, use ozone depleting substances [ODS], such as CFCs and hydrochlorofluorocarbons [HCFCs], to cool their products. Like other industrial sources, most industrial bakeries have industrial process refrigeration appliances that are subject to 40 CFR part 82, subpart F. The equipment that produces the product contains CFCs or other ozone depleting substances in jackets around the product. The equipment may sometimes leak these coolants in sizeable quantities into the air, not into the product. If certain leak rates are exceeded, the company may be required to retrofit or retire the equipment.

EPA has concluded two large industrial process refrigeration enforcement cases, one of which involved a baking company with bakeries in several states. In both cases, the companies voluntarily chose to replace their industrial process refrigeration appliances with equipment designed to prevent pollution. The ozone depleting coolant was replaced by a cooling system which uses a secondary loop containing a cooling solution, glycol, that is not an ozone depleting substance. Although the primary loop of the refrigeration system may still contain some ozone depleting substances, the quantity is greatly reduced, and the ODS refrigerant is located where vibration and the potential for leaks is greatly reduced. The EPA wants to encourage all companies with industrial process refrigeration appliances that may be leaking to consider a similar pollution prevention approach to ensuring their compliance with the refrigerant recycling and emissions reduction regulations found at 40 CFR part 82, subpart F.

EPA is inviting the baking industry to participate in a voluntary program to address these potential violations. It offers an expedited way for companies to correct past violations and prevent future ones, in return for a release from past liabilities and reduced penalties. The largest trade association representing bakeries accepted this invitation on behalf of its members. The total number of industrial bakeries is not exactly known yet, but it is believed that there may be over 1000 bakeries in the United States. Each bakery will likely have one or more industrial process refrigeration appliances that are subject to the regulations, such as mixers or chillers, at each bakery. Many of these industrial process refrigeration appliances, have already been converted to non-ODS, pollution prevention equipment.

In the interests of promoting fast, efficient and widespread emission reductions, and better compliance with the regulatory structure, EPA intends to offer and enter into agreements with baking companies providing for the following:

- Audit their facilities;
- Identify problem areas;
- Pay a greatly reduced penalty, and propose solutions that will protect the environment; and,
- Ensure greater compliance with the refrigerant recycling and emissions reduction regulations found at 40 CFR part 82, subpart F.

EPA's proposal offers clear and consistent terms to reduce uncertainty and eliminate the need for extended, individualized negotiations. Presented here are the basic elements, illustrations and a chronology of key steps that EPA and participants will be expected to take. The basic elements of the program are as follows:

- *Notice to EPA.* Bakeries not already the subject of a national enforcement investigation or action, and which have industrial process refrigeration appliances containing 50 pounds or more of ODS refrigerants, are eligible to participate. Companies intending to participate should notify EPA by March 15, 2002 and as soon thereafter as possible, but no later than March 30, 2002, identify the number of appliances to be audited. If some of the industrial process refrigeration appliances have been converted to non-ODS systems prior to March 15, 2002, a count of these appliances should also be provided. If, during the audit, a more accurate tally is obtained, an updated notice may be submitted at that time. Appendix A contains a sample notice of participation. It can be sent by electronic mail or hard copy mail, but electronic mail or e-mail is preferred.
- *Annualized leak rate.* For the purposes of this Partnership Agreement, the annualized leak rate shall be calculated for every instance in which refrigerant was added to the appliance. The leak rate shall be calculated by the formula agreed upon by EPA in the *Compliance Guidance for Industrial Process Refrigeration Leak Repair Regulations under Section 608 of the Clean Air Act.*
- *Audit.* Participating companies must audit up to June 15, 2003, i.e., assess the compliance status of all their industrial process refrigeration appliances and facilities. They must then report to EPA a summary of their findings, by July 15, 2003. If a company complies with the program, EPA intends

to grant a release from civil liability for the matters identified and corrected, so long as reduced penalties are paid as described below. However, if violative conduct is not identified and corrected, EPA is not granting any release for such problems. Good faith participants in this Partnership Program will receive a release for the period of time prior to September 30, 2000, even though this period may not be audited. If a facility has installed non-ODS technology on any of their appliances prior to the March 15, 2002 start date for this partnership program, such an appliance need not be audited, and a complete release from civil liabilities and penalties will be granted for such appliances. By non-ODS systems, EPA means systems that contain no ODS at all [e.g. HFC systems or ammonia systems] or no ODS in the secondary loop, but may contain an ODS in the primary loop. Typically, the ODS in the primary loop [compressor] is a much smaller volume, and is not subjected to the vibration in the process areas that may cause greater leaks. If the primary loop contains less than 50 pounds of ODS, as is frequently the case, then the appliance is exempt from the leak repair regulations. It is still subject to other requirements such as the ''no venting'' requirement of 40 CFR 82.154(a).

• *Class I appliances.* All Class I appliances must be audited and converted either to a non-ODS system or to a system using an ODS with an ozone depleting potential [ODP] of less than 0.1. Class I appliances are those containing Class I controlled substances, listed in appendix A to subpart A of 40 CFR part 82, and include CFC refrigerants (e.g., R–12). Leaks from these Class I appliances are more damaging to the Earth's ozone layer than an equivalent amount of leakage from Class II appliances. The phaseout of the production of CFCs was completed as of December 31, 1995. Since the availability of CFCs will continue to decrease over time, EPA believes that this is a good time to switch to a less ozone-depleting technology. EPA estimates that the vast majority of appliances in this industry have already switched from using Class I ODS to either Class II or non-ODS systems. Participating companies must identify their Class I appliances and submit a plan for change/conversion to either the Class II ODS with an ODP of 0.1 or less, such as R–22, or to a non-ODS system. The audits must be completed and plans must be submitted to EPA by July 15, 2002. An Administrative Order on Consent [AOC] will incorporate a pledge to complete the audits of Class II appliances and to submit plans if needed, for those appliances by July 15, 2003 and pay penalties as specified in the agreement. EPA expects the plans for Class I appliances to be fully implemented by July 15, 2003, but may grant additional time in exceptional circumstances pursuant to 40 CFR 82.156(i)(7).

• *Class II appliances.* All Class II appliances must be audited by June 15, 2003. Class II appliances are those containing Class II controlled substances, listed in appendix B to subpart A of 40 CFR part 82 (including all HCFC refrigerants, such as R–22). If any of these appliances are being changed/converted to non-ODS systems, then plans to accomplish this must be submitted by July 15, 2003 as agreed to in the July 2002 AOC.

• *CAFO.* EPA will issue Compliance Agreement Final Orders [CAFOs] to participating companies that reflect the audit findings, implementation plans and schedule of corrections, any reduced penalties that must be paid and a release from civil liability conditioned on completion of the implementation plans and corrections. EPA will issue CAFOs at the completion of all audits in July of 2003. If a company has only Class I appliances, EPA will issue the CAFO in July of 2002. Companies must also commit to compliance with all regulations.

• *Plan Implementation.* By July 15, 2003 for Class I appliances and by July 15, 2004 for Class II appliances, all plans for equipment changes/conversions should be completely implemented, unless extensions are granted pursuant to 40 CFR 82.156(i)(7). EPA is still considering whether the proposal outlined above satisfies the Clean Air Act requirement that Section 113(a) administrative orders must require compliance within twelve months of their issuance.

• *Program Completion.* By July 15, 2004 or such later date that all conversions are completed, the participating company will notify EPA and EPA will respond with a confirmation letter acknowledging the completion of the Bakery Partnership Program.

Penalties

• *Per appliance penalty.* A penalty of $10,000 shall be paid for all ODS containing appliances, regardless of whether violations are identified or not, except that no penalties are due for any appliance converted to a non-ODS system before March 15, 2002. No bakery facility must pay more than $50,000 in these penalties. This penalty will be paid with other penalties no later than 30 days after receipt of the CAFO.

• *Per pound penalties.* Additional ''per pound'' penalties for all appliance leaks discovered during the audit, occurring after a 35% annualized leak rate, must be calculated on a 12 month basis, beginning when the auditing period starts, *i.e.,* September 30, 2000. At the end of the 12 month period following a 35% annualized leak rate, per pound calculations cease, unless a subsequent 35% annualized leak is discovered, in which case another 12 month period of calculation begins. Per pound penalty calculations end June 15, 2003.

• *No per pound penalties for replacement with non-ODS system.* Switching to a non-ODS system is encouraged. If a participating company agrees to replace an ODS system with a non-ODS system in an appliance, no ''per pound'' penalties need be paid for that appliance. If a company is facing high per pound penalties for a particular appliance but has decided that it does not make technical or economic sense for the company to convert that particular appliance to a non-ODS system, it may instead substitute another appliance[s] and still avoid the per pound penalties for the first appliance. The first appliance must still be brought into full compliance. This ''bubbled compliance'' concept would allow a company to substitute another appliance or appliances that have 120% of the full charge of the appliance that will not be changed/converted. For example, if a 1000 pound appliance has very high per pound penalties that the company wishes to avoid, it may avoid those penalties either by converting this appliance to a non-ODS system, or by converting one or more other ODS containing appliances [that were not already required to convert to non-ODS systems] which have a total charge of at least 1200 pounds. This could be one other appliance with a full charge of 1200 pounds or two appliances of 600 pounds each or some other combination of appliances that total at least 1200 pounds of refrigerant. If the two 600 pound appliances in this example had per pound penalties of their own, those penalties would still be due, unless some other appliance or appliances in turn were converted to non-ODS systems in their stead, at the 1.2 to 1 ratio, as above.

• *Start-up period.* No leaks will be counted as part of the per pound calculation for the period 60 days after a new installation or after an appliance is changed/converted to a non-ODS or lower than 0.1 ODP system, as a ''start up'' period.

• *Per pound amounts.* Per pound penalties will be calculated per appliance as follows: $20 per pound for up to 500 pounds, $30 per pound for 501–1000 pounds and $40 per pound for the pounds over 1000 for each 12 month period after a 35% annualized leak rate is identified.

In summary, all sources must achieve and maintain full compliance with the refrigerant recycling and emissions reduction regulations found at 40 CFR part 82, subpart F. In addition, appliances using class I substances must be audited and changed/converted. Appliances using class II substances must be audited. Owners of Class I and II appliances may elect to convert to non-ODS to avoid paying fees for higher leaks. Each company will sign an Administrative Order on Consent [AOC] on or before July 15, 2002 and sign a Consent Agreement Final Order [CAFO] on or before July 15, 2003, which will specify a conditional waiver of liability. These are the main points of interest in this partnership agreement. There are some other minor details that are mentioned in the Partnership Agreement and the other Appendices, which should be self explanatory. Other approaches to achieving the objectives of this program were considered by EPA and the industry representatives, but this approach was chosen as being the best from the point of view of administrative ease of implementation and environmental improvement.

Here is an example of what a participating company may encounter during participation in this partnership agreement:

If a participating company, is eligible and wants to participate, it should send a notice to EPA by March 15, 2002, identifying the company and its facilities and appliances. If this company has five bakeries and five appliances in each bakery, for a total of 25 appliances, seven of which have been converted to a non-ODS system prior to March 15, 2002, then there will be a $10,000 penalty per appliance for the 18 ODS containing appliances. This company will, however, get a release from civil liability for all 25 appliances for problems identified and corrected. The company is best advised to pay particular attention to their Class I appliances, if any, as audits must be conducted and a decision on these appliances must be made by July 15, 2002. If there are four Class I appliances, they should be audited first to determine what ''per pound'' penalties may be due for these appliances. If the per pound penalties determined from this audit indicate that a large per pound penalty may be due for several of these appliances, then this may be persuasive in deciding to convert these appliances to a non-ODS system in order to avoid the per pound penalties. If, instead, the company chooses to convert some or all of the Class I appliances to a Class II ODS refrigerant with an ODP of less than 0.1, rather than a non-ODS system, then the per pound penalties will still be due and payable by 30 days after receipt of the CAFO, which should be shortly after July 2003. Auditing and calculation of per pound penalties should continue through June 15, 2003 to ensure continuing compliance and lowered emissions.

By July 15, 2002, this company must prepare a plan and submit this plan to EPA, indicating which of the appliances are the Class I appliances, and what changes or conversions the company pledges to make to them, with a schedule for the work anticipated. The company should submit, along with the plans, the auditing summaries for the Class I appliances [see the sample below]. EPA will incorporate the plans for these four Class I appliances, along with the pledge to continue auditing the other appliances and to prepare and submit plans for them within a year in an Administrative Order on Consent [AOC] which should be signed by both the company, and then by EPA. EPA will return a copy of the signed AOC to the company.

For the other Class II appliances, a similar audit of compliance should begin covering the period from September 30, 2000 until June 15, 2003. Per pound penalties, if any, should be calculated for these appliances. As with the Class I appliances, if the company wishes to avoid paying these per pound penalties, it may do so by agreeing to convert the Class II systems to non-ODS systems. The company should make that decision and submit plans, if any, for such conversions to EPA by July 15, 2003. These plans will be incorporated in the CAFO. EPA expects that these plans will be implemented by July 15, 2004 with the possibility of extensions if additional time is needed.

In calculating per pound penalties, this company should look at each appliance and calculate its per pound penalties, if any. If, for example, the first Class I appliance had a 50% annualized leak rate in October 2000 and thereafter in the next 12 months had small and large leaks totaling 1500 pounds, then the per pound penalty for these 1500 pounds would be calculated as follows: $20 per pound for the first 500 pounds or $10,000, $30 per pound for pounds 501–1000 or $15,000 and $40 per pound for pounds 1001–1500 or $20,000. Thus, the total for this 12 month block period would be $45,000 [$10,000 + $15,000 + $20,000]. If a large leak rate was discovered in December 2000, that does not start another 12 month block period up to December 2001, as this is a leak inside the October 2000–2001 12 month period. If after October 2001 this same appliance had another annualized leak greater than 35%, for example, a 90% annualized leak rate, then leaks after that point would be calculated as above and added to the $45,000 total. This process should continue through June 15, 2003 and a total per pound penalty should be calculated for this appliance, and for all other appliances. The company then has the option of paying this per pound penalty or avoiding it by submitting a plan for converting to a non-ODS system. EPA hopes that this financial incentive will cause more companies to choose conversion to non-ODS systems while still giving the company the flexibility to decide which option is best for it.

On July 15, 2003, the company should submit audit summaries and plans for any equipment changes/conversions that it intends to make to the Class II appliances. It should also be prepared to pay any penalties that may be due shortly after the CAFO is received by the company. EPA will also prepare a CAFO with the release from civil liability for all matters that the company has identified as being a potential problem and corrected. This listing of audit discovered problems can be included in the plan for equipment changes/conversions or can be listed separately. It can include matters such as technician certification, better recordkeeping systems, equipment certifications, etc. Problem areas, or violations, not so identified and corrected will not receive a release from liability, so it is very important to identify all these problem areas and correct all these problems.

By July 15, 2004, the company will have completed the equipment changes/conversions, unless more time is needed and corrected other problems identified in the audit. The company will send a letter certifying that all these matters have been attended to and EPA will reply accepting this certification and thanking the company for participating. This is the end of the program for this company.

Key Dates

September 30, 2000

Begins period of compliance audit and monthly measurement of annual leak rates from industrial process refrigeration appliances for all partnership participants.

''Look-back'' period gives credit to companies that have taken steps to improve leak management.

March 15, 2002

Notice of intent to participate in partnership program

—Companies must identify charging capacity and location of all appliances using over 50 lbs of Class I or Class II ozone depleting substances, and those which have converted to use of non-ODS refrigerant in secondary loop by March 15, 2002.

—Companies commit to complete audit and submit implementation plans by July 15, 2002, to convert Class I appliances to at least Class II, and to pay stipulated penalties or switch to non-ODS refrigeration appliances by July 15, 2003 (unless extension granted).

—All penalties waived for appliances that have been converted to non-ODSs by March 15, 2002.

—Program open to all companies not subject of national enforcement investigation.

July 15, 2002

EPA issues administrative order/information request on consent to participating companies reflecting commitment to complete audit by June 15, 2003 and submit implementation plans for Class II appliances by July 15, 2003.

Companies that have switched all appliances to non-ODS by March 15, 2002 may receive compliance agreement/final order (CAFO) discharging all liabilities for past violations without payment of penalty.

June 15, 2003

Audits are completed.

July 15, 2003

Bakeries submit audit results and final implementation plans.

Bakeries pay stipulated penalties for 12 months following any single month in which annualized leak rate exceeds 35%, but:

—Bakeries can avoid stipulated penalties if implementation plan commits to replace leaking appliance with non-ODS system no later than July 15, 2004 (unless program grants extension).

—Bakeries can ''bubble'' by substituting ODS conversion at another appliance (must have charge 120% greater than leaking appliance).

All Class I ODS appliances must convert to at least Class II ODS appliances by July 15, 2003, unless program grants extension.

EPA issues compliance agreement/final order reflecting conversion to Class II or non-ODS systems, and payment of stipulated penalties.

July 15, 2004

Bakeries must complete conversion to non-ODS systems reflected in implementation plans, unless program has granted an extension.

Key Definitions

Annualized leak rate—(pounds of refrigerant added/pounds of full charge) × (365 days/# days since refrigerant last added) × 100%.

Appliance—industrial process refrigeration device containing 50 pounds or more of ODS refrigerants.

Class I—an ODS listed in appendix A to 40 CFR part 82, subpart A.

Class II—an ODS listed in appendix B to 40 CFR part 82, subpart A.

ODS—ozone depleting substance.

Facility—a discrete parcel of real property or such a parcel improved by Participating Company's building, structure, factory, plant, premises, or other thing, related to Participating Company's wholesale baking/bakery business, and containing at least one appliance as defined in this agreement.

Non-ODS system—systems that contain no ODS at all [e.g. HFC systems or ammonia systems] or no ODS in the secondary loop, but may contain an ODS in the primary loop.

Additional Sources of General Information

To find out more about compliance with Title VI of the Clean Air Act, access the EPA's web site at *www.epa.gov/ozone.* The U.S. Environmental Protection Agency (EPA) and the Chemical Manufacturer's Association (CMA) have developed a guidance document entitled Compliance Guidance For Industrial Process Refrigeration Leak Repair Regulations Under Section 608 of the Clean Air Act [see *http://www.epa.gov/ozone/title6/608/compguid/compguid.html*] that provides greater detail than the discussion on the EPA web site. The guidance document is intended for those persons who are responsible for complying with the requirements. The guidance should not be used to replace the actual regulations published in the **Federal Register** on August 8, 1995 (60 FR 40420) [see http://www.epa.gov/spdpublc/title6/608/leakfrm.txt] ; however, it can act as a supplement to explain the requirements. Reliance on this fact sheet alone will likely not result in compliance. Another useful web site is one pertaining to general leak repair: *http://www.epa.gov/ozone/title6/608/leak.html.* EPA has also made available a sample inspector's checklist to the trade association, which is available online at *http://www.epa.gov/ozone/title6/608/compguid/compguid.html* or *http://www.epa.gov/oeca/ore/aed/bakery/index.html* or by contacting the Ozone Hotline at 800–296–1996.

Conclusion

EPA believes that the above-described program is the best, most cost-effective way to achieve immediate environmental improvement and achieve significant progress in resolving the myriad compliance concerns that may be present in this industry. Its terms, conditions and protections will be available only to those companies that are eligible and elect to participate. As appropriate, non-participants may be subject to enforcement actions in which significant penalties would be sought for violations of the part 82 regulations at issue here.

Comments on the approach outlined above, as well as on the specific items and terms reflected in the following Appendices, are solicited. To be fully considered, comments must be received by January 9, 2002.

Eric Schaeffer,

Director, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance.

Attachments
Partnership Agreement with Appendices:
Sample Identification of Facilities/Appliances due March 15, 2002
Sample AOC
Sample CAFO

Ozone-Depleting Substance Emission Reduction Bakery Partnership Agreement

The United States Environmental Protection Agency (''EPA'') and _____ (''Participating Company''), the parties to this agreement, desire to enter into and be bound by the terms of this Ozone-Depleting Substance (ODS) Emission Reduction Bakery Partnership Agreement (''Agreement'').

Introduction

The Agreement specifies an audit, self-disclosure and corrective action program, which shall result in a release from liability for the conditions that are identified and corrected. This Agreement incorporates the features of the Bakery Partnership Program as detailed in the **Federal Register** on this topic, published January ____, 2002.

Applicability

1. This Partnership Agreement shall apply to and be binding upon both EPA and Participating Company, including but not limited to its officers, directors, agents, servants, employees, successors, and assigns. Participating Company shall give notice of this Agreement to any successor in interest prior to the transfer of any ownership interest in any machinery subject to Title VI, Clean Air Act (42 U.S.C. 7671 et. seq.) (the ''Act'') and its incorporating regulations, 40 CFR Part 82 (''Regulations''). The Notice for this Program (''Program Notice'') was given to the baking industry by the EPA in cooperation with baking industry trade officials and trade journals.

2. In order for a Participating Company to be eligible to participate in this Agreement, the Participating Company must be a wholesale bakery not currently under corporate-wide investigation by EPA for a violation of Title VI of the Clean Air Act.

Definitions

3. ''Participating company'' means any eligible company and its wholly-or partially-owned subsidiaries, including all their bakeries, which agree to abide by the conditions of this Agreement.

4. ''Corporate-wide investigation'' means an investigation that requires information disclosure from either (1) five or more facilities owned by a company that seeks to be a Participating Company or (2) all facilities that are subject to Title VI and owned by a company that seeks to be a Participating Company.

5. ''Non-ODS system'' means pollution prevention technology recommended to and agreed upon by EPA that supplants standard ODS technology, including but not limited to glycol, chilled water, or other non-ODS coolant in a secondary-loop system or totally non-ODS systems, such as HFCs or ammonia.

6. ''Facility'' means a discrete parcel of real property or such a parcel improved by Participating Company's building, structure, factory, plant, premises, or other thing, related to Participating Company's baking/bakery business, containing at least one appliance.

7. ''Retrofit'' means to install new or modified parts in an appliance which were not provided as a part of the originally manufactured equipment. The retrofitted appliance must use a refrigerant with an ozone depleting potential that is lower than that which was used before the retrofit.

8. ''Retire'' means to withdraw an appliance from service and replace it with an appliance containing a refrigerant with an ozone depleting potential that is lower than that which was used in the retired appliance.

9. ''Appliance'' means an industrial process refrigeration appliance containing 50 pounds of more of ODS refrigerant that is housed within the facility.

10. ''ODS'' means Ozone Depleting Substance used as a refrigerant.

Initial Notice

11. Participating Company represents that:

a. It notified EPA of Participating Company's intent to participate in the Ozone Depleting Substance Emission Reduction Bakery Partnership Program by 5 p.m. Eastern Time, March 15, 2002 by submitting this executed Partnership Agreement.

b. Annex A, submitted with this Agreement, or updated shortly thereafter, is a true, accurate, and complete identification of:

i. Name of the Participating Company; and

ii. Name, street address, ZIP code, and city of each facility at which the Participating Company believes any subject appliance is presently located; and

iii. State in which the facility is located; and

iv. EPA region in which the facility is located; and

v. The number or best estimate of the number of appliances with more than 50 pounds of refrigerant when fully charged, as determined by calculation, weight, manufacturer supplied information, or an established range as described in 40 CFR 82.152.

vi. The number or best estimate of the number of non-ODS industrial process refrigeration appliances.

c. Participating Company certifies that it is eligible to be a participating company, that is, it meets the qualifications specified in paragraphs 2 and 3.

d. Participating Company agrees to audit all its facilities as specified below and disclose the summary results of such audits to EPA and correct any and all violations in accordance with this Agreement.

e. Participating Company agrees to toll the applicable statute of limitations during the life of the Agreement that may apply to the violations that may have occurred within the time period five years prior to the signing of this Agreement.

f. In the event that ownership of a facility subject to this agreement is (or was) transferred during the period covered by the agreement, the agreement shall apply to the former owner for the period during which the facility was owned by the former owner, provided all applicable terms and conditions are otherwise satisfied. The agreement shall also apply prospectively, according to its terms, to the party to whom the facility is transferred, if the new owner provides EPA with written confirmation of intent to comply with the agreement.

Audit Conduct, Report and Plans

12. Participating Company agrees to assist EPA with EPA's review of audit results. Such assistance may take the form of responding to telephone calls for clarification and other reasonable informal inquiries, without the need for formal information demands.

13. Participating Company agrees to identify all facilities with applicable industrial process refrigeration appliances.

14. Participating Company agrees to undertake a reasonable investigation and to the extent it can reasonably assemble such information, report to EPA for each applicable appliance, dates of service, beginning September 30, 2000 and continuing until June 15, 2003; pounds of refrigerant added; days since the last addition of refrigerant; percent annualized leak rate; and any associated comments by using a spreadsheet such as the one contained in Annex C. To the extent that a change in system components, such as a new compressor, may have altered the full charge, or where other special conditions arise, these conditions should be noted in the comments section.

15. Participating Company agrees to complete audits of all industrial process refrigeration appliances at each facility, except for those appliances converted to a non-ODS system prior to March 15, 2002, and notify EPA with a summary of the audit results as specified in the preceding paragraph and corrective actions planned, as necessary, by July 15, 2002 for Class I appliances and by July 15, 2003 for Class II appliances. Participating Company may, at its sole discretion, include commercial and comfort cooling appliances subject to 40 CFR 82.156(i) in the audit for compliance and receive a release from liability for problems identified and corrected.

16. Participating Company agrees to calculate the total per appliance and per pound penalties, if any, due and owing by July 15, 2003 in accordance with the method outlined in the **Federal Register** final announcement of the Bakery Partnership Program, and to submit this calculation to EPA.

17. Participating Company agrees to provide, in writing, by July 15, 2003, the steps that Participating Company will take to achieve continuous compliance with the requirements of 40 CFR Part 82. Such measures may include, but are not limited to, such things as training, record keeping, replacement, repair, installation of non-ODS systems. See Annex E for additional required Compliance Plan elements. Participating Company agrees to implement this Plan.

Audit Compliance Program

18. For all Class I appliances Participating Company will complete an audit and submit plans for the retrofit of these appliances with an ODS having an ozone depleting potential of 0.1 or less or retirement/replacement with a non-ODS system. Plans for these Class I appliances must be submitted by July 15, 2002, with a schedule for the completion of these activities within one year, unless additional time is allowed pursuant to 40 CFR 82.156(i)(7). These plans will be incorporated in an Administrative Order on Consent [AOC]. See Annex B.

19. For Class II appliances, Participating Company will sign an Administrative Order on Consent agreeing to develop, within the next twelve months, plans, where needed, for the replacement of these Class II appliances with non-ODS systems.

20. If any appliance within a facility owned by Participating Company contains a refrigerant that is not an EPA-approved refrigerant for that particular end-use (such as R–409A use in an industrial process refrigeration appliance) or is not in compliance with use restrictions of an approved refrigerant, Participating Company must take immediate steps to properly recover said refrigerant from the appliance (in accordance with the Regulations) and replace it with an approved refrigerant, in accordance with any use restrictions. Recovered refrigerant must be sent to an EPA-certified refrigerant reclaimer for ultimate reclamation or disposal.

Certification of Complete Compliance

21. Participating Company shall sign and submit to EPA a Certification of Complete Compliance (Annex D) when all plans, retrofits and other steps necessary to ensure continuous compliance have been finalized.

Employee Participation

22. Participating Company shall provide a procedure for its employees to report violations or potential problems to the auditing team. Participating Company agrees to ensure that employees who disclose violations or potential violations to the auditing team under the Act and the Regulations are not subject to adverse job actions (including without limitation disciplinary action, denial of promotion, bonuses or pay) on the basis of such employee disclosing such violations or potential violations in accordance with company policies.

Participating Company Records Retention

23. Participating Company agrees to keep and retain on site or readily available any and all records from March 15, 1999 until two years after the conclusion of all obligations under this Agreement. Records for appliances that have been converted to non-ODS systems need not retain records for more than three years prior to the completion of the conversion to the non-ODS system. Such records shall be from both Participating Company and its employees, agents and any contractors working for Participating Company. All records are required to be retained for this period of time to facilitate review by EPA, should EPA choose to conduct such a review. Participating Company agrees to notify all employees, agents and contractors that any such record is not to be destroyed.

Penalties

24. A ''per appliance'' penalty of $10,000, with a cap of $50,000 per facility, shall be due and owing for each industrial process refrigeration appliance that contains greater than 50 pounds of ODS after March 15, 2002. A ''per pound'' penalty, as specified in the above-referenced **Federal Register** notice, shall be calculated for each appliance, unless equipment conversions to non-ODS systems eliminate this penalty.

25. The total penalty shall be paid within 30 days of receipt of the CAFO which should be shortly after July 2003.

Forbearance

26. EPA agrees to forbear on Part 82 enforcement activity against Participating Company during the course of this Agreement. EPA may however, inspect and request information to ensure that the audits are being conducted fully and properly.

27. Participating Company understands that any violations discovered by EPA subsequent to the completion of the audit or compliance efforts and/or the expiration of this Agreement are subject to standard regulatory enforcement. That is, nothing in this Agreement, other than the release from civil liability for problems/violations disclosed and corrected, is to the derogation of EPA's full enforcement and compliance authority at the conclusion of the Partnership.

28. EPA does not forbear or relinquish any right to access and inspection under this agreement.

29. If EPA believes that the Participating Company has miscategorized or mischaracterized any problem/violation under this Agreement, the Dispute Resolution section of this Agreement shall be utilized.

Release From Liability/CAFO

30. Participating Company understands and acknowledges that participation in the Program will not absolve Participating Company or its employees from any criminal liability. Good faith compliance efforts with this program, as always, will be considered in the context of any alleged criminal liability.

31. EPA agrees to execute an administrative Consent Agreement Final Order conditionally releasing Participating Company from civil liability for any and all violations or potential violations that have been self-disclosed and corrected, on condition that Participating Company pays penalties that may be due and completes the plans with compliance schedules that have been submitted and agreed upon by the Participating Company and the EPA. A complete release from civil liability will be granted for any appliance that is converted to a non-ODS system. Good faith participants in this Partnership Program will receive a release for the period of time prior to September 30, 2000, even though this period may not be audited.

32. EPA and Participating Company will execute an Administrative Compliance Order on Consent and CAFO confirming that understanding.

Publicity

33. Participating Company may publicize that it is partnering with the EPA in an effort to reduce ODS emissions.

34. Upon request by the Participating Company, EPA will recognize and acknowledge Participating Company's participation and assistance under the Program.

Access and Inspection

35. Without prior notice, any authorized representative of EPA (including a designated contractor), upon presentation of credentials at any of Participating Company's facilities, may enter such location(s) at reasonable

times to determine compliance with this Agreement. Access under this clause is subject to the normal health and safety and confidentiality requirements in effect at such facilities.

Dispute Resolution

36. Should the need arise, Participating Company agrees to first engage in informal dispute resolution with EPA's Air Enforcement Division staff concerning any determination made by EPA in its review of the program. Such informal dispute resolution will consist of negotiations between Participating Company and the designated attorney(s) and/or Division Director of the Air Enforcement Division at the address in paragraph 41. To exercise informal dispute resolution, Participating Company shall send a written notice to EPA outlining the nature of the dispute or disagreement and request informal negotiations to resolve the dispute. Such period of informal negotiations shall not extend beyond thirty (30) days from the date when the notice was received, unless the parties agree otherwise in writing.

37. Should the Participating Company be dissatisfied with the results of the informal dispute resolution, the Participating Company may request that the dispute be elevated to the Director of the Office of Regulatory Enforcement or the Assistant Administrator of the Office of Enforcement and Compliance Assurance, Headquarters US EPA, to determine the outcome of the dispute or disagreement. As part of any such dispute elevation, the Office of Air and Radiation staff and managers will be consulted. Participating Company agrees that elevation within EPA is the sole and final dispute resolution mechanism. [EPA is exploring additional ways to resolve disputes such as Alternative Dispute Resolution with a third party].

Effective Date

38. This Agreement shall become effective upon the date signed by the parties to this agreement (below).

Miscellaneous

39. Nothing in this Agreement will relieve the Participating Company of its obligation to comply with any other Clean Air Act provision, other environmental law, or applicable environmental regulations, either state or Federal.

40. Participating Company agrees to accept service from EPA by mail with respect to all matters relating to this Agreement at the address listed below (if different from the one listed in Annex A).

_____

_____

_____

_____

41. EPA agrees to accept service from Participating Company by mail with respect to all matters relating to this Agreement at the address listed below

Electronically preferred:

docket.oeca@epa.gov

or

Title VI Coordinator, Attention: Charlie Garlow, US EPA Air Enforcement Division, 1200 Pennsylvania Ave NW., Mail Code 2242A, Washington, D.C. 20460,

202–564–1088

Integration

42. This Agreement and the Annexes and Federal Register notice incorporated by reference in this Agreement, represents the final form of the contract between EPA and Participating Company. No oral modifications to the Agreement will be binding upon either party.

Signatures

43. EPA and the Participating Company represent that they have examined this agreement and the attached and incorporated annexes and Federal Register notice and agree to the terms by signing and dating below.

44. Each person signing this Agreement represents that he or she is authorized to legally bind the party on whose behalf he or she is signing.

45. Agreed To:

BY _____

[Participating Company]

DATE: _____

BY _____

U.S. Environmental Protection Agency

DATE: _____

Annex A—Sample Identification of Facilities

Participating company/facility name	Location, mailing address, city, zip	State	Region	Number of ODS-containing and non-ODS appliances, if known
Marvy Bread/Plant 4	123 Main St, Lodi 94588	CA	9	15 ODS, 5 non-ODS.

Annex B—Sample Administrative Order on Consent

United States Environmental Protection Agency

In the Matter of [Participating Company] Respondent. Bakery Partnership Program, Agreement Number _____

Findings and Order

Pursuant to Sections 113(a)(3) and 114 of the Clean Air Act (''CAA''), consistent with the Bakery Partnership Program identified above and entered into between the United States Environmental Protection Agency (''EPA'') and Respondent, and based upon available information, EPA hereby makes and issues the following Findings and Order, with the expressed consent of Respondent:

Findings

1. Respondent is a Participating Company under the above-identified Bakery Partnership Program.

2. EPA promulgated regulations for the control of Ozone Depleting Substances, appearing in 40 CFR Part 82, Subpart F.

3. Respondent owns or operates certain affected equipment under Part 82 that contains or contained Ozone Depleting Substances, at facilities identified in Attachment A attached hereto.

Order

4. Respondent shall retrofit or replace the referenced equipment as specified in Attachment A by the date(s) there indicated. Where additional time may be required to complete these actions, application to EPA shall be timely made pursuant to 40 CFR 82.156(i)(7).

5. Within 12 months of this Order, Respondent shall prepare and submit to EPA plans for the conversion of Class II appliances to non-ODS systems, for the appliances identified in Attachment B, attached hereto.

6. Consistent with the Bakery Partnership Agreement entered into between EPA and [the Participating Company], per appliance and per pound penalties shall be calculated and submitted to EPA by July 15, 2003.

7. Pursuant to Section 113(a) of the CAA, failure to comply with this Order may lead to a civil action to obtain compliance or an action for penalties.

Issued this _____ day of _____, 2003

_____

U.S. Environmental Protection Agency

8. [Participating Company] consents to the issuance of this Order and further agrees not to contest EPA's authority to issue this Order.

Signed this _____ day of _____, 2003

_____

For [Participating Company]

Annex C—Leak Rate Calculation Sheet for each Appliance—Sample

Beanie Bread/ Plant 4. The Appliance Serial Number 456789 containing 350 pounds full charge of R–22.

The leak rate is calculated by dividing the number of pounds added by the full charge [here 350 pounds].

Then multiply that number by 365 days.

Then divide that number by days since the last add.

Multiply that number by 100 to express it as a percentage, if over 35%.

Date	lbs added	Days since last add	Leak rate (percent)	Comments
10/28/00 ...	112	base	.....	
2/20/01	60	115	54	
2/27/01	14	7	.....	
5/31/01	30	93	33	
6/18/01	166	18	961	
12/3/01	100	168	62	
				Total pounds added since high leak rate=310 pounds × $20 per pound=$6200, the ''per pound'' penalty.

Annex D—Certification of Completion and Compliance

I certify, based on personal inspection, that correction of the violations/problems identified as a part of the Bakery Partnership Agreement with the United States Environmental Protection Agency, dated _____, is complete.

I certify that _____, Participating Company, has corrected all violations, and training, recordkeeping, equipment replacement, and all other necessary and prudent measures have been taken to ensure complete compliance with Title VI, Clean Air Act (42 U.S.C. 7671 *et seq.*).

I certify that the following summary of the actions taken are true and complete:

_____

_____

_____

_____

I certify that I am an officer of _____, Participating Company, and am duly authorized to sign and complete this Certification of Compliance on behalf of Participating Company.

_____

Name (print)

_____

Signature

_____

Date

Annex E—Compliance Plan Required Elements for Appliances Containing Greater than 50 pounds of a Class I or Class II substance

A. Each Participating Company will have at least one employee in each facility responsible for ensuring compliance with the refrigerant Compliance Plan.

B. Only technicians certified in accordance with 40 CFR Part 82 will perform refrigerant-related service on refrigerant containing appliances.

C. Technicians will use/ have available for use and use, as required, recycle/recovery equipment certified pursuant to 40 CFR 82.156.

D. Repairs to refrigerant-leaking appliances will be conducted within the time frames outlined in 40 CFR 82.156.

E. Initial verification tests on industrial process equipment will be conducted following any refrigerant-related repairs.

F. Follow-up verification tests on industrial process equipment will be conducted within thirty days of any refrigerant-related repairs.

G. Leak rates will be calculated (a) when refrigerant is added to appliances containing greater than 50 pounds of a class I or class II substance and (b) when the follow-up verification test reveals an unsuccessful repair.

H. Procedures documenting what additional action will be taken as a result of a failed repair will be written.

I. Each Participating Company will maintain the following records in a single location at each facility:

1. An inventory of appliances containing greater than 50 pounds of a class I or class II substance and their refrigerant capacities.

2. A unique identification for each appliance containing greater than 50 pounds of a class I or class II substance.

3. Date the refrigerant-related service is performed on each appliance containing greater than 50 pounds of a class I or class II substance.

4. Type of refrigerant-related service performed on each appliance containing greater than 50 pounds of a class I or class II substance.

5. Amount and type of refrigerant added to each appliance containing greater than 50 pounds of a class I or class II substance.

6. Name of the technician performing work on each appliance containing greater than 50 pounds of a class I or class II substance.

7. A copy of the technician certification card for all technicians performing work.

8. Refrigerant purchase records.

9. A copy of the recycle/recovery equipment owner's certification.

J. Each participant will provide refresher training on the refrigerant compliance program annually for facility personnel responsible for oversight of maintenance and service of refrigerant-containing appliances.

Sample CAFO

United States Environmental Protection Agency

Washington, D.C.

In the Matter of: [Participating Company] Respondent. Docket No. CAA–HQ–2003–XXX

Consent Agreement and Final Order

I. Preliminary Statement

1. The United States Environmental Protection Agency (''EPA'') and [Participating Company] have entered into a voluntary Bakery Partnership Agreement, pursuant to which an audit of compliance status and self-correction program has been undertaken. It was further agreed by the parties that certain civil penalties would be paid pursuant to the administrative authority of Section 113(d) of the Clean Air Act (''CAA), 42 U.S.C. 7413(d).

2. This Consent Agreement and Final Order [CAFO] is issued pursuant to the authority of 40 CFR 22.13(b), 22.18(b)(2) and (3), which pertain to the quick

resolution and settlement of matters without the filing of a complaint.

3. This Consent Agreement and Final Order resolves the liability for violations that may have been discovered pursuant to an audit of the Respondent's facilities regarding compliance with Title VI of the Clean Air Act, Stratospheric Ozone Protection, and more particularly 40 CFR Part 82, Subpart F, relating to recycling and emissions reductions from appliances containing ozone depleting substances.

II. Consent Agreement

4. As a result of the voluntary audit conducted pursuant to the Bakery Partnership Agreement, EPA and Respondent have agreed to resolve this matter by executing this Consent Agreement.

5. For the purpose of this proceeding, Respondent does not contest the jurisdiction of this tribunal, consents to the assessment of the civil penalty as specified below, and consents to implement the corrective action Plans and Other Conditions, attached hereto.

6. The execution of this Consent Agreement is not an admission of liability by Respondent, and Respondent neither admits nor denies any specific factual allegations contained herein. EPA alleges that one or more of the conditions contained in the attached Summary of Audit Findings constitutes a violation of 40 CFR Part 82.

7. As a complete settlement for all problematic conditions specified in the attached Summary of Audit Findings, Respondent hereby agrees to pay to the United States a civil penalty as specified in the attached Penalty Calculation. EPA agrees to conditionally release Respondent from civil liability for the conditions, and only those conditions, identified in the attached Summary of Audit Findings, except for those appliances that are identified as having been or being converted to non-ozone depleting substances, for which a complete release of civil liability is granted. This release is conditioned upon the satisfactory completion of the Plans and Other Conditions attached hereto, and the timely payment of the civil penalty. Good faith participants in this Partnership Program will receive a release for the period of time prior to September 15, 2000, even though this period may not be audited. The parties agree that the attached Summary of Audit Findings, Penalty Calculation and Plans and Other Conditions are incorporated herein by reference and made a part of this CAFO.

8. Respondent waives its right to request an adjudicatory hearing on any issue addressed in this Consent Agreement.

9. Respondent and EPA represent that they are duly authorized to execute this Consent Agreement and that the parties signing this Agreement on their behalf are duly authorized to bind Respondent and EPA to the terms of this Consent Agreement.

10. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

11. Respondent and EPA stipulate to issuance of the proposed Final Order below.

[Participating Company], Respondent
By
(Print name)
Title:
Dated: _____
U.S. Environmental Protection Agency, Complainant
By
Headquarters EPA
Dated: _____

III. Final Order

It Is Hereby Ordered and Adjudged as follows:

12. Respondent shall comply with all terms of the Consent Agreement.

13. For the reasons set forth above, Respondent is hereby assessed a penalty in the amount of $_____.

14. Respondent shall pay the assessed penalty no later than thirty (30) calendar days from the date a conformed copy of this Consent Agreement and Final Order (''CAFO) is received by Respondent.

15. All payments under this CAFO shall be made by certified check or money order, payable to the United States Treasurer, mailed to: U.S. Environmental Protection Agency, (Washington D.C. Hearing Clerk), P.O. Box 360277, Pittsburgh, Pennsylvania 15251–6277. A transmittal letter, indicating Respondent's name, complete address, and this case docket number must accompany the payment. Respondent shall file a copy of the check and of the transmittal letter with the Headquarters Hearing Clerk.

16. Failure to pay the penalty assessed under this CAFO may subject Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. 7413(d)(5), to collect any unpaid portion of the assessed penalty, together with interest, handling charges, enforcement expenses, including attorneys fees, and nonpayment penalties. In any such collection action, the validity, amount, and appropriateness of this order or the penalty assessed hereunder are not subject to review.

17. Pursuant to 42 U.S.C. 7413(d)(5) and 31 U.S.C. 3717, Respondent shall pay the following amounts:

a. *Interest.* Any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. 6621(a)(2) from the date a conformed copy of this CAFO is received by Respondent; provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the date a copy of this CAFO is received by Respondent.

b. Attorney *Fees, Collection Costs, Nonpayment Penalty.* Pursuant to 42 U.S.C. 7413(d)(5), should Respondent fail to pay on a timely basis the amount of the assessed penalty, Respondent shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

18. This document constitutes an ''enforcement response'' as that term is used in the CAA Penalty Policy for the purposes of determining Respondent's ''full compliance history'' as provided in Section 113(e) of the CAA, 42 U.S.C. 7413(e).

19. Each party shall bear its own costs, fees, and disbursements in this action.

20. The provisions of this CAFO shall be binding on Respondent, its officers, directors, employees, agents, servants, authorized representatives, successors and assigns.

It Is So Ordered.
Dated this _____ day of _____, 1999.

_____
Environmental Appeals Judge
Environmental Appeals Board
U.S. Environmental Protection Agency

Certificate of Service

I certify that the forgoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Eurika Durr, EAB Hearing Clerk, U.S. Environmental Protection Agency, Mail Code 1103B, 607 14th Street NW., Suite 500, Washington, DC 20005

Copy by certified mail, return receipt requested:

_____ Registered Agent for
[Participating Company]
[Participating Company's address]
Dated: _____
U.S. EPA _____

Sample Summary of Findings

Annex C—Leak Rate Calculation Sheet for each Appliance—Sample

Marvy Bread/Plant 4. The Appliance Serial Number 456789 containing 350 pounds full charge of R–22.

The leak rate is calculated by dividing the number of pounds added by the full charge [here 350 pounds].

Then multiply that number by 365 days.

Then divide that number by days since the last add.

Multiply that number by 100 to express it as a percentage, if over 35%.

Date	lbs added	days since last add	Leak rate (percent)	Comments
10/28/00	112	base	.....	
2/20/01	60	115	54	
2/27/01	14	7	.....	
5/31/01	30	93	33	
6/18/01	166	18	961	
12/3/01	100	168	62	
				Total pounds added since high leak rate = 310 pounds × $20 per pound = $6200, the ''per pound'' penalty.

Technician Certifications for two technicians, Joe Jones and Sam Spade, at Plant 4 were missing.

Those certifications are now on file.

Service records before September 2000 were missing.

Sample Penalty Calculation

Marvy Bread Plant 4 The Appliance Serial Number 456789 containing 350 pounds full charge of R–22.

Per pound penalty: $6,200—waived as this machine is being converted to non-ODS.

Per appliance penalty: 10,000.

Total Penalty: 10,000.

Sample Plans and Other Conditions

Beanie Bread agrees to convert the Bun Mixer at Plant 4, Serial Number 45678, to a non-ODS system.

Completion date: July 30, 2004.

Beanie Bread agrees to develop a computer based recordkeeping program to ensure that complete and accurate records are retained as required.

Completion date: September 30, 2003.

[FR Doc. 01–30459 Filed 12–7–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7115–1]

Notice of Availability of the Draft Supplemental Guidance for Dermal Risk Assessment, Risk Assessment Guidance for Superfund, Volume I, Part E

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability, request for comment, request for data.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has developed and is requesting public comment on a draft Risk Assessment Guidance for Superfund: Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment) (RAGS Part E). EPA is also requesting data pertinent to reducing the uncertainty and variability in assessing the risks from dermal exposure. RAGS Part E is available electronically on the Internet at *http://www.epa.gov/superfund/programs/risk/ragse/index.htm.* This guidance is intended to assist risk assessors and others in addressing concerns resulting from the evaluation of dermal exposure risk assessment pathways. It proposes a consistent methodology for assessing the exposures from the dermal pathway for Superfund human health risk assessments. It incorporates and updates principles of the EPA (1992) interim report, *''Dermal Exposure Assessment: Principles and Applications''.*

DATES: You may submit comments and data until February 8, 2002. Comments received after that date may be considered to the extent feasible.

ADDRESSES: You are invited to submit written comments and data to: EPA, Superfund Docket RAGS Part E, Mail Code 5202G, 1200 Pennsylvania Ave, NW., Washington, DC 20460. For cost savings the draft RAGS Part E document is available electronically on the Internet at *http://www.epa.gov/superfund/programs/risk/ragse/index.htm.* EPA plans to print the document only after it is finalized. The Superfund Docket, containing the RAGS Part E document and public comments, is physically located at 1235 Jefferson Davis Highway, Arlington, Virginia. Appointments to review the docket can be made by calling (703) 603–9232.

FOR FURTHER INFORMATION CONTACT: Contact the RCRA/Superfund Call Center at (800) 424–9346; from the Washington, DC, metropolitan area call (703) 412–9810. The Telecommunications Device for the Deaf (TDD) number is (800) 553–7672; from the Washington, DC, metropolitan area the number is (703) 412–3323. For technical inquiries, you may contact Lee Hofmann, Office of Solid Waste and Emergency Response, Mail Code 5101, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460: telephone number 202–260–2230, email *hofmann.lee@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In January 1992, the Office of Health and Environmental Assessment (OHEA), in the Office of Research and Development (ORD) of the U.S. Environmental Protection Agency (EPA) issued an interim report, *Dermal Exposure Assessment: Principles and Applications* (DEA). The DEA provided guidance for conducting dermal exposure assessments and was peer-reviewed by EPA's Science Advisory Board. A Workgroup was subsequently formed to develop guidance for Superfund based on the DEA. In August 1992, a draft Superfund Interim Dermal Risk Assessment Guidance was circulated for comment but was never issued. This current guidance supersedes the 1992 Superfund document.

This 2001 Superfund RAGS Part E, Supplemental Guidance for Dermal Risk Assessment (RAGS Part E) is the result of Superfund RAGS Part E Workgroup

meetings from FY 95 through FY 01 on issues associated with the characterization of risk resulting from the dermal exposure pathway. RAGS Part E updates recommendations presented in the DEA, and incorporates additional information from the *Exposure Factors Handbook* (U.S. EPA, 1997a) and scientific literature, as cited. Users of this guidance are strongly encouraged to review and understand the material presented in the DEA. This guidance is considered interim, pending release of any update to the DEA from ORD. As more data become available, RAGS Part E may be updated.

This Supplemental Guidance for Dermal Risk Assessment (RAGS Part E) has undergone external peer review in January 1998 and in February 2000. Also, EPA's Risk Assessment Forum conducted a Peer Consultation Workshop on this document in December 1998.

Elements of the RAGS Part E Approach

Risk Assessment Guidance for Superfund: Volume I–Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment) (RAGS Part E) is structured to be consistent with the four steps of the Superfund risk assessment process: hazard identification, exposure assessment, toxicity assessment, and risk characterization. RAGS Part E is organized into six chapters and four appendices. To provide an indication of the scope of the document, we have included the Table of Contents below:

1.0 Introduction and Flowchart
1.1 Introduction
1.2 Organization of Document
1.3 Flowcharts
2.0 Hazard Identification
2.1 Choosing Contaminants of Concern for the Dermal-water Pathway
2.2 Choosing Contaminants of Concern for the Dermal-soil Pathway
3.0 Exposure Assessment
3.1 Estimation of Dermal Exposures to Chemicals in Water
3.1.1 Standard Equation for Dermal Contact with Chemicals in Water
3.1.2 Exposure Parameters
—Permeability coefficient for compounds in water (K_p in cm/hr)
—Chemical concentration in water
—Skin surface area
—Event time, frequency and duration of exposure
3.2 Estimation of Dermal Exposure to Chemicals in Soil
3.2.1 Standard Equation for Dermal Contact with Chemicals in Soil
3.2.2 Exposure Parameters
—Skin Surface Area
—Soil-to-Skin Adherence Factors
—Recommended Soil Adherence Factors
—Dermal Absorption Fraction from Soil
—Age-adjusted Dermal Factor
—Event Time, Exposure Frequency and Duration
3.3 Estimation of Dermal Exposure to Chemicals in Sediment
4.0 Toxicity Assessment
4.1 Principles of Route-to-route Extrapolation
4.2 Adjustment of Toxicity Factors
4.3 Calculation of Absorbed Toxicity Values
4.4 Direct Toxicity
5.0 Risk Characterization
5.1 Quantitative Risk Evaluation
5.1.1 Risk Calculations
5.1.2 Risks for All Routes of Exposure
5.2 Uncertainty Assessment
5.2.1 Hazard Identification
5.2.2 Exposure Assessment
—Dermal Exposure to Water—Uncertainties Associated with the Model for DA_{event}
—Dermal Exposure to Soil
5.2.3 Toxicity Assessment
5.2.4 Risk Characterization
6.0 Conclusions/Recommendations
6.1 Summary
6.2 Exposures Not Included in Current Dermal Guidance
6.3 Recommendations
7.0 References
Appendix A: Water Pathway
A.1 Dermal Absorption Model
A.1.1 Calculation of Parameters in Da_{event}
A.1.2 Model Validation
A.2 Estimation of K_p for Organic Compounds
A.3 Estimation of K_p for Inorganic and Ionized Organic Compounds
A.4 Uncertainty Analysis
A.5 Screening Procedure for Chemicals in Water
A.6 Procedures for Calculating Dermal Dose
A.6.1 Stepwise Procedure for Calculating Dermal Dose Using Given Equations
A.6.2 Stepwise Procedure for Calculating Dermal Dose Using Spreadsheets
Appendix B: Screening Tables and Reference Values for The Water Pathway
Table B.1: Flynn Data Set
Table B.2: Predicted K_p for 200's Organic Contaminants In Water
Table B.3: Calculation of Dermal Absorbed Dose for Organic Chemicals in Water
Table B.4: Calculation of Dermal Absorbed Dose for Inorganic Chemicals in Water
Appendix C: Soil Pathway
Appendix D: Sample Calculations

RAGS Part E focuses on dermal contact with soil and water, and it does not provide guidance on quantifying dermal absorption of chemicals resulting from exposure to vapors. The Superfund RAGS Part E Workgroup agreed with the finding in the DEA report that many chemicals, with low vapor pressure and low environmental concentrations, cannot achieve adequate vapor concentration to pose a dermal exposure hazard. For chemicals with the potential to achieve adequate vapor concentrations, this guidance assumes that they are primarily absorbed through the respiratory tract.

Goals

EPA welcomes feedback on this draft RAGS Part E document. EPA is seeking public comment at this time in order to ensure hearing the widest range of views and obtaining all information relevant to the development of policy. In addition, EPA is soliciting data pertinent to reducing uncertainty and variability in assessing risks from dermal exposure. EPA will review public comments received on the draft RAGS Part E document and will make appropriate changes in the document. EPA expects to respond in a summarized manner to the principal comments received on the draft RAGS Part E document as a matter of public information.

Dated: November 30, 2001.

Michael H. Shapiro,

Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 01–30457 Filed 12–7–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting Wednesday, December 12, 2001

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 12, 2001, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Common Carrier	Title: Development of a Regulatory Framework for Incumbent LEC Broadband Services; and SBC Petition for Expedited Ruling That it is Non-Dominant in its Provision of Advanced Services and for Forbearance from Dominant Carrier Regulation of Those Services. Summary: The Commission will consider a Notice of Proposed Rule Making initiating a comprehensive examination of the appropriate regulatory framework for incumbent LECs' provision of broadband services. As part of this proceeding, the Commission also invites comment on the petition filed by SBC Communications, Inc.

Item No.	Bureau	Subject
2	Common Carrier	Title: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of the 1996 (CC Docket No. 96–98); and Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147). Summary: The Commission will consider a Notice of Proposed Rule Making to initiate its ''triennial'' review of the definitions of and rules concerning access to incumbent LEC unbundled network elements.
3	Common Carrier	Title: Numbering Resource Optimization (CC Docket No. 99–200); Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717 (CC Docket No. 96–98); and Telephone Number Portability (CC Docket No. 95–116). Summary: The Commission will consider a Third Report and Order and Second Order on Reconsideration in CC Docket No. 96–98 and CC Docket No. 99–200 regarding plans for nationwide thousands-block number pooling and other strategies to ensure that the numbering resources of the North American Numbering Plan are used efficiently.
4	Mass Media	Title: Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies (MM Docket No. 98–204). Summary: The Commission will consider a Second Notice of Proposed Rule Making concerning new equal opportunity rules for broadcast licensees and cable entities.
5	Office of Engineering and Technology and Wireless Telecommunications.	Title: Reallocation and Service Rules for the 698–746 MHz ASpectrum Band (Television Channels 52–59) (GN Docket No. 01–74). Summary: The Commission will consider a Report and Order concerning allocation and service rules to reallocate television channels 52–59, pursuant to the Balanced Budget Act of 1997.
6	Office of Engineering and Technology.	Title: Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission System (ET Docket No. 98–153). Summary: The Commission will consider a First Report and Order to provide for new ultra-wideband devices.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at Qualexint@apl.com

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–1470, Ext. 10; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30623 Filed 12–6–01; 8:45 am]

BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0043]

Submission for OMB Review; Comment Request Entitled Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357)

AGENCY: General Services Administration (GSA).

ACTION: Notice of a request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) has sumitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357). A request for public comments was published at 66 FR 43871, August 21, 2001. No comments were received.

DATES: Comments may be submitted on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Robert A. Yevoli, Public Buildings Service, GSA (202) 219–1403.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, OMB Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0043, concerning Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357). Form 3357 is needed by GSA contract and staff appraisers who use the form for estimating parking rates assessed on Federal agencies occupying space in GSA owned or controlled buildings.

B. Annual Reporting Burden

Respondents: 260.
Annual Responses: 1,300.
Average Hours Per Response: 1.6.
Burden Hours: 2,080.
Obtaining Copies of Proposals: A copy of this proposal may be obtained from the General Services

Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0043, Appraisal of Fair Annual Parking Rate Per Space for Standard Level User Charge (GSA Form 3357), in all correspondence.

Dated: December 3, 2001.

Michael Carleton,

Chief Information Officer.

[FR Doc. 01–30461 Filed 12–7–01; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Momiao Xiong, Ph.D., The University of Texas Health Science Center at Houston: On November 26, 2001, the U.S. Public Health Service (PHS) entered into a Voluntary Exclusion Agreement with The University of Texas Health Science Center at Houston (UTHSCH) and Momiao Xiong, Ph.D., an Assistant Professor at UTHSCH. Based on the report of an inquiry conducted by UTHSCH, and any related actions and findings by UTHSCH, as well as additional analysis conducted by ORI in its oversight review, PHS found that Dr. Xiong engaged in scientific misconduct by plagiarizing and fabricating data in National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH), grant application R01 GM64353–01, ''Genetics of Human Pigmentation and Skin Response'' (Pigmentation Application), on which he was a co-investigator. The plagiarized and fabricated data were essential to the scientific validity of the proposed research and were important for NIH's scientific evaluation of the Pigmentation Application. Dr. Xiong has admitted his actions.

Specifically, PHS and UTHSCH found that Dr. Xiong: (1) plagiarized text from another researcher's grant application, which Dr. Xiong had obtained during the NIH confidential review process and used without appropriate citation in the Pigmentation Application; and (2) falsified research in the Pigmentation Application by (a) falsely claiming that he had performed an extensive series of simulations to evaluate the power to detect genes influencing pigmentation traits by the proposed statistical analysis, and (b) falsely representing estimates from previous work on unrelated individuals as being appropriate for large families in the proposed research.

The Voluntary Exclusion Agreement (Agreement) states that Dr. Xiong:

(1) Will not serve as a principal investigator on PHS grants for one (1) year, beginning on November 26, 2001;

(2) Will exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of three (3) years, beginning on November 26, 2001;

(3) Agrees that he and any institution employing him are required to certify, in every PHS application or report in which Dr. Xiong is involved: (a) That all persons who contribute original sources of ideas, data, or research results to the applications or reports are properly cited or otherwise acknowledged; and

(b) that the applications or reports do not contain any falsified, fabricated, or misleading information, for a period of three (3) years, beginning on November 26, 2001. This requires Dr. Xiong and the institution, with respect to Dr. Xiong's contributions to the application or report, to certify that all individuals (both within and outside the institution) who contributed to the application or report are acknowledged. The institution must also send a copy of the certification to ORI; and

(4) Accepts the following UTHSCH administrative actions: (a) Dr. Xiong must send a formal, written apology to the principal and co-investigators explicitly acknowledging his plagiarism from their grant application; (b) for a one year period starting October 11, 2001, Dr. Xiong may not: (i) Submit, as a principal investigator, any new grant applications, including applications to any federal, state, or local government agencies, as well as any private foundations or agencies; or (ii) submit any publications without providing certification, co-signed by his immediate supervisor, that any manuscript for publication does not contain any plagiarized information or any falsified, fabricated, or misleading information; (c) for an additional two year period, Dr. Xiong must similarly certify any grant application or publication; (d) for the next three years, to submit any grant application or publication, Dr. Xiong must have a signed statement from his immediate supervisor stating that the supervisor has reviewed the materials and finds no indication of plagiarism, falsification or fabrication of data, nor any other form of scientific misconduct; (e) for the next academic year, Dr. Xiong is required to participate in a course in the responsible conduct of research, and in the year after completing the course, serve as a co-instructor in a small discussion group for all breakout sessions of the course; and (f) within two years, Dr. Xiong must write a formal essay, of publication quality, in English and Chinese, on plagiarism for submission to the Executive Vice President for Research, UTHSCH, and for publication.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 01–30437 Filed 12–7–01; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–15]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Evaluation of Block Grants for Rape Prevention and Education—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC). The Rape Prevention and Education (RPE) 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 RPE programs conducted by rape crisis centers, state sexual assault coalitions, and other public and private nonprofit entities.

Although the Rape Prevention and Education program has been funded since 1996 little is known about how the funds are allocated and utilized in each state and what each state's public health needs are with regard to rape prevention and education. In order to effectively administer and collaboratively work with state's to enhance the utilization of these funds, the CDC needs to know how these funds are allocated, what activities are being conducted with these funds and the kinds of data they are collecting. The primary objectives of this study are to:

1. Document the intended goals and objectives of the RPE program as it relates to the activities of state health departments and sexual assault coalitions, from the perspective of various stakeholder levels (*e.g.,* National, state and local); 2. Assess the allocation mechanisms, uses, and impact of the funds for RPE as they relate to these documented intentions; and, 3. Assess public health needs of states and local programs in terms of knowledge, skills, resources, and barriers to effective implementation.

To meet these objectives, a variety of data collection tasks will be employed. A critical review of the published literature and related materials pertaining to the monies for RPE will be conducted to provide guidance for the survey instrument development. Two e-mail surveys will be conducted: One with the state health department RPE coordinators and the other with sexual assault coalition directors. Each survey instrument will take approximately 30 minutes to complete. Site visits will be conducted with a sample of 15 sites to obtain more detailed information about the RPE programs and the current systems in place. Sites will be purposefully selected to maximize variability and interviews will be conducted with both the state health department RPE coordinators and the state sexual assault coalition directors. There is no cost to the respondent.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
State Health Department RPE Coordinators	59	1	30/60	30
State Sexual Assault Coalition Directors	59	1	30/60	30
State Health Department RPE Coordinators	15	1	3	45
State Sexual Assault Coalition Directors	15	1	3	45
Total				150

Dated: December 3, 2001.

Nancy E. Cheal,

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

[FR Doc. 01–30395 Filed 12–7–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–02–14]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: National Hospital Ambulatory Medical Care Survey (NHAMCS) OMB No. 0920–0278—Revision—National Center for Health Statistics, (NCHS) Centers for Disease Control and Prevention (CDC). The National Hospital Ambulatory Medical Care Survey (NHAMCS) has been conducted annually since 1992 and is directed by the Division of Health Care Statistics, National Center for Health Statistics, CDC. The purpose of the NHAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments. The target universe of the NHAMCS is in-person visits made in the U.S. to outpatient departments and emergency departments of non-Federal, short-stay hospitals (hospitals with an average length of stay of less than 30 days) or those whose specialty is general (medical or surgical) or children's general. The NHAMCS was initiated to complement the National Ambulatory Medical Care Survey (NAMCS, OMB No. 0920–0234) which provides similar data concerning patient visits to physicians' offices. The NAMCS and NHAMCS are the principal sources of data on approximately 90 percent of ambulatory care provided in the United States.

The NHAMCS provides a range of baseline data on the characteristics of the users and providers of ambulatory medical care. Data collected include patients' demographic characteristics and reason(s) for visit, and the physicians' diagnosis(es), diagnostic equipment and services, medications, and disposition. These data, together with trend data, may be used to monitor the effects of change in the health care system, for the planning of health services, improving medical education, determining health care work force needs, and assessing the health status of the population.

Users of NHAMCS data include, but are not limited to, congressional offices, Federal agencies such as NIH, state and local governments, schools of public health, colleges and universities, private industry, nonprofit foundations, professional associations, as well as individual practitioners, researchers, administrators, and health planners. Uses vary from the inclusion of a few selected statistics in a large research effort, to an in-depth analysis of the entire NHAMCS data set covering several years.

To calculate the burden hours the number of respondents for the NHAMCS is based on an annual sample of approximately 500 hospitals with an 94 percent participation rate. The total cost to respondents is estimated to be $300,000.

Respondents (non-Federal general and short-stay hospitals)	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)	Response burden (in hrs.)
Induction forms:				
Ineligible hospitals	50	1	15/60	13
Eligible hospitals	440	1	1	440
Emergency departments	400	1	1	400
Outpatient departments	240	4	1	960
Patient record forms:				
Emergency departments	400	100	5/60	3,333
Outpatient departments	240	200	5/60	4,000
Pediatric emergency services and equipment	400	1	30/60	200
Total				9,346

Dated: November 30, 2001.

Nancy E. Cheal,

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

[FR Doc. 01–30396 Filed 12–7–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–02–13]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: National Ambulatory Medical Care Survey OMB No. 0920–0234—Revision—National Center for Health Statics (NCHS), Centers for Disease Control and Prevention, (CDC). The National Ambulatory Medical Care Survey (NAMCS) was conducted annually from 1973 to 1981, again in 1985, and resumed as an annual survey in 1989. It is directed by the Division of Health Care Statistics, National Center for Health Statistics, CDC. The purpose of NAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments. The NAMCS target population consists of all office visits within the United States made by ambulatory patients to non-Federal office-based physicians (excluding those in the specialties of anesthesiology, radiology, and pathology) who are engaged in direct patient care. Since more than 80 percent of all direct ambulatory medical care visits occur in physicians' offices, the NAMCS provides data on the majority of ambulatory medical care services. To complement these data, in 1992 NCHS initiated the National Hospital Ambulatory Medical Care Survey (NHAMCS, OMB No. 0920–0278) to provide data concerning patient visits to hospital outpatient and emergency departments. The NAMCS, together with the NHAMCS constitute the ambulatory component of the National Health Care Survey (NHCS), and will provide coverage of more than 90 percent of ambulatory medical care.

The NAMCS provides a range of baseline data on the characteristics of the users and providers of ambulatory medical care. Data collected include the patients' demographic characteristics and reason(s) for visit, and the physicians' diagnosis(es) and diagnostic services, medications and disposition. These data, together with trend data, may be used to monitor the effects of change in the health care system, provide new insights into ambulatory medical care, and stimulate further research on the use, organization, and delivery of ambulatory care.

Users of NAMCS data include, but are not limited to, congressional and other

federal government agencies such as NIH and FDA, state and local governments, medical schools, schools of public health, colleges and universities, private businesses, nonprofit foundations and corporations, professional associations, as well as individual practitioners, researchers, administrators and health planners. Uses vary from the inclusion of a few selected statistics in a large research effort, to an in-depth analysis of the entire NAMCS data set covering several years.

To calculate the burden hours the number of respondents for NAMCS is based on a sample of 3,150 physicians with a 50 percent participation rate (this includes physicians who are out-of-scope as well as those who refuse). The total cost to respondents is estimated to be $300,000.

Respondents	Number of respondents	Number of response/respondent	Avg. burden/responses (in hrs.)	Response burden (in hrs.)
Office-based physicians Induction form	1,575	1	25/60	656
Patient record form	1,575	30	5/60	3,938
Total				4,594

Dated: November 30, 2001.

Nancy E. Cheal,

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

[FR Doc. 01–30397 Filed 12–7–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0496]

Patient Profile Viewer; Notice of Pilot Project

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), is seeking volunteers to participate in a pilot project involving the testing of the Patient Profile Viewer (PPV). The PPV is computer software that allows a reviewer to display data collected from case report tabulations (CRTs) submitted in electronic format. We are working with PPD Informatics to develop the PPV under a Cooperative Research and Development Agreement (CRADA) in an effort to improve review efficiency, develop standards for submission of data, and eliminate the need for the submission of patient profiles by applicants of new drug applications (NDAs). To help in this development, we are seeking volunteers to provide CRT datasets from clinical studies to test the PPV. Data supplied during the pilot project will not replace any regulatory requirements for submitting CRTs.

DATES: Submit written or electronic requests to participate in the pilot project by January 9, 2002. Comments on the pilot project may be submitted at any time.

ADDRESSES: Submit written requests to participate and comments regarding this pilot project to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written comments on the pilot project to the Dockets Management Branch (address above). Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Randy Levin, Center for Drug Evaluation and Research (HFD–001), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5411, e-mail: levinr@cder.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under current FDA regulations (21 CFR 314.50), applicants must provide CRTs with NDAs. Since November 1997, under 21 CFR part 11, we have accepted CRTs in electronic format instead of paper.

We have published several guidance documents that provide recommendations concerning electronic submissions. In the **Federal Register** of January 28, 1999 (64 FR 4432), CDER published the guidance entitled ''Providing Regulatory Submissions in Electronic Format—NDAs.'' This guidance describes how applicants can provide CRTs as electronic datasets. This guidance also offers recommendations on how to organize the datasets and how to provide descriptive information on the datasets and the data variables (metadata). In the **Federal Register** of November 12, 1999 (64 FR 61647), the Center for Biologics Evaluation and Research (CBER) provides similar recommendations for biologic license applications (BLAs) in their guidance entitled ''Providing Regulatory Submissions in Electronic Format—BLAs.'' A joint CBER and CDER guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—General Considerations,'' provides recommendations for the file formats for clinical datasets (64 FR 4433, January 28, 1999).

The datasets described in these guidance documents are organized by domain (e.g., labs, adverse events). For NDAs, however, we also recommend the submission of CRTs organized by individual patients—a format we call patient profiles. Patient profiles are provided in portable document format (PDF) and not as electronic datasets. Patient profiles are not recommended for submissions to CBER. CDER is working with CBER to update the guidance documents with more detailed standards for the submission of CRT datasets and metadata.

Recently, we have received recommendations for a standard presentation of the most common CRT datasets and metadata from the Clinical Data Interchange Standards Consortium, Inc. (CDISC). CDISC is a nonprofit organization and its members are from pharmaceutical companies, biotechnology companies, contract research organizations, and software vendors.

CDER has also entered into a CRADA with PPD Informatics (PPD) to develop a module for PPD's commercially available CrossGraphs software that will generate patient profiles directly from CRT datasets provided with NDA submissions. The use of standardized datasets and metadata reduces the amount of preparation required by the reviewer to generate patient profiles and would eliminate the need for applicants to provide patient profiles in PDF. The purpose of the pilot project is to test the PPV module with standardized datasets and metadata and to obtain feedback from reviewers and pharmaceutical

companies on the creation and use of standardized clinical data and metadata.

II. Pilot Project Description

The pilot project is part of an effort to improve the standards for submission of clinical data. Eventually, we expect to recommend detailed clinical data and metadata standards for the submission of CRTs. Participants in this PPV pilot project will not only assist us in testing the use of the PPV and standard clinical data and metadata but will also familiarize themselves with the process at an early stage of development. Only a few participants are needed for this pilot.

A. Initial Approach

Because a limited number of voluntary participants are needed, the agency will use its discretion in choosing volunteers, based on their experience with providing CRTs and their familiarity with the standards recommended by CDISC. During the pilot project, the agency will make available to the public specific technical instructions for providing the clinical data and metadata for testing. See the **Electronic Access** section for instructions. Participants in the pilot project will be asked to provide clinical trial datasets and metadata as described in the technical instructions and to provide technical feedback.

B. Scope

The pilot project will test the PPV module and the preparation and use of the submitted data and metadata. Existing requirements for the submission of CRT datasets will not be waived, suspended, or modified for purposes of this pilot project.

III. Pilot Project Participation

Written requests to volunteer for the pilot project should be submitted to the Dockets Management Branch (address above). Requests are to be identified with the docket number found in brackets in the heading of this document.

IV. Comments

Interested persons may submit to the Dockets Management Branch (mail and electronic addresses above) written comments regarding this pilot project. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. FDA will consider comments in making a determination on electronic filing and in drafting a guidance document for submitting clinical trial data and metadata electronically. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

These instructions will be available on the Internet at http://www.fda.gov/cder/regulatory/ersr/default.htm.

Dated: December 3, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30430 Filed 12–5–01; 11:21 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0532]

Food Code; 2001 Revision; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the 2001 revision of the Food Code (2001 Food Code). This 2001 revision was initiated in cooperation with the Conference for Food Protection (CFP or Conference) to help ensure that food sold or offered for human consumption by retail food establishments is safe, unadulterated, and honestly presented.

DATES: Submit written or electronic comments on the 2001 Food Code at any time.

ADDRESSES: Submit written requests for single copies of the 2001 Food Code to the Office of Field Programs (HFS–600), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204 (after December 14, 2001, the Center for Food Safety and Applied Nutrition's address will be 5100 Paint Branch Pkwy., College Park, MD 20740). Send two self-addressed adhesive labels to assist that office in processing your request. Submit written comments on the 2001 Food Code to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access and ordering information for the 2001 Food Code.

FOR FURTHER INFORMATION CONTACT: Glenda R. Lewis, Center for Food Safety and Applied Nutrition (HFS–627), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–8140. (After December 14, 2001, the Center for Food Safety and Applied Nutrition's address will be 5100 Paint Branch Pkwy., College Park, MD 20740.)

SUPPLEMENTARY INFORMATION:

I. Background

FDA provides assistance to Federal, State, local, and tribal governmental bodies with jurisdiction over food safety to help ensure that food provided to consumers by retail food establishments is not a vehicle of communicable diseases. A primary mechanism for providing that assistance is the regular publication of a model code that sets out FDA's best advice for a uniform system of regulation that is designed to help ensure that food sold or offered for human consumption by retail food establishments is safe, unadulterated, and honestly presented.

In 1971, the CFP was established to provide a dialogue on food safety issues. The CFP is a voluntary organization comprised of Federal, State, and local regulatory officials, food industry representatives, consumer groups, and academia. The public also may participate in the CFP process. The Conference meets biennially for discussion among all parties regarding ways to improve food safety in the retail segment of the food industry. FDA recognizes the CFP as a voluntary national organization that is qualified to provide technical guidance and information toward the development and implementation of codes and standards pertaining to retail food service, retail food stores, and retail vending operations. At the 1986 meeting of the CFP, it was recommended that the three distinct model codes in existence at that time (retail food stores, food service facilities, and vending) be combined into a Food Protection Unicode. The CFP endorsed this approach, FDA concurred, and issued the first Food Code in 1993. FDA has issued subsequent versions of the Food Code every 2 years. Revisions to the Food Code are based in part on recommendations that are cooperatively developed by CFP members in response to issues submitted to the CFP by interested parties.

The 2001 Food Code responds to recommendations made by the CFP and addresses needed clarifications, updates, and corrections. Significant changes between the 2001 Food Code and the 1999 Food Code include the following:

- A revised definition of juice, information on juice treated to control

pathogens, and information that addresses issues relating to juice provided to populations that are particularly vulnerable to foodborne illness;

- A revised definition of ''highly susceptible populations'' and new definitions relating to employee health including ''exclusion'' and ''restriction'';
- New provisions for the refrigeration and labeling of eggs consistent with new requirements in the Code of Federal Regulations (CFR);
- An updated roast beef cooking chart consistent with new U.S. Department of Agriculture/Food Safety and Inspection Service criteria;
- A revised preface to recognize Federal performance standards relating to food products and processes. (Federal performance standards are acceptable, equivalent alternatives to the command-and-control provisions that now provide specific times and temperatures for cooking);
- A new definition for ''shiga toxin-producing *E. coli*'' and a replacement of references to ''*E. coli 0157:H7* ''with Ashiga toxin-producing *E.* coli'';
- Clarification of hand washing procedures with respect to time and water temperature; application of hand washing procedures to persons with prosthetic devices; and hand washing procedures before donning gloves;
- Clarification of the provisions relating to marking refrigerated, ready-to-eat food to indicate its shelf life;
- A new provision that allows the use of a thermometer embedded in a nonfood substance as a means of monitoring the temperature of food products in a refrigerator, as well as encouraging the use of small diameter probes for measuring the internal temperature of thin masses of food;
- New provisions that address backflow prevention devices for beverage carbonators;
- Additional references relating to time as a public health control and cooling; and
- Provisions updated to reflect consistency with the current CFR and guidances issued by Federal agencies.

The 2001 Food Code is a level 1 guidance being issued consistent with FDA's good guidance practices regulation in § 10.115 (21 CFR 10.115). With certain exceptions, this regulation requires that the public be afforded an opportunity to comment on level 1 guidance documents before their implementation. FDA is not seeking public comment before implementing this edition of the Food Code because we have determined that it is not feasible or appropriate in accordance with § 10.115(g)(2). The Food Code is revised biennially to keep it up-to-date. Each revision is based on comments received on a previous Food Code, as well as issues presented to the CFP for further development and discussion. Each revision also reflects current public comment. The Conference engages in outreach in a number of ways. First and foremost, its members communicate within their respective constituencies (industry—retail food store, food service, vending, processing; government—Federal, State, and local; consumer and academia). In addition, the Conference has a Web site at http://www.foodprotect.org; press releases go out to various organizations; and members receive a Conference newsletter. Thus, each revision of the Food Code is part of an ongoing dialogue and serves effectively as a ''draft'' for the next revision.

The 2001 Food Code does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such an approach satisfies the requirements of applicable statutes and regulations.

II. Comments

The public may comment on this document at any time. The public may comment in one of two ways: (1) By participating in the CFP meeting held biennially for the purpose of, among other things, considering recommended changes to the Food Code; or (2) by commenting in writing or electronically to FDA. Comments submitted to the agency may be offered for consideration and vote at a subsequent CFP meeting.

Interested persons, at any time, may submit written or electronic comments to the Dockets Management Branch (address above) on the 2001 Food Code. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The 2001 Food Code and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access and Ordering Information

Persons with access to the Internet may obtain the document at http://www.cfsan.fda.gov/dms/guidance.html, http://vm.cfsan.fda.gov/list.html, or http://www.fedworld.com. In addition, the 2001 Food Code may be ordered from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, 1–800–553–6847, in several formats: Docutek copy, spiral bound, Microsoft Word 97 files on diskette, enhanced electronic version on cassette or CD–ROM, including Adobe Reader. The enhanced versions include electronic features such as hypertext links that enable the reader to locate quickly a specific code provision and to read simultaneously the text of cross-referenced documents.

Dated: December 5, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30489 Filed 12–5–01; 4:08 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at the following websites: *http://workplace.samhsa.gov; http://www.drugfreeworkplace.gov;* and *http://www.health.org/workplace.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–

71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory)

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 716–429–2264

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000 (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Laboratory Partners, LLC, 129 East Cedar St., Newington, CT 06111, 860–696–8115 (Formerly: Hartford Hospital Toxicology Laboratory)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093 (Formerly: Cox Medical Centers)

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468

DrugProof, Divison of Dynacare, 543 South Hull St., Montgomery, AL 36103, 888–777–9497/334–241–0522 (Formerly: Alabama Reference Laboratories, Inc.)

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180 (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories,* 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609

Express Analytical Labs, 1301 18th Ave NW, Suite 110, Austin, MN 55912, 507–437–7322

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 10788 Roselle Street, San Diego, CA 92121, 800–882–7272 (Formerly: Poisonlab, Inc.)

Laboratory Corporation of America Holdings, 1120 Stateline Road West, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734

MAXXAM Analytics Inc.,* 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300/800–322–3361 (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.)

One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110/800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory

Pathology Associates Medical Laboratories, 110 West Cliff Drive, Spokane, WA 99204, 509–755–8991/800–541–7891x8991

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800 (Formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–842–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200/800–446–4728 (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories)

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

Universal Toxicology Laboratories (Florida), LLC, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–717–0300, 800–419–7187x419 (Formerly: Integrated Regional Laboratories, Cedars Medical Center, Department of Pathology)

Universal Toxicology Laboratories, LLC, 9930 W. Highway 80, Midland, TX 79706, 915–561–8851/888–953–8851

US Army Forensic Toxicology Drug Testing Laboratory, Fort Meade, Building 2490, Wilson Street, Fort George G. Meade, MD 20755–5235, 301–677–7085

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 **Federal Register**, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–30422 Filed 12–7–01; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–88]

Notice of Submission of Proposed Information Collection to OMB; HUD Mobility-Impaired Tenant Survey

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 9, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: HUD Mobility-Impaired Tenant Survey.

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: The proposed survey to HUD Mobility-Impaired Tenants will attempt to obtain information regarding the reasonable accommodation process. The results of the survey will help HUD verify compliance with requirements for discrimination-free housing, including housing for the mobility impaired. The survey will be administered via the telephone and should take no more than 15 to 20 minutes per respondent. We anticipate 480 respondents to the survey, which is a one-time survey. The anticipated timeframe from survey start to survey completion is approximately 8 weeks.

Respondents: Individuals or Households, Federal Government, State, Local or Tribal Government.

Frequency of Submission: One-Time.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporing burden	480		1		0.3		160

Total Estimated Burden Hours: 480.
Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: December 4, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–30439 Filed 12–7–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–87]

Notice of Submission of Proposed Information Collection to OMB; Information Collection To Identify Users and Uses of Electronic Permitting Applications

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 9, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Information Collection to Identify Users and Uses of Electronic Permitting Applications.

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: A survey of the uses and users of electronic permitting systems will assist communities and software developers to understand their requirements. This information will be published by HUD to aid in the development and selection of systems for use by community building code officers.

Respondents: Business or other for-profit, State, Local, or Tribal Government.

Frequency of Submission: One-Time.

Reporting Burden:

	Number of respondents	×	Frequency of responses	×	Hours per response	=	Burden hours
Application	200		1		2		400

Total Estimated Burden Hours: 400.
Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: December 4, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–30440 Filed 12–7–01; 8:45 am]

BILLING CODE 210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4558–N–07]

Mortgagee Review Board; Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with section 202(c) of the National Housing Act, notice is hereby given of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: D. Jackson Kinkaid, Secretary to the Mortgagee Review Board, 451 7th Street, SW., Washington, DC 20410, P–200, telephone: (202) 708–3041 extension 3574 (this is not a toll-free number). A Telecommunications Device for Hearing and Speech-Impaired Individuals (TTY) is available at 1 (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235, approved December 15, 1989), requires that HUD ''publish a description of and the cause for administrative action against a HUD-approved mortgagee'' by the Department's Mortgagee Review Board. In compliance with the requirements of Section 202(c)(5), notice is hereby given of administrative actions that have been taken by the Mortgagee Review Board from April 14, 2001 through September 30, 2001.

1. 1st American Home Loan, Merrilville, IN

[Docket No. 01–1470–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, 1st American Home Loan (''FAHL'') agreed to a civil money penalty of $7,000. FAHL also agreed to indemnify HUD for any losses incurred on one loan.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: FAHL failed to ensure that loan officers

worked exclusively for FAHL; FAHL paid referral fees to other lenders; FAHL failed to establish, maintain and implement a Quality Control Plan; and FAHL failed to maintain complete loan origination files for review.

2. Altiva Financial Corporation, Formerly Known as MEGO Mortgage Corporation, Atlanta, GA

[Docket No. 01–1428–MR]

Action: In a letter dated May 18, 2001, the Board withdrew Altiva Financial Corporation's (''Altiva'') HUD/FHA approval for three years. The Board also voted to impose a civil money penalty of $104,500.

Cause: HUD's Office of Inspector General made the following findings of violations of HUD/FHA requirements: Altiva failed to ensure that the loan amount did not exceed the cost of repairs described in the borrowers' Title I loan application in seventeen loans; Altiva failed to properly evaluate the borrowers' income and/or liabilities; Altiva failed to document the borrowers' source of funds for the initial payment; and Altiva failed to ensure that loan proceeds were only used for the eligible purposes cited in the loan application.

3. America's Mortgage, Inc., Roswell, GA

[Docket No. 00–1334–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, America's Mortgage, Inc. (''AMI'') agreed to a civil money penalty of $3,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: AMI failed to file annual loan origination reports for 1996–1998, which supplements the requirements of the Home Mortgage Disclosure Act; AMI failed to establish, maintain and implement a Quality Control Plan in compliance with HUD/FHA requirements; and AMI failed to report to HUD a violation of law or regulation, false statement, or program abuse.

4. BancGroup Mortgage Corporation, Palos Hills, IL

[Docket No. 00–1159–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, BancGroup Mortgage Corporation (''BMC'') agreed to a civil money penalty of $12,000. In addition, BMC agreed to refund all impermissible fees charged to borrowers on FHA/HUD loans it closed between September 1, 1998 and August 31, 1999.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: BMC failed to file annual loan origination reports for 1998, which supplements the requirements of the Home Mortgage Disclosure Act; BMC failed to establish, maintain and implement a Quality Control Plan in compliance with HUD/FHA requirements; BMC failed to retain documents originating mortgagees are required to maintain; BMC charged unallowable fees and allowed unexplained and/or pre-paid credits; and BMC failed to itemize on the HUD–1 Settlement Statement the items paid on behalf of the borrowers.

5. California Empire Financial Group, Inc., Rancho Cucamonga, CA

[Docket No. 00–1094–MR]

Action: Settlement Agreement signed June 1, 2001. Without admitting fault or liability, California Empire Financial Group, Inc. (''CEFG'') agreed to a civil money penalty of $11,000. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53731, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: CEFG allowed non-employees to originate HUD/FHA loans; and CEFG allowed employees to act as real estate agents and loan officers.

6. Casey Duncan Group, Inc., Timonium, MD

[Docket No. 01–1447–MR]

Action: In a letter dated May 8, 2001, the Board withdrew Casey Duncan Group, Inc.'s (''CDGI'') HUD/FHA approval for five years.

Cause: In conjunction with a related MRB action, American SkyCorp, Inc., HUD's Departmental Enforcement Center observed the following violations of HUD/FHA requirements: CDGI failed to exclude participants that were suspended from participating in federal government programs; CDGI failed to meet basic lender approval requirements by its surrender of its license to originate mortgages in the State of Maryland; and CDGI failed to maintain the requirements for a main office.

7. Cendant Mortgage Corporation, Mt. Laurel, NJ

[Docket No. 01–1523–MR]

Action: Settlement Agreement signed September 25, 2001. Without admitting fault or liability, Cendant Mortgage Corporation (''CMC'') agreed to a payment of $10,000. In addition, Cendant agreed to indemnify HUD for any losses incurred on 36 loans.

Cause: HUD's Quality Assurance Division made the following finding of violations of HUD/FHA requirements: CMC allowed a non FHA approved lender, Select Financial Services, to originate 63 HUD/FHA insured loans.

8. Colonial Atlantic Mortgage, Silver Spring, MD

[Docket No. 00–1162–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Colonial Atlantic Mortgage (''CAM'') agreed to a civil money penalty of $4,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: CAM failed to file annual loan origination reports for 1997–1998, which supplements the requirements of the Home Mortgage Disclosure Act; CAM accepted faxed copies of required documents in 2 loans; and CAM failed to have, implement and maintain an adequate Quality Control Plan that meets HUD guidelines.

9. Columbia National, Inc., Columbia, MD

[Docket No. 01–1405–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, Columbia National, Inc. (''CN'') agreed to an administrative payment of $24,000. CN also agreed to indemnify HUD for any losses incurred on 24 loans.

Cause: CN self reported two loans to HUD after discovering fraud during the course of its own quality assurance audit of a branch office it later shut down. Thereafter, HUD's Quality Assurance Division initiated a review and made the following findings of violations of HUD/FHA requirements: CN used falsified documentation or conflicting information to originate loans and obtain HUD/FHA mortgage insurance; CN failed to document the borrower's source of funds used for down payment or closing costs; CN approved mortgage loans where loan origination documents passed through the hands of an interested third party; CN approved mortgage loans where the ratios exceeded HUD/FHA guidelines; CN approved mortgage loans where the borrower's stability of income was not adequately documented; CN failed to properly verify the borrower's previous rental history; CN approved mortgage loans where borrowers were charged fees which were not specifically permitted by HUD/FHA; CN failed to obtain insured ten year warranty plans from a HUD/FHA approved entity for high loan to value, new construction

loans; CN failed to obtain letters of credit reference where the borrower had not established traditional credit; CN failed to properly document the borrower's income; CN failed to ensure that the property's valuation conditions were met in accordance with HUD/FHA requirements; CN approved a mortgage loan with a reduced up-front mortgage insurance premium where the borrower did not meet the criteria for the reduced MIP as outlined by HUD/FHA requirements; and CN failed to ensure that the borrower met the minimum required cash investment.

10. Corona Hills Financial, Inc., d/b/a American Capitol Mortgage, Boise, ID

[Docket No. 00–1157–MR]

Action: Settlement Agreement signed June 1, 2001. Without admitting fault or liability, Corona Hills Financial, Inc. d/b/a/American Capitol Mortgage (''ACM'') agreed to pay a civil money penalty of $5,500. ACM also agreed to surrender to HUD any assets that it accrued for the next 5 years up to $60,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: ACM failed to file an annual loan origination report for 1998 which supplements the requirements of the Home Mortgage Disclosure Act; ACM used independent contractors to originate HUD/FHA insured loans; ACM used false documentation to originate HUD/FHA insured loans; ACM failed to provide complete loan origination files for review; ACM used income/employment documents that do not support the borrower's income; ACM failed to include all known liabilities in calculating the ratios; ACM failed to properly document the source of funds for a gift; and ACM used an expired conditional commitment.

11. Cypress Financial Mortgage Corporation, Inc., Davie, FL

[Docket No. 00–1163–MR]

Action: In a letter dated May 18, 2001, the Board withdrew Cypress Financial Mortgage Corporation, Inc.'s (''Cypress'') HUD/FHA approval for three years. The Board also voted to impose a civil money penalty of $22,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Cypress failed to maintain and implement a Quality Control Plan; and Cypress used false information to originate loans to obtain HUD/FHA insurance and misrepresented the Title I program to borrowers.

12. DLM Financial Services Corporation, d/b/a First Financial Mortgage, a/k/a The Home Store, Fresno, CA

[Docket No. 01–1521–MR]

Action: In a letter dated August 16, 2001, the Board withdrew DLM Financial Services Corporation's (''DLM'') [d/b/a First Financial Mortgage, a/k/a The Home Store] HUD/FHA approval for three years. The Board also voted to impose a civil money penalty of $65,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: DLM failed to maintain and implement a Quality control Plan in compliance with HUD requirements; DLM knowingly did business with a debarred, suspended, ineligible or voluntarily excluded individual; DLM used false information in originating an FHA insured loan; DLM allowed non-employees to originate HUD/FHA mortgage loans; DLM allowed employees to have dual employment; and DLM failed to retain complete origination files.

13. Eagle Home Loans and Realty, Inc., Sacramento, CA

[Docket No. 00–1129–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, Eagle Home Loans and Realty, Inc. (''EHLR'') agreed to a civil money penalty of $1000. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53732, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: EHLR failed to file annual loan origination reports for 1995 through 1999 which supplements the requirements of the Home Mortgage Disclosure Act; EHLR failed to maintain and implement a Quality Control Plan; EHLR shared office space with its parent company; and EHLR did not clearly identify the office space to the public.

14. First Funding Mortgage Bankers Corporation, Rosedale, NY

[Docket No. 00–1323–MR]

Action: Settlement Agreement signed June 1, 2001. Without admitting fault or liability, First Funding Mortgage Bankers Corporation (''FFMBC'') agreed to a civil money penalty of $60,000. FFMBC also agreed to indemnify HUD for any losses incurred on 11 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: FFMBC failed to maintain a Quality Control Plan in compliance with HUD requirements; FFMBC failed to submit One Time Mortgage Insurance Premiums Payments within 15 days of loan closing; FFMBC failed to determine that borrowers met minimum cash investment requirements; FFMBC failed to verify the source and adequacy of funds for the down payment and/or closing costs; FFMBC failed to verify income used to qualify the borrower; and FFMBC failed to resolve conflicts in information contained within the loan file prior to loan closing.

15. First Union Mortgage Corporation, Raleigh, NC

[Docket No. 01–1536–MR]

Action: Settlement Agreement signed September 18, 2001. Without admitting fault or liability, First Union Mortgage Corporation (''FUMC'') agreed to indemnify HUD for any losses incurred on 4 loans.

Cause: HUD's Departmental Enforcement Center made the following findings of violations of HUD/FHA requirements resulting from a Quality Assurance Division review of Fidelity Home Mortgage Corporation, a loan correspondent that FUMC sponsored: FUMC failed to properly verify the source and adequacy of funds for the down payment and failed to properly verify income requirements.

16. Golden Home Mortgage Corporation, Concord, CA

[Docket No. 01–1471–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, Golden Home Mortgage Corporation (''GHMC'') agreed to a civil money penalty of $20,000. In settlement, GHMC agreed to withdraw its appeal of the withdrawal of HUD/FHA approval for five years that the Board had imposed on GHMC in a letter dated January 29, 2001. It further agreed to forever forfeit its FHA approval.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: GHMC originated 19 HUD/FHA insured mortgages in which false statements were submitted to HUD and GHMC was aware of these false statements; GHMC failed to ensure that non-profit mortgagors did not exceed 10% profit on properties purchased from HUD with a 30 % discount; GHMC processed a loan that resulted in the Department over-insuring an FHA loan; GHMC failed to accurately prepare the closing instructions causing the sponsor to submit false and/or inaccurate HUD–1 Settlement Statements to the Department in 38 loans; GHMC used

falsified documentation in originating an FHA loan; GHMC falsely certified that a repair condition, the repair of a swimming pool, had been satisfied in one loan; GHMC processed loans containing false and/or inaccurate owner occupancy information in two loans; GHMC failed to properly document the transfer of gift funds in two loans; GHMC provided false statements and/or certifications concerning housing counseling in 16 loans; GHMC provided false information concerning face-to-face interviews, used non-employees to perform loan origination functions, and failed to meet face-to-face with first-time homebuyers in five loans; GHMC failed to process loan applications within HUD/FHA guidelines in four loans; GHMC charged unallowable fees on FHA loans in two loans; GHMC allowed a mortgagor to sign a blank document; and GHMC failed to file annual loan origination reports for 1996–1998, which supplements the requirements of the Home Mortgage Disclosure Act.

17. Herring National Bank, Vernon, TX

[Docket No. 01–1391–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, Herring National Bank (''Herring'') agreed to a civil money penalty of $30,000. Herring also agreed to indemnify HUD for any losses incurred on 6 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Herring operated branch offices under prohibited branch arrangements; Herring failed to meet the requirements for late endorsements in three loans; Herring failed to adequately document the sufficiency and/or source of funds to close three transactions; Herring failed to support income used to qualify the mortgagor in one loan; and Herring failed to obtain the required field reviews on properties previously sold by HUD's Real Estate Owned Division in three loans.

18. Home Loan Mortgage Corporation, Hesperia, CA

[Docket No. 01–1426–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, Home Loan Mortgage Corporation (''HLMC'') agreed to a civil money penalty of $144,000. HLMC also agreed to indemnify HUD for any losses incurred on 7 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: HLMC failed to maintain and implement a quality control plan in compliance with HUD requirements; HLMC failed to remit timely Up Front Mortgage Insurance Premiums; HLMC failed to segregate escrow funds; HLMC failed to submit loans for endorsement in a timely manner; HLMC submitted ineligible loans for endorsement; HLMC used other entities to originate loans through branch office arrangements; HLMC used independent contractors as loan originators; and HLMC failed to properly verify the source and adequacy of funds for the down payment and/or closing.

19. InterAmerican Mortgage Corporation, Rosedale, NY

[Docket No. 01–1482–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, InterAmerican Mortgage Corporation (''IAMC'') agreed to pay HUD $524,256.79, representing losses HUD incurred on 5 loans that were part of a prior August 27, 1997 Settlement Agreement with HUD.

Cause: The Board followed up on IAMC's failure to indemnify HUD on five loans which were the subject of an August 27, 1997 Settlement Agreement. This failure to indemnify violated HUD regulations and breached the 1997 Settlement Agreement.

20. Intercoastal Funding Corporation, Huntington Beach, CA

[Docket No. 00–1320–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, Intercoastal Funding Corporation agreed to a civil money payment of $11,000.

Cause: HUD's Quality Assurance Division made the following finding of violations of HUD/FHA requirements: Intercoastal Funding Corporation failed to maintain and implement a Quality Control Plan in compliance with HUD requirements.

21. J & R Mortgage, Inc., San Mateo, CA

[Docket No. 00–1127–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, J & R Mortgage, Inc. (''JRM'') agreed to a civil money penalty of $25,000. JRM also agreed to indemnify HUD for any losses incurred on 6 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: JRM used false information to originate 9 loans; JRM allowed non-employees to take loan applications in 9 loans; JRM permitted ''straw buyers'' to qualify for HUD/FHA insured mortgages in 3 loans; JRM failed to verify the source of funds used for borrowers' down payment and/or closing costs and thereby, did not ensure that borrowers met their minimum required investment in 4 loans; and JRM allowed real estate agents to accept second deeds of trust and/or promissory notes from mortgagors in exchange for making the mortgagors' minimum required investment in 3 loans.

22. Johnson Mortgage Corporation, New Orleans, LA

[Docket No. 01–1514–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Johnson Mortgage Corporation (''JMC'') agreed to a payment of $16,500.

Cause: HUD's Quality Assurance Division made the following finding of violations of HUD/FHA requirements: JMC failed to maintain and implement a Quality Control Plan in compliance with HUD/FHA requirements, despite previous findings on this requirement and JMC's assurance of corrective action.

23. Malone Mortgage Company America, Ltd., Carlsbad, CA

[Docket No. 00–1081–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, Malone Mortgage Company America, Ltd. ''(MMC'') agreed to a civil money penalty of $100,000. MMC also agreed to indemnify HUD for any losses incurred on 4 loans. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53735, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MMC employed, as a loan officer, an individual who was concurrently working for the mortgagor entity and had an ownership interest in another lending institution; MMC's files were found to contain false completion inspections and 203(k) escrow draws; MMC charged consulting fees and inspection fees that were unearned; MMC originated single-family 203(k) mortgages for the purpose of financing the acquisition of multifamily housing complexes with the knowledge that title to the properties would be subsequently transferred to limited partnerships; MMC processed, approved and closed mortgages where the mortgagor failed to meet the minimum capital investment requirements due to the receipt of Low Income Housing Tax Credits; MMC failed to verify adequate funds from an acceptable source to be used to close the mortgages and to meet the reserve requirements after closing the FHA

insured mortgages; MMC provided FHA insured financing to a nonprofit where there was less than an arms-length transaction between the nonprofit's officers and entities providing goods and services; MMC permitted the nonprofit mortgagor to close on FHA insured mortgages and subsequently sell the properties via Contract for Deed; MMC originated FHA insured mortgages using Uniform Residential Appraisal Reports (URAR) that were found to be deficient, which resulted in overstated values; MMC escrowed and released excess amounts for mortgage payments; MMC did not properly value commercial space that was acquired by an affiliate of the mortgagor entity; MMC failed to properly account for a credit that was to have been given to the mortgagor from the seller, thereby reducing the acquisition cost; MMC used an incorrect sales price when determining acquisition cost for the purpose of calculating maximum mortgage amounts; MMC submitted to HUD for endorsement loans that were closed incorrectly; MMC closed and submitted for endorsement mortgages on properties that exceeded the 4 unit limit in effect for single-family programs; MMC failed to obtain as-is appraisals on properties that were acquired as part of bulk purchases; MMC originated inaccurate correspondence that was used by the mortgagor when applying for Low Income Housing Tax Credits; MMC permitted the mortgagor to receive payment for sweat equity for repair items completed by the mortgagor; MMC processed, approved, and closed loans where the properties were not eligible for 203(k) mortgage insurance; MMC failed to ensure that rehabilitation work was completed in a timely manner; MMC approved and closed a loan with a high loan to value ratio on a property that was less than one year old; and MMC failed to resolve discrepancies in documents used to originate FHA insured mortgages.

24. Marathon Financial Corporation, Southfield, MI

[Docket No. 00–1362–MR]

Action: Settlement Agreement signed June 1, 2001. Without admitting fault or liability, Marathon Financial Corporation (''MFC'') agreed to a civil money penalty of $15,000. MFC also agreed to indemnify HUD for any losses incurred in one loan.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MFC failed to make timely payments of Upfront Mortgage Insurance Premiums; MFC shared office space and commingled employees with Miracle Financial, a non-HUD approved lender; MFC failed to obtain and analyze the terms and conditions of the real estate transaction to consider the acquisition cost of recently acquired properties in the underwriting of loans; MFC failed to properly verify the source and adequacy of funds for the down payment and/or closing cost; MFC charged borrowers fees which are not in compliance with HUD/FHA guidelines; and MFC failed to maintain and implement a quality control plan in compliance with HUD requirements.

25. Marketplace Home Mortgage, LLC, Edina, MN

[Docket No. 01–1479–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Marketplace Home Mortgage, LLC (''MHM'') agreed to a civil money penalty of $20,000. In addition, MHM agreed to indemnify HUD for any losses incurred on 4 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MHM allowed a non-FHA approved entity to originate 6 HUD/FHA loans that were registered with the Department as loans originated by MHM; and MHM failed to file annual loan origination reports for 1996–1997, which supplements the requirements of the Home Mortgage Disclosure Act.

26. Megamerica Mortgage Group, Inc., San Antonio, TX

[Docket No. 00–1319–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, Megamerica Mortgage Group, Inc. (''Megamerica'') agreed to indemnify HUD for any losses incurred on 5 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Megamerica recruited non-HUD approved entities and allowed non-Megamerica employees to originate loans which Megamerica processed and submitted to be approved for FHA insurance; Megamerica allowed prohibited branch arrangements; Megamerica signed false Lender Certifications contained in addenda to the Uniform Residential Loan Applications; Megamerica made prohibited payments to entities that both prepared loan applications and received real estate commissions on the same FHA loan transactions; Megamerica failed to disclose payments to brokers on the HUD–1 Settlement Statements; and Megamerica failed to maintain complete loan files for a minimum period of two years from the date of insurance endorsement.

27. Mission Hills Mortgage Corporation, Santa Ana, CA

[Docket No. 00–1350–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Mission Hills Mortgage Corporation (''MHMC'') agreed to a civil money penalty of $60,000. In addition, MHMC agreed to indemnify HUD for any losses incurred on 15 loans. Further, MHMC agreed to audit its FHA/HUD loan files for a specific time period and refund any unallowable fees to mortgagors.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MHMC failed to maintain and implement a quality control plan in compliance with HUD requirements; MHMC provided false information in originating and obtaining HUD/FHA mortgage insurance in one loan; MHMC failed to properly verify the source and adequacy of funds for the down-payment and/or closing; MHMC failed to properly verify credit history; MHMC failed to provide acceptable compensating factors for high ratios; MHMC failed to evaluate properly effective income; MHMC charged unallowable fees; MHMC failed to resolve discrepancies; MHMC failed to include liabilities in one loan; and MHMC failed to maintain complete origination files.

28. Molton, Allen & Williams Corporation, Birmingham, AL

[Docket No. 01–1544–MR]

Action: Settlement Agreement signed September 18, 2001. Without admitting fault or liability, Molton, Allen & Williams Corporation (''MAWC'') agreed to indemnify HUD for any losses incurred on 2 loans.

Cause: HUD's Departmental Enforcement Center made the following finding of violations of HUD/FHA requirements resulting from a Quality Assurance Division review of Colonial Atlantic Mortgage, a loan correspondent that MAWC sponsored: MAWC failed to properly verify the source and adequacy of funds for the down payment or income requirements in two loans.

29. Money Line Classic Corporation, Whittier CA

[Docket No. 01–1398–MR]

Action: In a letter dated July 26, 2001, the Board voted to impose a civil money

penalty on Money Line Classic Corporation (''MLCC'') of $45,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MLCC failed to maintain and implement a Quality Control Plan in compliance with HUD requirements; MLCC failed to notify the Department of program abuses; MLCC failed to designate a senior corporate officer to conduct exclusively the affairs of MLCC during normal business hours; MLCC failed to provide office space that is clearly identified to the public; and MLCC failed to retain complete origination files.

30. Mortgage Loan Specialists, Inc., Solana Beach, CA

[Docket No. 01–1429–MR]

Action: Settlement Agreement signed July 18, 2001. Without admitting fault or liability, Mortgage Loan Specialists, Inc. (''MLS'') agreed to a civil money penalty of $192,500.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MLS allowed prohibited branch arrangements or net branches; MLS failed to file annual loan origination reports for 1997–1999, which supplements the requirements of the Home Mortgage Disclosure Act; and MLS failed to maintain and implement a Quality Control Plan.

31. MortgageOne Financial Services, Kissimmee, FL

[Docket No. 01–1472–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, MortgageOne Financial Services (''MOFS'') agreed to a civil money penalty of $10,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MOFS failed to implement a Quality Control Plan in compliance with HUD/FHA requirements; MOFS failed to assure that interested third parties did not participate in the origination and/or processing of loans to be insured by the Department; and MOFS falsely certified loan documents to obtain HUD/FHA insurance.

32. Mortgage One, Inc., Minneapolis, MN

[Docket No. 00–1343–MR]

Action: Settlement Agreement signed July 25, 2001. Without admitting fault or liability, Mortgage One, Inc. (''MOI'') agreed to a civil money penalty of $15,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MOI failed to maintain and implement a Quality Control Plan; MOI failed to file annual loan origination reports for 1996–1998, which supplements the requirements of the Home Mortgage Disclosure Act; MOI failed to conduct face-to-face interviews with four first time home buyers; MOI allowed non-MOI employees in six cases to take loan applications and process paperwork on HUD/FHA insured mortgages; and MOI used false information in originating seven loans and obtaining HUD/FHA mortgage insurance.

33. Norwest Mortgage, Inc., Des Moines, IA

[Docket No. 99–1038–MR]

Action: Settlement Agreement signed May 3, 2001. Without admitting fault or liability, Norwest Mortgage, Inc., now known as Wells Fargo Home Mortgage, Inc., (''Norwest'') agreed to a civil money penalty of $75,000. Norwest also agreed to indemnify HUD for any losses incurred, including interest, from Norwest's submission of insurance claims on 39 loans that were subject to a 1996 settlement agreement. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53736, September 5, 2000.]

Cause: Contrary to the terms of a March 22, 1996 Settlement Agreement, Norwest submitted claims for FHA insurance on 39 loans on which Norwest had agreed to not submit such claims.

34. PMA Mortgage, Inc., Long Beach, CA

[Docket No. 01–1485–MR]

Action: In a letter dated August 14, 2001, the Board withdrew PMA Mortgage, Inc.''s (''PMA'') HUD/FHA approval for three years.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: PMA failed to maintain and implement a quality control plan in compliance with HUD requirements; PMA used falsified documentation and/or conflicting information in originating loans and obtaining HUD/FHA mortgage insurance; PMA failed to properly verify the source and adequacy of funds for the down payment and/or closing costs; PMA failed to identify sales within the last 12 months on appraisals; and PMA requested a seller to backdate loan documents.

35. RBMG, Inc., Columbia SC

[Docket No. 01–1545–MR]

Action: Settlement Agreement signed September 25, 2001. Without admitting fault or liability, RBMG agreed to indemnify HUD for any losses incurred on six loans.

Cause: HUD's Quality Assurance Division made the following finding of violations of HUD/FHA requirements: RBMG failed to properly verify the source and adequacy of funds for the down payment or income requirements in six loans.

36. Twins, Inc., Columbia, SC

[Docket No. 00–1076–MR]

Action: Settlement Agreement signed May 21, 2001. Without admitting fault or liability, Twins, Inc. (''TI'') agreed to a civil money penalty of $8,000. In addition, the Department reinstated TI as an FHA approved mortgagee. The Board had previously withdrawn TI's HUD/FHA approval for three years in a letter dated September 29, 2000. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53737, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: TI shared office space with its parent company and maintained an office not clearly identified to the public; TI commingled employees with its parent company; TI used more than one entity to conduct its loan origination function; TI failed to maintain an adequate Quality Control Plan for the origination of HUD/FHA insured mortgages; TI failed to properly implement its Quality Control Plan; and TI charged mortgagors unallowable fees.

37. U.S. Lending Corporation, Long Beach, CA

[Docket No. 01–1537–MR]

Action: In a letter dated July 26, 2001, the Board withdrew U.S. Lending Corporation's (''USLC'') HUD/FHA approval for five years. In addition, the Board voted to impose a civil money penalty of $35,000.

Cause: While preparing for an administrative hearing against Milestone Mortgage Corporation, HUD's Mortgagee Review Board staff learned that Milestone, despite its immediate withdrawal from FHA programs was operating under the name of U.S. Lending Corporation and was still originating FHA insured loans. The Board voted to immediately withdraw USLC's approval based on the following violations of HUD/FHA requirements: USLC circumvented the Mortgagee Review Board's withdrawal action against Milestone Mortgage Corporation; USLC failed to exclude participants that are suspended from participating in federal government programs; USLC

used non FHA approved offices to originate FHA insured mortgages; USLC failed to maintain complete origination files; USLC failed to maintain an office space that was separate and apart from that of another entity; USLC failed to meet the staffing requirement of at least two full-time employees at a main office; USLC failed to follow proper quality control procedures; and USLC failed to establish and maintain an adequate Quality Control Plan for the origination of HUD/FHA insured mortgages. [For the prior **Federal Register** notice relating to Milestone Mortgage Corporation, see 66 FR at page 38307, July 23, 2001.]

38. Valley Mortgage Company, Inc., McAllen, TX

[Docket No. 01–1411–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, Valley Mortgage Company, Inc., (''VMCI'') agreed to a civil money penalty of $25,000. VMCI also agreed to indemnify HUD for any losses incurred on 11 loans. At the time of settlement, VMCI paid HUD an additional $77,604.22 for losses incurred on three loans upon which HUD had paid claims and had sold the property.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: VMCI failed to verify the source of funds for closing and/or to pay off debts; VMCI used inaccurate and/or unstable income to qualify mortgagors; VMCI omitted mortgagor liabilities and/or the liabilities of the non-purchasing spouse in one loan qualification; VMCI failed to adequately document mortgagors' credit histories in one loan; VMCI failed to update credit documents in excess of 120 days at the time of closing; VMCI failed to clarify or document important file discrepancies in one loan; VMCI closed a loan in excess of the maximum allowable resulting in an over-insured mortgage; and VMCI failed to perform sufficient investigation and analysis to certify that a condominium project satisfied the eligibility criteria for a ''spot loan'.

39. West Coast Mortgage Securities, Inc., San Diego, CA

[Docket No. 00–1130–MR]

Action: Settlement Agreement signed August 28, 2001. Without admitting fault or liability, West Coast Mortgage Securities, Inc., (''WCMS'') agreed to a civil money penalty of $1,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: WCMS failed to file annual loan origination reports for 1995–1999, which supplements the requirements of the Home Mortgage Disclosure Act; and WCMS failed to properly document liabilities.

Dated: December 3, 2001.

John C. Weicher,

Assistant Secretary for Housing—FHA, Commissioner, Chairman, Mortgagee Review Board.

[FR Doc. 01–30438 Filed 12–7–01; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability; Draft Environmental Impact Statement on Light Goose Management; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability for public comment; extension of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is extending the comment period on a Draft Environmental Impact Statement (DEIS) which is available for public review. The DEIS analyzes the potential environmental impacts of several management alternatives for addressing problems associated with overabundant light goose populations. The Service invites the public to comment on the DEIS.

DATES: Written comments on the DEIS must be received on or before January 25, 2002.

ADDRESSES: Requests for copies of the DEIS should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street NW., Washington, D.C. 20240. Copies of the DEIS can be downloaded from the Division of Migratory Bird Management web site at *http://migratorybirds.fws.gov/issues/snowgse/tblcont.html.* Comments on the DEIS should be sent to the above address. Alternatively, comments may be submitted electronically to the following address: *white_goose_eis@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, (703) 358–1714.

SUPPLEMENTARY INFORMATION: On September 28, 2001 (66 FR 49668), and October 5, 2001 (66 FR 51274), notices were published in the **Federal Register** announcing the availability of our DEIS on light goose management. On October 12, 2001 (66 FR 52147) we published a notice in the **Federal Register** to announce the schedule of public hearings to invite further public participation in the DEIS review process.

The DEIS evaluates four management alternatives to address habitat destruction and agricultural depredations caused by light geese on various breeding, migration, and wintering areas: (1) No Action or a continuation to manage light goose populations through existing wildlife management policies and practices (Alternative A); (2) modify harvest regulation options and refuge management (Alternative B) (PREFERRED); (3) implement direct agency control of light goose populations on migration and wintering areas in the U.S. (Alternative C); (4) seek direct light goose population control on breeding grounds in Canada (Alternative D). Our preferred alternative (Alternative B) modifies existing light goose hunting regulations to expand methods of take during normal hunting season frameworks. In addition, we propose to create a conservation order to allow take of light geese outside of normal hunting season frameworks. We would also modify management practices on certain National Wildlife Refuges to alter the availability of food and sanctuary to light geese. On October 12, 2001 (66 FR 52077) we published a proposed rule in the **Federal Register** that would implement our preferred alternative.

We have received a request to extend the comment period on the DEIS. The Service invites careful consideration by all parties, and welcomes serious scrutiny from those committed to the long-term conservation of migratory birds. Therefore, to facilitate substantive public review, we are extending the comment period from December 14, 2001, to January 25, 2002. Extension of the comment period on the proposed rule is made through a separate notice in the **Federal Register**.

In order to be considered, electronic submission of comments must include your name and postal mailing address; we will not consider anonymous comments. All comments received, including names and addresses, will become part of the public record. The public may inspect comments during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Requests for such comments will be handled in accordance with the Freedom of Information Act and the

Council on Environmental Quality's National Environmental Policy Act regulations [40 CFR 1506.6(f)]. Our practice is to make comments available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

Dated: November 19, 2001.

Kevin R. Adams,

Acting Deputy Director.

[FR Doc. 01–30412 Filed 12–7–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request; Notice of Information Collection Under Review, Refugee/Asylee Relative Petition

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until February 8, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Refugee/Asylee Relative Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–730. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form will be used by an asylee or refugee to file on behalf of his or her spouse and/or children provided that the relationship to the refugee/asylee existed prior to their admission to the United States. The information collected on this form will be used by the Service to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 86,400 responses at 35 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50,371 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Solan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: December 3, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–30386 Filed 12–7–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

[OJP(BJA)–1343]

Announcement of the Availability of the State Criminal Alien Assistance Program for FY 2002

AGENCY: Office of Justice Programs, Bureau of Justice Assistance, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the Bureau of Justice Assistance (BJA) State Criminal Alien Assistance Program (SCAAP) funding for FY 2002.

DATES: Applicant account registration through an Internet-based system begins on January 3, 2002 and continues until February 1, 2002. Submission of applications begins on January 3, 2002 and continues until February 1, 2002.

ADDRESS: Bureau of Justice Assistance, 810 Seventh Street, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For SCAAP program guidance and technical assistance, please log on to the Bureau of Justice Assistance Home Page at: *http://www.ojp.usdoj.gov/BJA* and select ''SCAAP'' or call the Office of Justice Programs Grants Management System Hotline at 1–888–549–9901, Option #4. For general information about online application procedures for other solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, sections 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

SCAAP provides Federal assistance to states and units of general government for costs incurred for the imprisonment of undocumented criminal aliens, who are charged or convicted of one felony or two misdemeanor offenses. Potential applicants may no longer submit hard copy application forms and diskettes. For FY 2002, state and local governments apply for payment via a paperless, electronic, end-to-end distributive, Internet-based web-site application. BJA anticipates providing over 490 payments of varying amounts from a FY2002 funding total of approximately $550 million.

Potential applicants with questions should call the Office of Justice Programs Grants Management System

Hotline at 1–888–549–9901, Option #4. For access to program guidance and the online application, connect to *http://www.ojp.usdoj.gov/BJA* and select ''SCAAP''

Dated: December 5, 2001.

Richard R. Nedelkoff,

Director, Bureau of Justice Assistance.

[FR Doc. 01–30456 Filed 12–7–01; 8:45 am]

BILLING CODE 4410–10–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–155)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Fiber Materials, Inc. of Biddeford, Maine has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 5,610,363, entitled ''Enhanced Whipple Shield,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Johnson Space Center.

DATE(S): Responses to this notice must be received by January 9, 2002.

FOR FURTHER INFORMATION CONTACT: James M. Cate, Patent Attorney, NASA Johnson Space Center, Mail Stop HA, Houston, TX 77058–8452; telephone (281) 483–1001.

Dated: November 30, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–30426 Filed 12–7–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–154)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that International Electronic Machines Corporation, 60 Fourth Avenue, Albany, New York, has applied for an exclusive license to practice the invention disclosed in U.S. Patent No. 5,726,632, entitled ''Flame Imaging System,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Randall M. Heald, Assistant Chief Counsel/Patent Counsel.

DATE(S): Responses to this notice must be received by December 26, 2001.

FOR FURTHER INFORMATION CONTACT: Randall M. Heald, Assistant Chief Counsel/Patent Counsel, John F. Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899, telephone (321) 867–7214.

Dated: November 30, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–30425 Filed 12–7–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before January 24, 2002. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to *records.mgt@arch2.nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: *records.mgt@arch2.nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions

requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (N1–AU–00–16, 7 items, 7 temporary items). Records relating to readiness training of senior intelligence officers. Included are such records as correspondence, planning committee invitations and minutes, on-going training files, budget and financial status reports, and inspection files. Also included are electronic copies of documents created using electronic mail and word-processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

2. Department of the Army, Agency-wide (N1–AU–01–10, 25 items, 25 temporary items). Short-term records documenting security measures undertaken to protect classified information and the activities and resources allocated to support military operations. Included are records relating to such matters as investigations of security breaches, the protection of automated systems, signal security operations, the allocation and distribution of communications security material, and strategic and tactical planning for military operations. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which previously were approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

3. Department of Defense, Defense Contract Audit Agency (N1–372–01–2, 4 items, 2 temporary items). Records pertaining to legal matters not related to the mission of the agency, including files pertaining to standards of conduct and conflict of interest that do not relate to actual cases in the agency. Included are legal opinions and related background materials. Proposed for permanent retention are recordkeeping copies of legal opinions relating to the mission of the agency and standards of conduct records relating to actual cases in the agency. The related electronic copies of documents created using electronic mail and word processing were previously approved for disposal.

4. Department of Defense, Defense Contract Audit Agency, Agency-wide (N1–372–02–1, 6 items, 6 temporary items). Records relating to the use of Government charge cards for obtaining small purchase items. Included are such records as receipts, statements of charges and amounts due, certifications of payments to be made, and electronic copies of records created using electronic mail and word processing.

5. Department of Defense, National Imagery and Mapping Agency (N1–537–01–4, 65 items, 65 temporary items). Paper and electronic records relating to safety, health, and environmental matters, including electronic copies of documents created using electronic mail and word processing. Records relate to general medical and health matters, industrial hygiene, safety programs, fire prevention, and environmental protection.

6. Department of the Navy, Agency-wide. (N1–NU–02–1, 13 items, 9 temporary items). Records relating to investigations or inquiries conducted by the Navy Inspector General. Included are such records as case files, final investigative reports, working papers, correspondence, and final reports. Also included are electronic copies of documents created using electronic mail and word processing and a database used for tracking the progress of each investigation. Recordkeeping copies of historically significant case files are proposed for permanent retention.

7. Department of the Navy, Agency-wide, (N1–NU–02–2, 3 items, 3 temporary items). Records relating to non-combat counterintelligence investigations and inquiries conducted in order to determine the suitability of U.S. citizens and foreign nationals for base access and employment purposes. Also included are electronic copies of records created using electronic mail and word processing.

8. Federal Emergency Management Agency, Agency-wide (N1–311–01–1, 5 items, 4 temporary items). Records relating to pending legislation of interest to the agency, including electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of files, accumulated in the Office of General Counsel and the Office of Congressional and Legislative Affairs, that pertain to legislation that directly affects the agency's enabling legislation.

9. Federal Emergency Management Agency, Mitigation Directorate (N1–311–01–7, 5 items, 5 temporary items). Records relating to disaster response, including grant administration records relating to disaster response. Also included are records relating to FEMA activities to reduce and mitigate losses in future disasters including hazard mitigation, technical assistance, grants and agreements securing the development rights of disaster-prone parcels of land. Also included are electronic copies of documents created using electronic mail and word processing.

10. Federal Retirement Thrift Investment Board, Office of Automated Systems (N1–474–01–1, 2 items, 2 temporary items). Web site feedback records and statistical reports on web site utilization. This schedule reduces the retention period for the recordkeeping copies of these files, which were previously approved for disposal. Also included are electronic copies of documents created using electronic mail and word processing.

11. National Archives and Records Administration, Agency-wide (N1–64–02–2, 2 items, 2 temporary items). Security backups for agency desktop computer applications created and maintained to restore the system in the event of a system failure or other unintentional loss of data.

12. National Archives and Records Administration, Access Programs (N1–64–02–3, 3 items, 3 temporary items). Electronic systems containing researcher application information and data recording the movement of researchers within the agency's research complex in College Park, Maryland.

13. National Credit Union Administration, Agency-wide (N1–413–02–1, 10 items, 8 temporary items). Subject files, chronological files, and regional files, accumulated by offices other than the Office of the Board, and individual working files. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of agency directives and operating manual case files created in central and regional offices are proposed for permanent retention.

14. Nuclear Regulatory Commission, Office of the Secretary of the Commission (N1–431–01–2, 51 items, 39 temporary items). Electronic records in the Commission's Agencywide

Document Access and Management System (ADAMS) accumulated by the Office of the Secretary of the Commission, including electronic copies of records created using office automation tools and of records used to create ADAMS portable document format files. Records proposed for disposal include electronic recordkeeping copies of records related to committees and conferences for which the agency is not the sponsor, routine correspondence files, and rulemaking docket files. Paper copies of these records were previously approved for disposal. Series proposed for permanent retention include recordkeeping copies of such files as decisional dockets, records relating to committees and conferences sponsored by the agency, program correspondence at the Commission level, rulemaking records, and transcripts of Commission meetings.

15. Office of Personnel Management, Office of the Chief Information Officer (N1–478–02–1, 8 items, 8 temporary items). Year 2000 (Y2K) project records, including such records as plans, test documentation, correspondence, reports, and electronic copies of records created using electronic mail and word processing.

Dated: December 4, 2001.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 01–30436 Filed 12–7–01; 8:45 am]

BILLING CODE 7515–01–U

POSTAL RATE COMMISSION

Sunshine Act Meeting

Name of Agency: Postal Rate Commission.

Time and Date: December 12, 2001 at 10 a.m.

Place: Commission conference room, 1333, H Street NW., Suite 300, Washington, DC 20268–0001.

Status: Open.

Matters to be Considered: Election of vice-chairman.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, general counsel Postal Rate Commission, 202–789–6820.

Dated: December 5, 2001.

Steven W. Williams.

Acting Secretary.

[FR Doc. 01–30501 Filed 12–5–01; 4:07 pm]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration on the American Stock Exchange LLC (Quicksilver Resources Inc., Common Stock, $.001 par value) File No. 1–14837

December 4, 2001.

Quicksilver Resources Inc., a Delaware Corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.001 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On September 28, 2001, the Board of Directors of the Issuer unanimously approved a resolution to withdraw the Issuer's Security from listing on the Amex and to list the Security on the New York Stock Exchange, Inc. (''NYSE''). In making the decision to withdraw the Security from listing on the Exchange, the Issuer considered the direct and indirect costs and the division of the market resulting from dual listing. The Issuer states that trading in the Security ceased on the Amex on October 22, 2001 and began on the NYSE the same day.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and shall have no effect upon its listing on the NYSE or its registration under section 12(b) of the Act.[3]

Any interested person may, on or before December 27, 2001, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30415 Filed 12–7–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25308; File No. 812–12556]

First Variable Life Insurance Company, et al.

December 4, 2001.

AGENCY: Securities and Exchange Commission (''SEC or ''Commission'').

Summary of Application: Applicants seek an order pursuant to Section 26(c) of the Investment Company Act of 1940 (''1940 Act''), approving the substitution of shares of certain Portfolios of Variable Investors Series Trust (''VIST'') for shares of certain portfolios of other variable insurance products funds as follows: (1) Shares of the Pilgrim Baxter Insurance Series Fund, Inc.—PBHG Small Cap Growth Portfolio for shares of the VIST Small Cap Growth Portfolio; (2) shares of the American Century VP International Growth Fund for shares of the VIST World Equity Portfolio; (3) shares of the American Century VP Ultra Fund for shares of the VIST Growth Portfolio; (4) shares of the American Century VP Income and Growth Fund for shares of the VIST Matrix Equity Portfolio; (5) shares of the Fidelity Variable Insurance Products Fund—Growth & Income Portfolio for shares of the VIST Growth & Income Portfolio; (6) shares of the Fidelity Variable Insurance Products Fund—Growth & Income Portfolio for shares of the VIST Multiple Strategies Portfolio; (7) shares of the Federated High Income Bond Fund II for shares of the VIST High Income Bond Portfolio; and (8) shares of the Federated U.S. Government Securities Fund II for shares of the VIST U.S. Government Bond Portfolio. Applicants also seek an order, pursuant to Section 17(b) of the 1940 Act, granting exemptions from Section 17(a) to permit Applicants to carry out the above-referenced substitution by means of in-kind redemption and purchase.

Applicants: First Variable Life Insurance Company (''First Variable''),

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

First Variable Annuity Fund E (''Account E''), First Variable Annuity Fund A (''Account A'') and Separate Account VL (''Account VL'') of First Variable Life Insurance Company. First Variable is referred to herein as the ''Insurance Company Applicant.'' Account E, Account A and Account VL are referred to herein as the ''Separate Account Applicants.''

Filing Date: The application (''Application'') was filed on June 21, 2001 and amendments thereto were filed on October 11, 2001 and December 3, 2001.

Hearing or Notification of Hearing: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 27, 2001, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: For the Commission: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. For Applicants: c/o Raymond A. O'Hara III, Esquire, Blazzard, Grodd & Hasenauer, PC, P.O. Box 5108, Westport, Connecticut 06881. Copies to: Steve M. Callaway, Esquire, Senior Associate Counsel, Protective Life Corporation, Birmingham, Alabama 35202.

FOR FURTHER INFORMATION CONTACT: Alison Toledo, Senior Counsel, or Lorna MacLeod, Branch Chief, Division of Investment Management, Office of Insurance Products, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549, (tel. (202) 942–8090).

Applicants' Representations

1. First Variable is a stock life insurance company that was organized under Arkansas law in 1968. It engages principally in the business of variable life insurance, variable annuities and fixed annuities. First Variable holds licenses to sell insurance in 49 states, the District of Columbia and the U.S. Virgin Islands. On October 1, 2001, Protective Life Insurance Company, a subsidiary of Protective Life Corporation of Birmingham, Alabama, acquired the stock of First Variable from ILona Financial Group, Inc., formerly known as Irish Life of North America, Inc., which had owned all of the outstanding stock of First Variable until that date.

2. Account E is a segregated asset account of First Variable. Account E was established by First Variable on December 4, 1979, under Arkansas insurance laws. Account E is used to fund certain Contracts issued by First Variable. Account E is divided into several subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. Account E is registered as a unit investment trust under the 1940 Act.

3. Account A is a segregated asset account of First Variable. Account A was established by First Variable on July 1, 1968 under Arkansas insurance laws. Account A is used to fund certain Contracts issued by First Variable. Account A is divided into several subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. Account A is registered as a unit investment trust under the 1940 Act.

4. Account VL is a segregated asset account of First Variable. Account VL was established by First Variable on March 6, 1987, under Arkansas insurance laws. Account VL is used to fund certain Contracts issued by First Variable. Account VL is divided into several subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. Account VL is registered as a unit investment trust under the 1940 Act.

5. The segregated asset accounts support certain variable annuity contracts and variable life insurance policies (collectively, the ''Contracts'') issued by the Insurance Company Applicant. Under the Contracts, First Variable reserves the right to substitute one or more of the variable investment options with another variable investment option. These contractual provisions have been disclosed in the prospectus or the statements of additional information relating to the contracts.

6. The Trust was organized as a Massachusetts business trust on December 23, 1986. The Trust is comprised of eight separate series (''Portfolios'' or ''Replaced Portfolios''). The Trust is registered as an open-end management investment company under the 1940 Act and its shares are registered as securities under the Securities Act of 1933 (''1933 Act''). The shares of the Trust are sold exclusively to the Separate Account Applicants to fund benefits under the Contracts. First Variable Advisory Services Corporation (''FVAS'') is the investment adviser for the Trust. FVAS is a wholly-owned subsidiary of First Variable, the ultimate parent of which is Protective Life Corporation. FVAS has engaged sub-advisers for each of the Portfolios of the Trust to make investment decisions and place orders.

7. Applicants request the Commission's approval to effect the substitutions of the shares of portfolios of other variable insurance products funds (''Substituting Portfolios'') for the shares of the Replaced Portfolios (the ''Substitution''). The Substituting Portfolios are series of open-end management investment companies registered under the 1940 Act, the shares of which are registered as securities under the 1933 Act. Applicants represent that the Substituting Portfolios, in general, have similar investment objectives to, and more assets, better performance and lower expense ratios than, the Replaced Portfolios. The Replaced Portfolios and the corresponding Substituting Portfolios are as follows:

Replaced portfolios	Substituting portfolios
High Income Bond Portfolio.	Federated High Income Bond Fund II.
World Equity Portfolio	American Century VP International Growth Fund.
Small Cap Growth Portfolio.	PBHG Small Cap Growth Portfolio.
Matrix Equity Portfolio	American Century VP Income and Growth Fund.
U.S. Government Bond Portfolio.	Federated U.S. Government Securities Fund II.
Growth Portfolio	American Century VP Ultra Fund.
Multiple Strategies Portfolio.	Fidelity VIP Growth & Income Portfolio.
Growth & Income Portfolio.	Fidelity VIP Growth & Income Portfolio.

8. The investment objectives of the Replaced Portfolios and Substituted Portfolios are as follows:

(a) The stated objective for the High Income Bond Portfolio and the Federated Income Bond Fund II is to seek a high level of current income while secondarily seeking capital appreciation by investing primarily in fixed-income securities, including corporate bonds and notes, discount

bonds, zero-coupon bonds, convertible securities and preferred stocks and bonds issued with warrants, which are rated Baa or below by Moody's or BBB or below by Standard & Poor's or in unrated securities determined to be of comparable quality. The same individual, Mark E. Durbiano, manages both of these Portfolios.

(b) The World Equity Portfolio's stated objective is to seek maximum long-term total return by investing primarily in common stocks, and securities convertible into common stocks, traded in securities markets located around the world, including the United States. This objective is to be obtained via international blue chips and domestic U.S. small cap stocks. The American Century VP International Growth Portfolio's stated objective is to seek capital growth by investing primarily in large cap equities in developed countries around the world. The Portfolio also invests in preferred stock and convertible debt and it can invest in the United States.

Morningstar Inc. (''Morningstar''), a provider of mutual fund, stock and variable insurance investment information, assigns both of these Portfolios to a Large-Growth investment style box focusing on international equities.

(c) The objective of the Small Cap Growth Portfolio and the PBHG Small Cap Growth Portfolio is to seek capital appreciation by investing primarily in common stocks of emerging companies with the potential for significant capital appreciation and strong earnings growth with attendant risk. The Portfolios normally invest at least 65% of assets in common stocks and convertible securities issued by companies with market capitalization or annual revenues not exceeding $1 billion at the time of purchase. Both Portfolios are managed by the same entity—Pilgrim Baxter & Associates, Ltd.

(d) The Matrix Equity Portfolio's investment objective is to seek capital appreciation and current income by investing in a diversified portfolio of equity securities. The American Century VP Income and Growth Portfolio's investment objective is to seek capital growth by investing in common stocks, with income as a secondary objective.

Over the last ten years, both Portfolios have had substantially similar investment styles and Morningstar has categorized each fund as either being Large/Value or Large/Blend during that time period.

(e) The U.S. Government Bond Portfolio's investment objective is to seek current income and preservation of capital. Under normal circumstances, at least 80% of the Portfolios assets will be invested in U.S. Government Securities; the remainder may be invested in investment grade corporate securities and in cash and money market instruments. The Federated U.S. Government Securities Fund II's investment objective is to provide current income by investing at least 65% of its assets in U.S. government securities, including mortgage backed securities issued by U.S. government agencies. In addition, the Fund may invest up to 35% of its assets in investment grade non-government mortgage-backed securities.

Morningstar classifies both portfolios as Intermediate Government Bond Funds.

(f) The Growth Portfolio's investment objective is to seek capital growth; it also seeks current income when consistent with its primary objective. It pursues its objective by investing primarily in common stocks and securities convertible into common stock. Securities are selected on the basis of their issuers long-term potential for expanding their earnings, profitability, and size and on the basis of potential increases in market recognition of their securities. The American Century VP Ultra Fund's investment objective is to seek long-term capital growth. The Portfolio pursues this objective by investing in large company stocks that the manager believes will increase in value over time, using a growth investment strategy. The strategy looks for companies with earnings and revenues that are not only growing, but also growing at a successfully faster or accelerating pace.

Both portfolios are classified by Morningstar as large cap growth funds.

(g) The Multiple Strategies Portfolio's investment objective is to seek as high a level of total return as the manager considers consistent with prudent investment risk. The Portfolio invests in equity securities, fixed income securities and money market instruments. Equity securities are selected on the basis of their issuers long-term potential for expanding their earnings, profitability, and size and on the basis of potential increases in market recognition of their securities. The Fidelity VIP Growth & Income Portfolio's investment objective is to seek high total return through a combination of current income and capital appreciation. The Portfolio invests a majority of its assets in common stocks with a focus on those that pay current dividends and show potential for capital appreciation. The Portfolio also invests in bonds, including lower-quality debt securities, as well as stocks that are not currently paying dividends, but offer prospects for future income or capital appreciation.

(h) The Growth & Income Portfolio's investment objective is to seek growth of capital and income. The Portfolio pursues this objective by investing primarily in dividend-paying common stocks, as well as fixed income securities. The Fidelity VIP Growth & Income Portfolio's investment objective is to seek high total return through a combination of current income and capital appreciation. The Portfolio invests a majority of its assets in common stocks with a focus on those that pay current dividends and show potential for capital appreciation. The Portfolio also invests in bonds, including lower-quality debt securities, as well as stocks that are not currently paying dividends, but offer prospects for future income or capital appreciation.

Both of the Portfolios have been characterized by Morningstar as Large/Value and Large/Blend over the last 10 years.

9. For the shares of each Replaced Portfolio held on behalf of their respective Separate Accounts at the close of business on the date selected for the Substitution, First Variable will redeem those shares for cash or in-kind. Simultaneously, First Variable, on behalf of each of its Separate Account Applicants, will place a purchase order for shares of each Substituting Portfolio so that each purchase will be for the exact amount of the redemption proceeds, which may be partly or wholly in-kind. Accordingly, at all times monies attributable to Owners then invested in the Replaced Portfolio will remain fully invested and will result in no change in the amount of any Owner's contract value, death benefit or investment in the applicable Separate Account Applicant.

10. In connection with the redemption of all shares of each Replaced Portfolio, it is anticipated that the Replaced Portfolio will incur brokerage fees and expenses in connection with such redemption. To alleviate the potential impact, the redemptions for certain Replaced Portfolios will be effected partly for cash and partly for portfolio securities redeemed in-kind. In addition, Applicants will use the in-kind and cash redemption proceeds to purchase shares of the Substituting Portfolio. In effecting the in-kind redemptions and transfers, the Trust has informed the Applicants that it will comply with the requirements of Rule 17a–7 under the 1940 Act and the procedures established

thereunder by the Board of Trustees of the Trust.

11. As noted above, the portfolio securities received from the in-kind redemptions will be used together with the cash proceeds to purchase the shares of the Substituting Portfolios. The Applicants have determined that partially effecting the redemption of shares of the Replaced Portfolios in-kind is appropriate, based on the similarity of certain types of portfolio securities that may be held by the Replaced Portfolio and its corresponding Substituting Portfolio. The Trust has advised the Applicants that the valuation of any in-kind redemptions will be made on a basis consistent with the normal valuation procedures of the Replaced Portfolio and that of the Substituting Portfolio.

12. The full net asset value of the redeemed shares held by the Separate Account Applicants will be reflected in the Owners' contract values following the Substitution. The Applicants represent that the Owners will not bear, directly or indirectly any expenses, including brokerage expenses, for the Substitution so that the full net asset value of redeemed shares of the Replaced Portfolio held by the Separate Account Applicants will be reflected in the Owners' contract values following the Substitution.

13. The Trust is fully advised of the terms of the Substitution. Applicants anticipate that until the Substitution occurs, the Trust will conduct the trading of portfolio securities in accordance with the investment objectives and strategies stated in the Trust's prospectus and in a manner that provides for the anticipated redemptions of shares held by the Separate Account Applicants.

14. Applicants have determined that the Contracts allow the Substitution as described in the application, and that the transactions can be consummated as described therein under applicable insurance laws and under the Contracts. In addition, prior to effecting the Substitution, Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Contracts are qualified for sale.

15. Affected Owners will not incur any fees or charges, directly or indirectly, as a result of the Substitution, nor will the rights or obligations of First Variable under the Contracts be altered in any way. The proposed Substitution will not have any adverse tax consequences to Owners. The proposed Substitution will not cause Contract fees and charges currently being paid by existing Owners to be greater after the proposed Substitution than before the proposed Substitution. The proposed Substitution will not be treated as a transfer for the purpose of assessing transfer charges. Moreover, First Variable will allow the Owners, with respect to shares substituted, to transfer the Contract values held in the subaccount invested in the Substituting Portfolio for a period of thirty-one days without collecting transfer fees or imposing any additional restrictions on transfers. Moreover, such a transfer will not be counted as a transfer request under any contractual provisions of the Contracts that limit the number of transfers that may be made without charge.

16. In anticipation of the filing of this Application, the respective Applicants have supplemented the prospectuses for the Contracts to reflect the proposed Substitution. Within five days after the Substitution, First Variable will send to Owners written notice of the Substitution (the ''Notice''), identifying the shares of the Replaced Portfolios that have been eliminated and the shares of the Substituting Portfolios that have been substituted. First Variable will include in such mailing the applicable prospectus supplement for the Contracts of the Separate Account Applicants describing the Substitution. For those Contracts that already include as a variable investment option the Substituting Portfolio, First Variable does not intend to mail a copy of the prospectus for the Substituting Portfolio to the Owners, because they already will have received a copy of a prospectus that includes the Substituting Portfolio in the ordinary course. For those Contracts that do not include as a variable investment option the Substituting Portfolio, First Variable will have amended the applicable registration statement and will provide a copy of the prospectus supplement for the Contract and the prospectus for the Substituting Portfolio with the Notice. Owners will be advised in the Notice that for a period of thirty-one days from the mailing of the Notice, Owners may transfer all assets, as substituted, to any other available subaccount without limitation or charge (the ''Free Transfer Period'').

Applicants' Legal Analysis

1. Section 26(c) of the 1940 Act provides that ''[i]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the [SEC] shall have approved such substitution.'' Section 26(b) of the 1940 Act (now Section 26(c)) was enacted as part of the Investment Company Act Amendments of 1970. Prior to the enactment of these amendments, a depositor of a unit investment trust could substitute new securities for those held by the trust by notifying the trust's security holders of the substitution within five (5) days after the substitution. In 1966, Commission, concerned with the high sales charges then common to most unit investment trusts and the disadvantageous position in which such charges placed investors who did not want to remain invested in the substituted security, recommended that Section 26 be amended to require that a proposed substitution of the underlying investments of a trust receive prior Commission approval.

2. Applicants submit that the Substitution does not present the type of costly forced redemption or other harms that Section 26(c) was intended to guard against and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act for the following reasons:

(a) The Substitution will continue to fulfill Owners' objectives and risk expectations, because the investment objectives of each Substituting Portfolio are substantially similar to those of each Replaced Portfolio.

(b) After receipt of the Notice informing an Owner of the Substitution, an Owner may request that his or her assets be reallocated to another subaccount at any time during the Free Transfer Period. The Free Transfer Period provides sufficient time for Owners to consider their reinvestment options;

(c) The Substitution will be at net asset value of the respective shares, without the imposition of any transfer or similar charge;

(d) Neither the Owners, the Replaced Portfolio nor the Substituting Portfolio will bear any costs of the Substitution, including brokerage fees, and accordingly, the Substitution will have no impact on the Owners' Contract values;

(e) The Substitution will in no way alter the contractual obligations of First Variable or the rights and privileges of Owners under the Contracts;

(f) The Substitution will in no way alter the tax benefits to Owners; and

(g) The Substitution is expected to confer certain economic benefits on Owners by virtue of enhanced asset size and lower expenses.

3. The Applicants have determined that each Substituting Portfolio is an appropriate replacement for each Replaced Portfolio and an appropriate investment vehicle for the Owners

because they share similar investment objectives. Accordingly, the Insurance Company Applicant has specifically determined that the Substituting Portfolios are appropriate investment vehicles for owners who have allocated values to the Replaced Portfolios and that the Substitution will be consistent with Owners' investment objectives.

4. As of December 31, 2000, each Substituting Portfolio had lower expense ratios than its corresponding Replaced Portfolio, and with the exception of American Century VP International Growth Fund, American Century VP Income and Growth Fund and American Century VP Ultra Fund, each Substituting Portfolio pays management fees that are equal to or less than the corresponding Replaced Portfolio. Applicants believe that the addition of assets resulting from the Substitution will likely result in lower expense ratios for the Owners that have allocated their Contract values to the Substituting Portfolios.

The expense structure of the American Century Fund is substantially different from that of the Trust. The Trust pays, in addition to a management fee, all of its own expenses, which may vary from year to year. In contrast, services provided by American Century under the American Century Management Agreement are offered under a unified fee arrangement. For the services it provides to the American Century Fund, American Century receives a unified management fee based on a percentage of the average net assets of the series of the Fund, including each of the American Century Substituting Portfolios. Out of that fee American Century pays all expenses of managing and operating the American Century Fund except brokerage expenses, taxes, interest, fees and expenses of the Fund's independent directors (including legal counsel fees), and extraordinary expenses. In each substution into the American Century Fund, the overall expense ratios of the Substituting Portfolios are lower and, in some cases, significantly so.

5. With respect to the First Variable separate accounts investing in the American Century Substituting Portfolios, Applicants represent that there will be no increase in the contract charges from their current levels for a period of at least two years from the date of the Commission order requested herein.

6. Applicants represent that First Variable does not currently receive (and will not receive for three years from the date of the Commission order requested herein) any direct or indirect benefit from the Substituting Portfolios (other than the American Century Substituting Portfolios), their advisers and/or their affiliates, that would exceed the amounts that First Variable or FVAS, the Trust's adviser, had received from the Replaced Portfolios, including without limitations, 12b-1, shareholder service, administrative or other service fees, revenue sharing or other arrangements, either with respect to specific reference to the Substituting Portfolios or as part of an overall business arrangement.

7. Applicants represent that the returns for most of the Substituting Portfolios have generally been higher than the returns of the corresponding Replaced Portfolios, and that while there is no guarantee that past performance will continue, the return data supports Applicants' view that the Substitution is not expected to give rise to diminution in performance or other adverse effects on Contract values.

8. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any of the persons described above from purchasing any security or other property from such registered investment company. The proposed Substitution will be effected in part through in-kind redemptions and purchases and may be deemed to entail the indirect purchase of shares of a related Substituting Portfolio with portfolio securities of the Replaced Portfolio and the indirect sale of securities of the Replaced Portfolio for shares of the Substituting Portfolio.

9. Section 17(b) of the 1940 Act provides that the Commission may grant an Order exempting transactions prohibited by Section 17(a) of the 1940 Act upon application if evidence establishes that:

(a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve over-reaching on the part of any person concerned;

(b) The proposed transaction is consistent with the investment policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and

(c) The proposed transaction is consistent with the general purposes of the 1940 Act.

The Applicants represent that the terms of the proposed transactions, as described in this Application are: reasonable and fair, including the consideration to be paid and received; do not involve over-reaching; are consistent with the policies of the Replaced Portfolios of the Trust; and are consistent with the general purposes of the 1940 Act.

10. Applicants represent that for all the reasons stated above, with regard to Section 26(c) of the 1940 Act, the Substitution is reasonable and fair. It is expected that existing and future Owners will benefit from the consolidation of assets in the Substituting Portfolios. The transactions effecting the Substitution will be effected in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder. Moreover, the partial in-kind redemptions of portfolios' securities of the Replaced Portfolios will be effected in conformity with Rule 17a–7 under the 1940 Act and the procedures of the Trust established pursuant to Rule 17a–7. The Owners' interests after the Substitution, in practical economic terms, will not differ in any measurable way from such interests immediately prior to the Substitution. In each case, the consideration to be received and paid is, therefore, reasonable and fair.

Conclusion

Applicants submit, for all of the reasons stated herein, that their requests meet the standards set out in Sections 6(c), 17(b) and 26(c) of the 1940 Act and that an Order should, therefore, be granted. Accordingly, Applicants request an Order pursuant to Sections 6(c), 17(b) and 26(c) of the 1940 Act approving the Substitution.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30442 Filed 12–7–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8039, 34–45124, FR–59]

Cautionary Advice Regarding the Use of ''Pro Forma'' Financial Information in Earnings Releases

AGENCY: Securities and Exchange Commission.

SUMMARY: The Securities and Exchange Commission is issuing a statement regarding the use by public companies of ''pro forma'' financial information in earnings releases.

FOR FURTHER INFORMATION CONTACT: John M. Morrissey, Deputy Chief Accountant,

at 202–942–4400, or Paula Dubberly, Chief Counsel of the Division of Corporation Finance, at 202–942–2900.

SUPPLEMENTARY INFORMATION: As we approach year end, we believe it is appropriate to sound a warning to public companies and other registrants who present to the public their earnings and results of operations on the basis of methodologies other than Generally Accepted Accounting Principles (''GAAP''). This presentation in an earnings release is often referred to as ''pro forma'' financial information. In this context, that term has no defined meaning and no uniform characteristics. We wish to caution public companies on their use of this ''pro forma'' financial information and to alert investors to the potential dangers of such information.

''Pro forma'' financial information can serve useful purposes. Public companies may quite appropriately wish to focus investors' attention on critical components of quarterly or annual financial results in order to provide a meaningful comparison to results for the same period of prior years or to emphasize the results of core operations. To a large extent, this has been the intended function of disclosures in a company's Management's Discussion and Analysis section of its reports. There is no prohibition preventing public companies from publishing interpretations of their results, or publishing summaries of GAAP financial statements.

Moreover, as part of our commitment to improve the quality, timeliness, and accessibility of publicly available financial information, we believe that—with appropriate disclosures about their limitations—accurate interpretations of results and summaries of GAAP financial statements taken as a whole can be quite useful to investors.

Nonetheless, we are concerned that ''pro forma'' financial information, under certain circumstances, can mislead investors if it obscures GAAP results. Because this ''pro forma'' financial information by its very nature departs from traditional accounting conventions, its use can make it hard for investors to compare an issuer's financial information with other reporting periods and with other companies.

For these reasons, we believe it is appropriate to alert public companies and their advisors of the following propositions:

First, the antifraud provisions of the federal securities laws apply to a company issuing ''pro forma'' financial information. Because ''pro forma'' information is information derived by selective editing of financial information compiled in accordance with GAAP, companies should be particularly mindful of their obligation not to mislead investors when using this information.

Second, a presentation of financial results that is addressed to a limited feature of a company's overall financial results (for example, earnings before interest, taxes, depreciation, and amortization), or that sets forth calculations of financial results on a basis other than GAAP, raises particular concerns. Such a statement misleads investors when the company does not clearly disclose the basis of its presentation. Investors cannot understand, much less compare, this ''pro forma'' financial information without any indication of the principles that underlie its presentation. To inform investors fully, companies need to describe accurately the controlling principles. For example, when a company purports to announce earnings before ''unusual or nonrecurring transactions,'' it should describe the particular transactions and the kind of transactions that are omitted and apply the methodology described when presenting purportedly comparable information about other periods.

Third, companies must pay attention to the materiality of the information that is omitted from a ''pro forma'' presentation. Statements about a company's financial results that are literally true nonetheless may be misleading if they omit material information. For example, investors are likely to be deceived if a company uses a ''pro forma'' presentation to recast a loss as if it were a profit, or to obscure a material result of GAAP financial statements, without clear and comprehensible explanations of the nature and size of the omissions.

Fourth, we commend the earnings press release guidelines jointly developed by the Financial Executives International and the National Investors Relations Institute and we encourage public companies to consider and follow those recommendations before determining whether to issue ''pro forma'' results, and before deciding how to structure a proposed ''pro forma'' statement. A presentation of financial results that is addressed to a limited feature of financial results or that sets forth calculations of financial results on a basis other than GAAP generally will not be deemed to be misleading merely due to its deviation from GAAP if the company in the same public statement discloses in plain English how it has deviated from GAAP and the amounts of each of those deviations.

Fifth, as always, and especially in light of the disclosure that we expect to see accompanying these presentations, we encourage investors to compare any summary or ''pro forma'' financial presentation with the results reported on GAAP-based financials by the same company. Read before you invest; understand before you commit.

Companies with questions about the use of ''pro forma'' financial presentations in earnings releases are encouraged to call John M. Morrissey, Deputy Chief Accountant, at 202–942–4400, or Paula Dubberly, Chief Counsel of the Division of Corporation Finance, at 202–942–2900. Investors are encouraged to read our investor alert on ''pro forma'' financial statements (available at *http://www.sec.gov/investor.shtml).*

By the Commission.

Dated: December 4, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30414 Filed 12–7–01; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3378]

State of Texas; Disaster Loan Areas

Medina County and the contiguous counties of Atascosa, Bandera, Bexar, Frio, Uvalde and Zavala in the State of Texas constitute a disaster area as a result of severe storms and tornadoes that occurred on October 12, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 1, 2002 and for economic injury may be filed until the close of business on September 3, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	(Percent)
For Physical Damage:	
Homeowners with Credit Available Elsewhere	6.500
Homeowners without Credit Available Elsewhere	3.250
Businesses with Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000

	(Percent)
Others (Including Non-Profit Organizations) with Credit Available Elsewhere	6.375
For Economic Injury:	
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 337811 and for economic injury is 9N6700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 3, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–30427 Filed 12–7–01; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative has determined that Namibia has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the African Growth and Opportunity Act. Therefore, imports of eligible products from Namibia qualify for the textile and apparel benefits provided under the AGOA.

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Moore, Director for African Affairs, Office of United States Trade Representative, (202) 395–9514.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Public Law 106–200) (AGOA) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. The textile and apparel trade benefits under the AGOA are available to imports of eligible products from countries that the President designates as ''beneficiary sub-Saharan African countries,'' provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 (Oct. 2, 2000), the President designated Namibia as a ''beneficiary sub-Saharan African country.'' Proclamation 7350 delegated to the Office of United States Trade Representative (USTR) the authority to determine whether designated countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS). Based on actions that Namibia has taken, I have determined that Namibia has satisfied these two requirements.

Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS and U.S. note 1 to subchapter XIX of chapter 98 of the HTS are each modified by inserting ''Namibia'' in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this notice. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the applicable visa requirements. *See Visa Requirements Under the African Growth and Opportunity Act,* 66 FR 7837 (2001).

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–30460 Filed 12–7–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending November 23, 2001

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–11027.
Date Filed: November 19, 2001.
Parties: Members of the International Air Transport Association.
Subject:
Telex Mail Vote A105 dated October 2, 2001
Resolution 832 (to defer implementation of the weekly remittance procedures in Malaysia until 1 April 2002)
Telex dated November 6, 2001—Declaration of Approval
Intended effective date: 23 October 2001.

Docket Number: OST–2001–11035.
Date Filed: November 20, 2001.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 AFR–TC3 0136 dated 29 October 2001
Mail Vote 0177—TC23/TC123 Africa-Japan/Korea
Expedited Resolution 010k
PTC23 AFR–TC3 0147 dated 23 November 2001 (Affirmative)
PTC23 AFR–TC3 0137 dated 29 October 2001
Mail Vote 0178—TC23/TC123 Africa-South East Asia Expedited
Resolution 010L
PTC23 AFR–TC3 00148 dated 23 November 2001 (Affirmative)
Intended effective date: 1 December 2001.

Docket Number: OST–2001–11044.
Date Filed: November 23, 2001.
Parties: Members of the International Air Transport Association.
Subject:
PTC COMP 0879 dated 23 November 2001
Mail Vote 182—Resolution 010n
TC2/12/23/123 Special Passenger Amending Resolution from Latvia
Intended effective date: 1 February 2002.

Docket Number: OST–2001–11045.
Date Filed: November 23, 2001.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 ME–TC3 0128 dated 16 November 2001
(Mail Vote 172)
TC23/TC123 Middle East-South East Asia Resolutions r1–r15
MINUTES—PTC23 ME–TC3 0124 dated 30 October 2001 filed with Docket OST–2001–10978
TABLES—PTC23 ME–TC3 Fares 0057 dated 16 November 2001
Intended effective date: 1 April 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–30421 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 33.17–1, Fire Prevention

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular.

SUMMARY: This notice announces the availability of proposed Advisory Circular (AC) 33.17–1, titled ''Fire Prevention''.

DATES: Comments must be received on or before February 8, 2002.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Marc Bouthillier, Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA 01803–5299.

FOR FURTHER INFORMATION CONTACT: Marc Bouthillier, Engine and Propeller Standards Staff, ANE–110, at the above address, telephone (781) 238–7120, fax (781) 238–7199. If you have access to the Internet, you may also obtain further information by writing to the following address: *''marc.bouthillier@faa.gov''*.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the proposed AC may be obtained by contacting the person named under **FOR FURTHER INFORMATION CONTACT**, or Internet users may obtain a copy at the following address: *''http://www.airweb.faa.gov/rgl''*. Interested persons are invited to comment on the proposed AC, and to submit such written data, views, or arguments as they desire. Commenters must identify the subject of the AC, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service, before issuance of the final AC.

Background

This draft advisory circular (AC) would provide guidance and acceptable methods, but no the only methods that may be used to demonstrate compliance with the fire prevention requirements under Title 14 Code of Federal Regulations (14 CFR), part 33. Section 33.17 is the primary section addressed in this proposed AC, although other sections of part 33 that address fire prevention may also be applicable. Other related parts and sections are listed in AC 20–135, Powerplant Installation and Propulsion System Component Fire Protection Methods, Standards and Criteria, Appendix 1. This proposed AC is intended to provide guidance relating to these requirements, and is considered a supplement to AC 20–135.

This advisory circular would be published under the authority granted to the Administrator by 49 U.S.C. 106(g), 40113, 44701–44702, 44704, and would provide guidance for the requirements in 14 CFR part 33.

Issued in Burlington, Massachusetts on November 30, 2001.

Fran Favara,

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

[FR Doc. 01–30484 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice For Waiver of Aeronautical Land-Use Assurance; Toledo Express Airport; Toledo, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of airport land from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of sixty-seven parcels of land totaling approximately 122.5 acres for industrial land use. Current use and present condition is vacant grassland. There are no impacts to the airport by allowing the airport to dispose of this property. The land was acquired under FAA Project No(s). AIP–3–39–0077–1190, AIP–3–39–0077–1692, AIP–3–39–0077–1993, AIP–3–39–0077–2293, AIP–3–39–0077–2594, and AIP–3–39–0077–2794. Approval does not constitute a commitment by the FAA to financially assist in the sale of the subject airport property nor a determination that all measures covered by the program are eligible for Airport Improvement Program funding from the FAA. The disposition of proceeds from the sale of the airport property will be in accordance with the FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999. This proposal is for approximately 122.5 acres in total.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose. The proposed land will be used for commercial/industrial development, which will provide additional jobs in an economically challenged area and enhance the aesthetics of the surrounding community.

The proceeds from the sale of the land will be reinvested in an approved noise compatibility project as prescribed by the Secretary of Transportation, or be paid to the Secretary of Transportation for deposit in the Trust Fund.

DATES: Comments must be received on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence C. King, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–670.2, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (734) 487–7293. Documents reflecting this FAA action may be reviewed at this same location or at Toledo Express Airport, Toledo, Ohio.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Lucas County, Ohio, and described as follows:

East 1

A parcel of land being part of Lots 3 and 4 in Ellwood Farms and Lots 13 and 14 in Hamlin's Subdivision, all in the Northeast quarter of Section 12, Town 7 North, Range 9 East, Monclova Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the point of intersection of the South line of the Northeast quarter of said Section 12 with the Northeasterly line of the Ohio Turnpike, said point being the TRUE POINT OF BEGINNING of the parcel here in described;

thence on the Northeasterly line of the Ohio Turnpike, the following five calls: Northwesterly, on a curve to the right, a distance of 692.28 feet to a point, said curve having a radius of 22778.31 feet, a central angle of 01°44′29″, a chord bearing of North 70°43′05″ West, and a chord distance of 692.25 feet; South 00°36′17″ West, a distance of 21.22 feet to a point; Northwesterly, on a curve to the right, a distance of 209.03 feet to a point, said curve having a radius of 22798.31 feet, a central angle of 00°31′31″, a chord bearing of North 69°36′09″ West, and a chord distance of 209.03 feet; South 20°39′36″ West, a distance of 10.00 feet to a point; Northwesterly, on a curve to the right, a distance of 383.19 feet to the intersection with the West line of Lot 13 in Hamlin's Subdivision, said curve having a radius of 22808.31 feet, a central angle of 00°57′45″, a chord bearing of North 68°51′31″ West, and a chord distance of 383.19 feet;

thence North 00°45′49″ East, on the West line of said Lot 13, a distance of 473.70 feet to a point;

thence North 45°32′23″ East, a distance of 330.31 feet to the intersection with the Southwesterly right-of-way line of Garden Road, said point being 30.00 feet Southwesterly from as measured at right angles to the centerline of Garden Road;

thence South 44°27′37″ East, on the Southwesterly right-of-way line of Garden Road, said line being 30.00 feet Southwesterly from and parallel to the centerline of Garden Road, a distance of 1316.48 feet to a point;

thence South 45°32′23″ West, continuing on the right-of-way line of Garden Road, a distance of 50.00 feet to a point;

thence Southeasterly, on a curve to the left, a distance of 197.75 feet to the intersection with the South line of the Northeast quarter of Section 2, said curve having a radius of 652.94 feet, a central angle of 17°21′10″, a chord bearing of South 53°08′12″ East, and a chord distance of 197.00 feet to a point;

thence South 89°44′04″ West, on the said South line of the Northeast quarter, a distance of 54.18 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 12.6 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 2

A parcel of land being part of Lots 2, 3, 4 and 6 in Ellwood Farms in the Northeast quarter of Section 2, Town 7 North, Range 9 East, Monclova Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southeast corner of the Northeast quarter of said Section 2, also being the intersection of the centerline of Eber Road (right-of-way varies), and the centerline of Garden Road (right-of-way varies);

thence North 00°27′34″ East line of the Northeast quarter, and the centerline of Eber Road, a distance of 330.06 feet to a point;

thence South 89°32′19″ West, a distance of 60.00 feet to a point on the south line of Lot 2 in Ellwood Farms, said point being on the West right-of-way line of Eber Road and being the TRUE POINT OF BEGINNING of the parcel here in described ;

thence south 89°32′19″ West, on the south line of Lot 2, a distance of 609.54 feet to the intersection with the East line of Lot 3 in Ellwood Farms;

thence South 00°31′55″ West, on the East line of Lot 3, a distance of 145.74 feet to the intersection with the Northeasterly right-of-way line of Garden Road;

thence Northwesterly, on a curve to the right, a distance of 36.44 feet to a point, said curve having a radius of 522.94 feet, a chord bearing of North 46°27′45″ West, and a chord distance of 36.43 feet;

thence South 45°32′23″ West, continuing on the Northeasterly right-of-way line of Garden Road, a distance of 20.00 feet to a point that is 30.00 feet Northeasterly from as measured at right angles to the centerline of Garden Road;

thence North 44°27′37″ West, on a line 30.00 feet Northeasterly from and parallel to the centerline of Garden Road, a distance of 645.32 feet to the intersection with the North line of Lot 4 in Ellwood Farms;

thence North 89°32′02″ East, on the North line of said Lot 4 and Lot 3, a distance of 497.11 feet to the Northeast corner of Lot 3, also being the Southwest corner of Lot 6;

thence North 00°31′54″ East, on the West line of Lot 6, a distance of 165.01 feet to the intersection with the North line of the South one-half of Lot 6;

thence North 89°31′54″ East, on the said North line of the South one-half of Lot 6, a distance of 638.91 feet to the intersection with the West line of Eber Road, said point being 30.00 feet Westerly from as measured at right angles to the centerline of Eber Road;

thence on the West line of Eber Road, the following seven calls: South 00°27′34″ West, a distance of 292.75 feet to a point; North 89°32′26″ West, a distance of 10.00 feet to a point; South 00°27′34″ West, a distance of 75.00 feet to a point; North 89°32′26″ West, a distance of 10.00 feet to a point; South 00°27′34″ West, a distance of 100.00 feet to a point; North 89°32′26″ West, a distance of 10.00 feet to a point; South 00°27′34″ West, a distance of 27.82 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 10.0 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions or the subject parcels.

East 3

A parcel of land being part of East one-half of the West one-half of the Northwest quarter of Section 1, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southwest corner of the Northwest quarter of Section 1, said point also being the intersection of the centerline of Eber Road with the centerline of Garden Road;

then South 89°25′45″ East, on the South line of the Northwest quarter of Section 1, also being the centerline of Garden road (60 foot right-of-way), a distance of 670.38 feet to the intersection with the West line of the East one-half of the West one-half of the Northwest quarter of Section 1, said point also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 00°27′03″ East, on the said West line of the East one-half of the West one-half of the Northwest quarter of Section 1, a distance of 656.52 feet to the intersection with the North line of the South 10 acres of the East one-half of the West one-half of the Northwest quarter of Section 1;

thence South 89°25′45″ East, on the said North line of the South 10 acres of the East one-half of the West one-half of the Northwest quarter of Section 1, a distance of 490.29 feet to the intersection with the East line of the West 120.00 feet of the East 300.00 feet of the South 10 acres of the East one-half of the West one-half of the Northwest quarter of Section 1;

thence South 00°26′33″ West, on the said East line of the West 120.00 feet of the East 300.00 feet of the South 10 acres of the East one-half of the West one-half of the Northwest quarter of Section 1, a distance of 656.52 feet to the intersection with the South line of the Northwest quarter of Section 1, also being the centerline of Garden Road;

thence North 89°25′45″ West, on the south line of the Northwest quarter of Section 1 and the centerline of Garden Road, a distance of 490.38 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 7.4 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 4

A parcel of land being part of East one-half of the Northwest quarter of Section 1, Lots 145 through 160, Lot 176 and that portion of Leighton Drive vacated in Trotter Whelan Co. Plat 3 Subdivision, all in Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southeast corner of Lot 145 in Trotter Whelan Co. Plat 3, also being the intersection of the North line of Garden Road and West line of Mescher road, said point being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 89°25′45″ West, on the South line of Lots 145 through 147 in said Trotter Whelan Co. Plat 3, also being the North right-of-way line of Garden Road, said line of the Northwest quarter of Section 1, a distance of 348.60 feet to the Southwest corner of said Lot 147;

thence South 00°25′32″ West, a distance of 40.00 feet to the intersection with the South line of the Northwest quarter of Section 1, also being the centerline of Garden Road;

thence North 89°25′45″ West, on the South line of the Northwest quarter of Section 1, also being the centerline of Garden Road (60 foot right-of-way), a distance of 486.97 feet to the intersection with the East line of the West 96.75 feet of the East one-half of the Northwest quarter of Section 1;

thence North 00°26′33″ East, on the said East line of the West 96.75 feet of the East one-half of the Northwest quarter of Section 1, a distance of 441.13 feet to the intersection with the centerline of a ditch;

thence South 79°30′54″ East, on the centerline of said ditch, a distance of 494.44 feet to the intersection with the West line of Lot 148 in Trotter Whelan Co. Plat 3;

thence North 00°25′32″ East, on the West line of Lots 148 through 160 and Lot 176, a distance of 1251.00 feet to the Northwest corner of Lot 160;

thence South 89°34′28″ East, on the North line of Lot 160, a distance of 348.60 feet to the Northeast corner of Lot 160, on the Westerly right-of-way line of Mescher Drive (80 foot right-of-way);

thence South 00°25′32″ West, on the East line of Lots 145 through 160, and the East line of that portion of Leighton Drive vacated, said line also being the Westerly right-of-way line of Mescher Drive, a distance of 1567.88 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 17.0 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 5

A parcel of land being Lots 119 through 144 in Trotter Whelan Co. Plat 3 Subdivision, in Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southeast corner of Lot 142 in Trotter Whelan Co. Plat 3, being on the North right-of-way line of Garden Road, said point being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 89°25′45″ West, on the South line of Lots 142 through 144 in said Trotter Whelan Co. Plat 3, and on the North right-of-way line of Garden Road, said line being 40.00 feet Northerly of and parallel to the South line of the Northwest quarter of Section 1, a distance of 328.70 feet to the Southwest corner of said Lot 144, also being the intersection with the East line of Mescher Drive (80 foot right-of-way);

thence North 00°25′32″ East, on the East line of said Mescher Drive and as extended past Leighton Drive and Block Drive, also being the West line of Lots 119 through 144, a distance of 2617.72 feet to the Northwest corner of Lot 119;

thence South 89°40′48″ East, on the North line of Lot 119, a distance of 328.7 feet to the Northeast corner of Lot 119 at the intersection with the East line of the Northwest quarter of Section 1;

thence South 00°25′32″ West, on the said East line of Lots 119 through 144 and Lots 174 and 175 also being the East line of the Northwest quarter of Section 1, a distance of 2619,16 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 19.7 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways, excepting that part of the previously described parcel lying within the right-of-way's of Leighton Drive and Block Drive

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 6

A parcel of land being part of the Southwest quarter of the Northeast quarter of Section 1, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the center of said Section 1, point also being on the centerline of Garden Road (60 foot right-of-way);

thence South 90°25′45″ East, on the south line of the Northeast quarter of Section 1, and on the centerline of Garden Road, a distance of 335.09 feet to the Intersection with the West line of the East one-half of West one-half of the Southwest quarter of the Northeast quarter of Section 1, said point being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 00°25′22″ East, on the said West line of the East one-half of the West one-half of the Southwest quarter of the Northeast quarter of Section 1, a distance of 665.12 feet to the intersection with the North line of the South one-half of the West one-half of the Southeast quarter of the Northeast quarter of Section 1;

thence South 89°29′09″ East, on the said North line of the South one-half of the West one-half of the Southeast quarter of the Northeast quarter of Section 1, a distance of 335.06 feet to the intersection with the East line of the West one-half of the Southwest quarter of the Northeast quarter of Section 1;

thence South 00°25′12″ West, on the said East line of the West one-half of the Southwest quarter of the Northeast quarter of Section 1, a distance of 665.45 feet to the intersection with the South line of the Northeast quarter of Section 1, also being the centerline of Garden Road;

thence North 89°25′45″ West, on the South line of the Northeast quarter of Section 1, and on the centerline of Garden Road, a distance of 335.09 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 5.1 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 7

A parcel of land being part of the Southwest quarter of the Northeast quarter of Section 1, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southeast corner of the Southwest quarter of the

Northeast quarter of Section 1, said point being on the centerline of Garden Road (60 foot right-of-way) and also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 89°25′45″ West, on the South line of the Northeast quarter of Section 1 and on the centerline of Garden Road, a distance of 30.13 feet to a point;

thence North 00°32′19″ East, a distance of 732.50 feet to a point;

thence North 89°25′45″ West, a distance of 306.51 feet to a point;

thence South 00°25′03″ West, a distance of 732.50 feet to the intersection with the South line of the Northeast quarter of Section 1, also being the centerline of Garden Road;

thence North 89°25′45″ West, on the South line of the Northeast quarter of Section 1 and the centerline of Garden Road, a distance of 221.22 feet to a point;

thence North 00°25′12″ East, a distance of 1331.12 feet to the intersection with the North line of the Southwest quarter of the Northeast quarter of Section 1;

thence South 89°32′31″ East, on the said North line of the Southwest quarter of the Northeast quarter of Section 1, a distance of 556.18 feet to the intersection with the East line of the Southwest quarter of the Northeast quarter of Section 1;

thence South 00°24′53″ West, on the East line of the Southwest quarter of the Northeast quarter of Section 1, a distance of 1332.22 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 11.8 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is base don tax descriptions of the subject parcels.

East 8

A parcel of land being part of Original Lot 1 in Fractional Section 6, Town 7 North, Range 10 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Northeast corner of said Original Lot 1, point being on the centerline of Crissey Road (60 foot right-of-way), said point also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence South 00°47′46″ West, on the East line of said Original Lot 1, and on the centerline of Crissey Road, a distance of 289.97 feet to a point;

thence North 89°51′04″ West, a distance of 1502.37 feet to the intersection with the West line of said Lot 1, also being the West line of Fractional Section 6;

thence North 00°24′14″ East, on the East line of Original Lot 1, a distance of 289.95 feet to the intersection with the North line of Original Lot 1, also being the North line of Fractional Section 6;

thence South 89°51′04″ East, on the North line of Original Lot 1, and the North line of Fractional Section 6, a distance of 1504.36 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 10.0 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The hearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 10

A parcel of land being part of the Southwest quarter of Section 1, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Southwest corner of said Section 1, said point being the point of intersection of the centerline of Eber Road (60 foot right-of-way) and the centerline of Weckerly Road (60 foot right-of-way), and also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 00°59′13″ East, on the West line of the Southwest quarter of Section 1 also being the centerline of Eber Road, a distance of 194.83 feet to the intersection with the North line of the South 6 acres of the West one-half of the Southwest quarter of Section 1;

thence North 89°39′14″ East, on the said North line of the South 6 acres of the West one-half of the Southwest quarter of Section 1, a distance of 1341.41 feet to the intersection with the East line of the West one-half of the Southwest quarter of Section 1;

thence South 00°58′47″ West, on the East line of the West one-half of the Southwest quarter of Section 1, a distance of 194.83 feet to the intersection with the South line of the Southwest quarter of Section 1, also being the centerline of Weckerly Road;

thence South 89°39′14″ West, on the South line of the Southwest quarter of Section 1, and the centerline of Weckerly Road, a distance of 1341.43 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 6.0 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

East 11

A parcel of land being part of the Northwest quarter of Section 12, Town 7 North, Range 9 East, Springfield Township, Lucas County, Ohio, and being more particularly described as follows:

Commencing at the Northwest corner of the Northwest quarter of Section 12, said point also being the intersection of the centerline of Eber Road (60 foot right-of-way), and also being the TRUE POINT OF BEGINNING of the parcel herein described;

thence North 89°39′14″ East, on the North line of the Northwest quarter of Section 12 and the centerline of Weckerly Road, a distance of 1154.40 feet to the intersection with a line that is 187.00 feet Westerly from and parallel to the East line of the Northwest quarter of the Northwest quarter of Section 12;

thence South 00°48′25″ West, on the said line that is 187.00 feet Westerly from and parallel to the East line of the Northwest quarter of the Northwest quarter of Section 12, a distance of 487.20 feet to the intersection with a line that is 487.20 feet Southerly from and parallel to the North line of the Northwest quarter of Section 12;

thence North 89°39′14″ East, on the said line being 487.20 feet Southerly from and parallel to the North line of the Northwest quarter of Section 12, a distance of 187.04 feet to the intersection with the East line of the Northwest quarter of the Northwest quarter of Section 12;

thence South 00°48′25″ West, on the said East line of the Northwest quarter of the Northwest quarter of Section 12, a distance of 324.97 feet to the intersection with the South line of the North 25 acres of the Northwest quarter of the Northwest quarter of Section 12;

thence South 89°39′14″ West, on the said South line of the North 25 acres of the Northwest quarter of the Northwest quarter of Section 12, a distance of 1339.07 feet to the intersection with the West line of the Northwest quarter of Section 12, also being the centerline of Eber Road;

thence North 00°38′24″ East, on the West line of the Northwest quarter of

Section 12 and the centerline of Eber Road, a distance of 812.12 feet to the TRUE POINT OF BEGINNING of the parcel herein described, said parcel containing 22.9 acres of land, more or less, subject to all easements, zoning restrictions of record and legal highways

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North. This legal does not represent a boundary survey and is based on tax descriptions of the subject parcels.

Issued in Belleville, Michigan, October 5, 2001.

Irene R. Porter,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 01–30486 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice and Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Seattle-Tacoma Internation Airport under the provisions of 49 U.S.C. 47503 (a) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that its is reviewing the proposed noise compatibility program that was submitted for Seattle-Tacoma International Airport under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before June 3, 2002.

EFFECTIVE DATE: The effective date of the FAA's determination on the Seattle-Tacoma International Airport noise exposure maps and the start of its review of the associated noise compatibility program is December 3, 2001. The public comment period ends January 31, 2002.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM–611, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: The notice announces that the FAA finds that the noise exposure maps for Seattle-Tacoma International Airport are in compliance with applicable requirements of Part 150, effective December 3, 2001. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before June 3, 2002. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C. 47503(a), and airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. 49 U.S.C. 47503 (a)(1) requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to 49 U.S.C. 47503 (A) may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Manager of the Airfield Line of Business of Seattle-Tacoma International Airport submitted to the FAA noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review the noise mitigation measures be approved as a noise compatibility program under 49 U.S.C. 47504.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Seattle-Tacoma Internation Airport. The specific maps under consideration are Figures C40 and F1 in the submission. The FAA has determined that these maps for Seattle-Tacoma International Airport are in compliance with applicable requirements. This determination is effective on December 3, 2001. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the mans were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to a noise compatibility program or to fund implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under 49 U.S.C. 47503, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of 49 U.S.C. 47507. These functions are inseparable from the ultimate land control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under 49 U.S.C. 47503(a)(1). The FAA has relied on the certification by the airport operator, under section 150.21 of the FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Seattle-Tacoma International Airport, also effective on December 3, 2001. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before June 3, 2002.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, paragraph 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to the local land use authorities, will be considered by the FAA to the extent practicable. Copies of

the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 621, Washington, DC.

Federation Aviation Administration, Airports Division, Suite 315, 1601 Lind Avenue, SW., Renton, Washington.

Federal Aviation Administration, Seattle Airports District Office, 1601 Lind Ave. SW., Suite 250, Renton, Washington.

Seattle-Tacoma International Airport, Noise Abatement Office, Main Terminal, Room 6619, Mezzanine Level, Seattle, Washington.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Renton, Washington, December 3, 2001.

Lowell H. Johnson,

Manager, Airports Division, ANM–600, Northwest Mountain Region.

[FR Doc. 01–30483 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (02–05–C–00–CPR) To Impose and Use a Passenger Facility Charge (PFC) at the Natrona County International Airport, Submitted by the County of Natrona, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comments on the application to impose and use a PFC at the Natrona County International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before January 9, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager, Denver Airports District Office, DEN–ADO; Federal Aviation Administration, 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dan E. Mann, Airport Manager, at the following address: Natrona County International Airport, 8500 Airport Parkway, Casper, Wyoming 82604.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Natrona County International Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (02–05–C–00–CPR) to impose and use a PFC at Natrona County International Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 3, 2001, the FAA determined that the application to impose and use a PFC submitted by the County of Natrona, Wyoming, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or part, no later than February 26, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2002.

Proposed charge expiration date: October 1, 2010.

Total requested for use approval: $2,660,000.

Brief description of proposed projects: Rehabilitate aircraft parking apron, Terminal renovation, Rehabilitative taxiway C, Acquire snow removal equipment.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suit4e 315, Renton, WA 98055–4056. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Natrona County International Airport.

Issued in Renton, Washington on December 3, 2001.

Warren D. Ferrell,

Acting Manager, Planning, Programming, and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–30485 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on February 28, 2001 [66 FR 12829–12831].

DATES: Comments must be submitted on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Alberto Jimenez at the National Highway Traffic Safety Administration, Office of Defects and Investigations (NSA–10.1), 202–366–5212. 400 Seventh Street, SW, Room 5219, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Consumer Complaint/Recall Audit Information.

OMB Number: 2127—0008.

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

Abstract: Vehicle owners provide the agency with information on problems they are experiencing with their vehicles/equipment by an initial call to the agency's toll-free Auto Safety Hotline and by written letters. A Vehicle Owner's Questionnaire (VOQ), HS Form 350, or HS Form 350C is forwarded to the owner. A cover letter of explanation is also sent with the VOQs. The letter is to facilitate and simplify the collection process on the complaint. Frequently, written letters do not provide complete

data of the specific problem(s) on the vehicle or equipment. If incomplete information is received, the HS–350 is sent to the owner for additional information. If the problem concerns a child safety seat, the HS–350C, is sent. The information received on these forms is essential to NHTSA's defects investigation program. The thousands of individual reports received each year are used to help identify safety problems for investigation and possible recalls. This information identifies defect trends in vehicles and vehicle equipment and alerts the agency of these problems.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 45,045.

ADDRESS: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, D.C., on November 26, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–30418 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on May 1, 2001 [66 FR 21816–21817].

DATES: Comments must be submitted on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Deborah Mazyck at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS–32), 202–366–0846. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR part 541, Consolidated Labeling Requirements for 49 CFR 571.115, parts 565, 541, and 567.

OMB Number: 2127–0510.

Type of Request: Extension of a currently approved information collection.

Abstract: The Motor Vehicle Information and Cost Savings Act was amended by the Anti-Car Theft Act of 1992 (Pub. L. 102–519). The enacted Theft Act state that passenger vehicles, and light-duty trucks with a gross vehicle weight rating of 6,000 pounds or less be covered under the Theft Prevention Standard. Each major component part must be either labeled or affixed with the VIN and its replacement component part must be marked with the DOT symbol, the letter (R) and the manufacturers' logo.

Affected Public: Individuals or households, business or other for-profit.

Estimated Total Annual Burden: 456,212.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, D.C., on November 26, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–30419 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on February 28, 2001 [66 FR 12829—12831].

DATES: Comments must be submitted on or before January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Alberto Jimenez at the National Highway Traffic Safety Administration, Office of Defects and Investigations (NSA–10.1), 202–366–5212. 400 Seventh Street, SW., Room 5219, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Voluntary Child Safety Registration Form.

OMB Number: 2127—0576.

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

Abstract: Chapter 301 of Title 49 of the United States Code provides that if either NHTSA or a manufacturer determines that motor vehicles or items of motor vehicle equipment contain a defect that relates to motor vehicle safety or fail to comply with an applicable Federal Motor Vehicle Safety Standard, the manufacturer must notify

owners and purchasers of the defect or noncompliance and must provide a remedy without charge. Pursuant to 49 CFR Part 577 Defects and noncompliance notification for equipment items, including child safety seats, must be sent ''by first class mail to the most recent purchaser known to the manufacturer.'' In the absence of a registration system, many owners of child safety seats are not notified of safety defects and noncompliance, since the manufacturer is not aware of their identities.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 120.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on November 26, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–30420 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. 42052]

Union Pacific Railroad Company—Petition for Declaratory Order—Unilaterally Imposed Interchange Charges

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of further proceedings.

SUMMARY: This proceeding was instituted by the Surface Transportation Board (Board) in response to a request for a declaratory order concerning ways in which rail carriers deal with interchange delays. However, because issues regarding interchange delays are usually addressed under the framework of the industry-wide Car Service and Car Hire Agreement (CS/CH Agreement) and Code of Car Service Rules/Code of Car Hire Rules (CS/CH Rules) administered by the Association of American Railroads (AAR), we are requesting that, before we take action, AAR convene a meeting with railroads, shippers, and other involved parties to discuss ways to address issues concerning delays in the interchange of railroad cars between railroads, and to develop proposals for addressing incidences of traffic delays associated with such interchange. We are further requesting that AAR file a report with the Board, describing the progress made at the meeting(s) and recommending how best to proceed to resolve these issues.

DATES: We request that AAR convene a meeting with railroads, shippers and other involved parties, as described herein, by February 8, 2002. Additional meetings may be held as determined by AAR and the involved parties. AAR's report, as described herein, is due by March 11, 2002.

ADDRESSES: The original and 10 copies of AAR's report, referring to STB Docket No. 42052, should be sent to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001, ATTN: STB Docket No. 42052. AAR should also make a copy of its report available to all participants in the meeting, and any other involved parties upon request.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: By notice served and published June 13, 2000, 65 FR 37205, in response to a petition filed by Union Pacific Railroad Company (UP), a declaratory order proceeding was instituted by the Board under 5 U.S.C. 554(e) to address questions concerning the right of a rail carrier to impose penalty charges unilaterally against other rail carriers for delays in accepting cars in interchange. Comments were requested from interested parties.

As indicated in our notice, the controversy centers on ''tariff'' provisions issued by respondents Indiana Harbor Belt Railroad Company (Indiana Harbor Belt), Iowa Interstate Railroad, Ltd., and City of Tacoma, Tacoma Public Utilities, d/b/a Tacoma Rail and Tacoma Beltline Railroad, pursuant to which penalty charges would be imposed when cars are not pulled from interchange within specified time limits. UP asserts that such interchange issues are subject to the CS/CH Agreement and CS/CH Rules, unless the rail carriers enter into alternative agreements. UP seeks a declaration from the Board that, under 49 U.S.C. 11121, a rail carrier may not unilaterally impose such charges on another carrier for delayed interchange of cars, either by ''tariff'' or otherwise, and that interchange-related charges imposed by one rail carrier on another must be either permitted by agreement of the carriers involved or specifically authorized by the Board.

Comments were received from Class I railroads, short line railroads, shippers, and labor interests.[1] A substantial number of these comments focused on the effect that a declaratory order might have on switching services in the vicinity of Chicago, IL. We have considered all of the comments carefully, and we find that there are significant issues to be resolved, which could have an impact on the important matter of fluidity throughout the rail system. Because we believe that resolution of these issues can best be achieved through the cooperation of all segments of the railroad industry, rather than a decision by the Board on a particular controversy, we are deferring final Board action to provide an opportunity for such private-sector discussions.

Discussion and Conclusions

Interchange of traffic among railroads is a fundamental operational component of the national railroad network. It is important that interchange be accomplished in an economical and efficient manner. The interchange of traffic is typically a straightforward and reasonably uniform process in which all carriers participate for the benefit of themselves and the shipping public.

Sometimes parties differ as to how such interchange can be accomplished to best meet the needs of all concerned. We can resolve these sorts of disputes, if the parties cannot do so themselves, and we will resolve the issues raised here if it is necessary for us to do so. However, the national railroad system functions best on the basis of good faith cooperation among all railroads, both

[1] Indiana Harbor Belt has moved to strike portions of UP's reply, tendering, in the alternative, a surreply to what it asserts are new arguments presented in that reply. UP filed a reply to the motion to strike and, in the alternative, a surreply. Given our action here, we do not find good cause to strike the challenged material, nor will any party be prejudiced by leaving it (and UP's and Indiana Harbor Belt's surreplies) in the record.

large and small. If we were to rule against UP and find that carriers are not prohibited from unilaterally imposing interchange charges, the result could be a variety of charges, imposed pursuant to the actions of one carrier and the responses of another, that would not be conducive to the cooperation necessary for a seamless, efficient national rail network. The U.S. Department of Transportation filed comments suggesting that we urge the rail industry to meet and attempt to negotiate an effective and equitable resolution of these issues. We agree that broader industry discussion of those issues would be preferable. Therefore, in the spirit of cooperation, before we undertake to resolve this matter, we will first give those directly affected by the issues UP has raised, both in the Chicago area and elsewhere, an opportunity to establish workable solutions.

The Board has successfully encouraged private-sector negotiation to resolve other difficult issues. For example, during implementation of the merger between UP and Southern Pacific Transportation Company and its affiliates,[2] UP was directed to convene meetings with shippers, involved railroads, and other interested parties to address concerns pertaining to the Houston Terminal, leading to a coordinated plan for improving the utilization of Houston area infrastructure.[3] Then, during our review of the division of Conrail's assets, we directed CSX and Norfolk Southern to convene meetings with shippers, involved railroads, and other interested parties to discuss opportunities to improve the Buffalo, NY area rail infrastructure, which resulted in service improvements and better communication.[4] Also, in an effort to address congestion in the Chicago, IL area, the individual railroads and AAR, at the urging of the Board and other interested parties, have been working together to improve rail operations in Chicago through the development of the Chicago Service Plan and the establishment of the Chicago Planning Group and the Chicago Transportation Coordination Office. Most recently, we directed railroads to negotiate, in accordance with a 1986 agreement, concerning disputes with private tank car owners about certain charges being levied by The Burlington Northern and Santa Fe Railway Company and UP.[5]

As signatories to the CS/CH Agreement, operating railroads, including Class I, short line, regional and terminal railroads, have agreed to use the CS/CH Rules as a means both to coordinate their operations and to resolve areas of dispute that arise. Accordingly, we are requesting AAR to convene a meeting with shippers, railroads, and other involved parties to discuss more fully the available means of improving coordination of interchange of traffic in Chicago and elsewhere, and file a report with the Board. The report should describe the results of the meeting and should present suggestions for the best ways to address issues concerning delays in interchange, including the appropriate use of the CS/CH Rules.[6] AAR should explain if changes are needed to the terms and application of the CS/CH Rules, why they may be needed, how these changes may most effectively be implemented, and the possible timetable for implementing such changes. Once the report is filed, we will determine what further action is appropriate.

We encourage AAR to reach out to all involved parties[7] and to work with them to achieve the common goal of improving interchange of cars in general and reducing the opportunity for delay of rail traffic in interchange, not only in the Chicago area, but across the Nation as well.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Indiana Harbor Belt's motion to strike is denied. The surreplies of Indiana Harbor Belt and UP are accepted.

2. AAR is requested to convene a meeting with railroads, shippers, and other involved parties to discuss issues concerning delays in the interchange of railroad cars, consistent with this decision, by February 8, 2002.

3. AAR should provide a report to the Board by March 11, 2001. AAR should also make a copy of its initial report available to all meeting participants, and any other involved parties upon request.

4. This decision is effective on December 10, 2001.

Decided: December 3, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30467 Filed 12–7–01; 8:45 am]

BILLING CODE 4915–00–P

[2] The merger was approved by the Board in *Union Pacific/Southern Pacific Merger,* 1 S.T.B. 233 (1996), *aff'd, Western Coal Traffic League v. STB,* 169 F.3d 775 (D.C. Cir. 1999).

[3] *Joint Petition for Service Order,* STB Service Order No. 1518 *et al.,* (STB served Feb. 25, 1998), slip op. at 5.

[4] *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation* (Buffalo Area Infrastructure), STB Finance Docket No. 33388 (Sub-No. 93) (STB served June 9, 2000).

[5] *North America Freight Car Association—Protest and Petition for Investigation—Tariff Publications of The Burlington Northern and Santa Fe Railway Company, et al.,* STB Docket No. 42060, *et al.* (STB served Oct. 18, 2001).

[6] The CS/CH Rules include arbitration as a means of resolving disputes between participating carriers.

[7] Participation in the meetings should be open to large and small railroads, shippers and other involved parties.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 601X)]

CSX Transportation, Inc.—Abandonment Exemption—in Lenoir County, NC

On November 20, 2001, CSX Transportation, Inc. (CSXT) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a portion of its line of railroad in the Southern Region, known as the Florence Division, Parmele Subdivision, extending from railroad milepost AA–173.09 to railroad milepost AA–173.70 a distance of 0.61 miles, in Elmer, Lenoir County, NC. The line traverses United States Postal Service Zip Code 28501 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 8, 2002.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public

use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than December 31, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 601X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001, and (2) Paul R. Hitchcock, 500 Water Street–J150, Jacksonville, FL 32202. Replies to the CSXT petition are due on or before December 31, 2001.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at ''www.stb.dot.gov.''

Decided: November 30, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30372 Filed 12–7–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 217X]

Norfolk Southern Railway Company—Abandonment Exemption—in Buchanan County, VA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.4-mile line of railroad between mileposts LS–0.0 and LS–0.4, at Long Spur Jct. to end of track in Buchanan County, VA (line).[1] The line traverses United States Postal Service Zip Code 24614.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must me filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 9, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 20, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 31, 2001, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–00001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Applicant has filed a separate environmental report which address the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 17, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed with 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1151.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 10, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: November 30, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30446 Filed 12–7–01; 8:45 am]

BILLING CODE 4915–00–P

[1] NSR notes that authority to discontinue operations on the line was granted by the former Interstate Commerce Commission. *See Norfolk and Western Railway Company—Discontinuance Exemption—in Buchanan County, VA,* Docket No. AB–290 (Sub-No. 102X) (ICC served Sept. 25, 1990–)

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot by made before the exemption's effective date. *See Exemption of out-of-Service Rail Lines,* 5 I.C.C. 2d 377 (1980). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 235X)]

Norfolk Southern Railway Company—Abandonment Exemption—in McDowell County, WV

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 4.58-mile

line of railroad between milepost RP–0.0 at Roderfield and milepost RP–4.58 at Premier, in McDowell County, WV. The line traverses United States Postal Service Zip Codes 24878 and 24881.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 9, 2002, unless stayed pending reconsideration.[1] Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 20, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 31, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 14, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by NSR's filing of a notice of consummation by December 10, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''www.stb.dot.gov.''

Decided: December 3, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30447 Filed 12–7–01; 8:45 am]

BILLING CODE 4915–00–P

[1] While the applicant initially indicated a proposed consummation date of January 8, 2002, because the verified notice was filed on November 20, 2001, consummation may not take place prior to January 9, 2002. Applicant's representative has subsequently confirmed that the correct consummation date is on or after January 9, 2002.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

FLETC Cheltenham, MD; Notice of Availability of Document for Review

AGENCY: Federal Law Enforcement Training Center, Treasury.

ACTION: Notice of availability of environmental assessment for public review.

SUMMARY: Notice is hereby given that the Federal Law Enforcement Training Center (FLETC), pursuant to the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations for Implementing the National Environmental Policy Act (40 CFR parts 1500–1508), and Department of the Treasury Directive 75–02 (Department of the Treasury Environmental Quality Program), has prepared an Environmental Assessment (EA) related to the renovation of the former Naval Communications Detachment Cheltenham, MD to provide a law enforcement requalification training facility for use by a wide variety of federal, state, and local agencies located in the metropolitan Washington, DC area. The proposed action includes demolition and renovation of existing buildings for use as classrooms, simulators, locker facilities, storage, etc., and construction of a free-standing, completely enclosed, environmentally safe indoor firearms training range and an outdoor vehicle training range. Vegetation manipulation will occur for aesthetic purposes, wildlife habitat improvement, wildfire hazard control, and insect/disease reduction.

The public and resource agencies were invited to attend a public meeting held October 24, 2001, and participate in the planning and analysis of the proposed project. At that meeting the FLETC discussed the environmental review process, described the project and alternatives under consideration, discussed the scope of environmental issues to be investigated in accordance with the requirements of NEPA, and answered questions from attendees.

An Environmental Assessment document has been prepared in accordance with NEPA and Department of the Treasury requirements, addressing the various project alternatives, their potential environmental impacts, and issues raised during the October 24 public meeting. This document will be available for public review and comment from December 17, 2001 until January 16, 2002 at the following locations:

1. Prince George's County Memorial Library System, Surratts-Clinton Branch, 9400 Piscataway Road, Clinton, MD 20735, 301–868–9200
2. Department of the Treasury, Library, Main Treasury Building, 1500 Pennsylvania Avenue NW, Washington, DC 20220, Contact Bill McGovern at 282–622–0043

The EA will also be viewable as a PDF file on the FLETC's Internet site at

http://www.fletc.gov/evs/cheltenham.htm for the same time period.

Significant comments received from the public and agencies during the review period will be addressed in the EA and included in an Appendix. Should the FLETC determine, based on the public's comments and the information presented in the Environmental Assessment, that the impacts of the demolition/renovation, construction, and operation of the facility will not have a significant environmental impact, it will prepare a Finding of No Significant Impact (FONSI) for publication in the **Federal Register** and in a newspaper in general circulation at the project location. Should significant environmental impacts be determined to exist due to the project, the FLETC will proceed with the preparation of an Environmental Impact Statement, per the requirements of NEPA, the Council on Environmental Quality, and its own environmental policies and procedures.

DATES: Written comments concerning the EA should be received on or before January 16, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Ms. Susan Shaw, NEPA Coordinator/Project Manager, c/o FLETC Cheltenham Facility, 9000 Commo Road, Cheltenham, MD 20623–5000.

FOR FURTHER INFORMATION CONTACT: Susan Shaw, NEPA Coordinator/Project Manager, FLETC, at (912) 261–4557. Ms. Shaw's e-mail address is *sshaw@fletc.treas.gov.* Information is also available from Bob Smith, Chief, Cheltenham Operations at (301) 868–5830. Mr. Smith's e-mail address is *rsmith@fletc.treas.gov.*

SUPPLEMENTARY INFORMATION: The Federal Law Enforcement Training Center has a mission of providing high quality, cost-effective training of federal law enforcement personnel. The FLETC proposes with this action to provide requalification-training services in the Washington, DC area by renovating the former Naval Communications Detachment Cheltenham, MD facility, which has been inactive since 1998. Providing these requalification services in the Washington, DC area will eliminate the need for Washington, DC area law enforcement agencies to travel to the FLETC's Glynco, GA facility, reducing associated costs and time demands.

The FLETC Cheltenham facility is located approximately 15 miles southeast of Washington, DC, in Prince George's County, MD. The project site is situated east of Maryland Route 5 and west of Maryland Route 301, approximately 3 miles south of Andrews Air Force Base.

Authority: The Council on Environmental Quality's National Environmental Policy Act, 40 CFR parts 1500 *et seq.*

Dated: December 5, 2001.

Bruce Bowen,

Assistant Director, Office Of Compliance, Federal Law Enforcement Training Center.

[FR Doc. 01–30424 Filed 12–7–01; 8:45 am]

BILLING CODE 4810–32–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–55

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–55, Extension of Relief for Late S Elections.

DATES: Written comments should be received on or before February 8, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5575, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Extension of Relief for Late S Elections.

OMB Number: 1545–1548.

Revenue Procedure Number: Revenue Procedure 98–55.

Abstract: Revenue Procedure 98–55 updates the Service's instructions for requesting relief for a late S corporation election and other late elections that must be filed by or for an S corporation. Revenue Procedure 98–55 provides that a corporation will have 12 months from the original due date for the S election (but not later than the due date for the tax return for the first year it intended to be an S corporation) to request relief for a late S election by filing Form 2553, Election by a Small Business Corporation, and attaching a statement explaining the reason for the failure to file a timely S corporation election.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 25,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 27, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–30466 Filed 12–7–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0614]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to identify individuals at risk for stress-related illnesses.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 8, 2002.

ADDRESSES: Submit written comments on the collection of information to Ann W. Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *ann.bickoff@mail.va.gov.* Please refer to ''OMB Control No. 2900–0614'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann W. Bickoff (202) 273–8310 or FAX (202) 273–9381. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

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

Title and Form Number: Phase IV of Study of Individuals at Risk for Stress Related Illnesses, VA Form 10–21036(NR).

OMB Control Number: 2900–0614.

Type of Review: Revision of a currently approved collection.

Abstract: Phases I and II of this study are completed. The collection of information associated with Phase III is also completed. Phase IV is intended to complete VA's study of the ''psychological and biomedical measurements for early identification of individuals at risk for stress-related illness.'' The information collected will be used to produce a reliable inventory of psychosocial risk and resilience factors for contemporary military personnel and then demonstrate its validity visàvis Gulf War veterans' self-reported somatic and psychological symptoms and judgments of health-related quality of life.

Affected Public: Individuals or households.

Estimated Annual Burden: 313 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 417.

Dated: November 7, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–30472 Filed 12–7–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0029]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed from a private sector sales broker to submit an offer to VA on behalf of a prospective purchaser of a VA-acquired property.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 8, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0029'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

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

Titles

a. Offer to Purchase and Contract of Sale, VA Form 26–6705.

b. Credit Statement of Prospective Purchaser, VA Form 26–6705b.

c. Addendum to VA Form 26–6705 Offer to Purchase and Contract of Sale, VA Form 26–6705d

OMB Control Number: 2900–0029.

Type of Review: Extension of a currently approved collection.

Abstract

a. VA Form 26–6705 is used by the private sector sales broker to submit an offer to the VA on behalf of a prospective purchaser of a VA-acquired property. The form will be prepared for each proposed contract submitted to the VA. If the VA accepts the offer to purchase, it then becomes a contract of sale. The form defines the terms of sale, provides the prospective purchaser with a receipt for his/her earnest money deposit, eliminates the need for separate transmittal of a purchase offer and develops the contract without such intermediate processing steps and furnishes evidence of the station decision with respect to the acceptance of the contract as tendered. Without this information, a determination of the best offer for a property cannot be made.

b. VA Form 26–6705b is used as a credit application to determine the creditworthiness of a prospective purchaser in those instances when the prospective purchaser seeks VA vendee financing, along with VA Form 26–6705. In such sales, the offer to purchase will not be accepted until the purchaser's income and credit history have been verified and a loan analysis has been completed, indicating loan approval. Without this information, the creditworthiness of a prospective purchaser cannot be determined and the offer to purchase cannot be accepted.

c. VA Form 26–6705d is an addendum to VA Form 26–6705 for use in Virginia. It includes requirements of State law, which must be acknowledged by the purchaser at or prior to closing.

Affected Public: Individuals or households.

Estimated Annual Burden: 57,917 hours.

a. VA Form 26–7605—35,000 hours.
b. VA Form 26–6705b—22,500 hours.
c. VA Form 26–6705d—417 hours.

Estimated Average Burden Per Respondent: 20 minutes (average).

a. VA Form 26–7605—21 minutes.
b. VA Form 26–6705b—20 minutes.
c. VA Form 26–6705d—5 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Total Respondents: 172,500.

a. VA Form 26–7605—100,000.
b. VA Form 26–6705b—67,500.
c. VA Form 26–6705d—5,000.

Dated: November 7, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–30473 Filed 12–7–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0570]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the burden estimates relating to customer satisfaction surveys.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 8, 2002.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *ann.bickoff@mail.va.gov.* Please refer to ''OMB Control No. 2900–0570'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

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

Title: Generic Clearance for the Veterans Health Administration Customer Satisfaction Surveys.

OMB Control Number: 2900–0570.

Type of Review: Revision of a currently approved collection.

Abstract: Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing services. VHA uses customer satisfaction surveys to gauge customer perceptions of VA services as well as customer expectations and desires. The results of these information collections lead to improvements in the quality of VHA service delivery by helping to shape the direction and focus of specific programs and services.

Affected Public: Individuals or households.

Listing of Survey Activities

I. Special Emphasis Programs

The following list of activities is a compendium of customer satisfaction survey plans by VHA. Different special emphasis programs will be surveyed annually; however, program selections have not been made for FYs 2002–2004. Burden hours for the out-years are based on FY 2001 estimates (Burden hours per respondent: 15 minutes).

Year	Number of respondents	Estimated annual burden (in hours)	Frequency
2002	50,000	12,500	Annually.
2003	50,000	12,500	Annually.
2004	50,000	12,500	Annually.

II. Local Facilities Surveys

Year	Number of respondents	Estimated annual burden (in hours)	Frequency
2002	288,780	62,569	One-time.
2003	288,780	62,569	One-time.
2004	288,780	62,569	One-time.

Most customer satisfaction surveys will be recurring so that VHA can create ongoing measures of performance and to determine how well the Agency meets customer service standards. Each collection of information will consist of the minimum amount of information necessary to determine customer needs and to evaluate VHA's performance. VHA expects to distribute written surveys with a total annual burden of approximately 75,069 hours in FYs 2002, 2003, and 2004 (Burden hours per respondent: 13 minutes).

Dated: November 27, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–30474 Filed 12–7–01; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 66, No. 237

Monday December 10, 2001

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.

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Under the Energy Policy and Conseravation Act (''Appliance Labeling Rule'')

Correction

In rule document 01–28438 beginning on page 57867, in the issue of Monday, November 19, 2001, make the following corrections:

PART 305 [AMENDED]

1.On page 58768, the heading for Appendix A2 to Part 305 should read ''Appendix A2 to Part 305.—Refrigerators and Refrigerators–Freezers With Manual Defrost''.

2.On the same page in the table for Appendix A2 to Part 305, in the column under the heading Low, in the ninth line,''(396)'' should read ''396''.

3.On the same page, in the table for Appendix A2 to Part 305, in the column under the heading High, in the ninth line,''(438)'' should read ''438''.

[FR Doc. C1–28438 Filed 12–7–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

RIN 0991–AB05

Medicare and State Health Care Programs: Fraud and Abuse; Ambulance Replenishing Safe Harbor Under the Anti-Kickback Statute

Correction

In final rule document 01–29875 beginning on page 62979 in the issue of Tuesday, December 4, 2001, make the following correction:

§1001.952 [Corrected]

On page 62991, in the first column, in §1001.952(v)(4)(iii), in the last line, remove ''47 ''.

[FR Doc. C1–29875 Filed 12–7–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,

December 10, 2001

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for the Oahu Elepaio (Chasiempis sandwichensis ibidis); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG99

Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for the Oahu Elepaio (Chasiempis sandwichensis ibidis)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the Oahu elepaio pursuant to the Endangered Species Act of 1973, as amended (Act). The Oahu elepaio is a forest bird found only on the island of Oahu and is listed as endangered under the Act. The critical habitat consists of five units whose boundaries encompass a total area of approximately 26,661 hectares (ha) (65,879 acres (ac)) in the Koolau and Waianae mountains on the island of Oahu, Hawaii. Critical habitat identifies specific areas that are essential to the conservation of a listed species and that may require special management considerations or protection. As required by section 4 of the Act, we considered economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat.

DATES: This rule is effective January 9, 2002.

FOR FURTHER INFORMATION CONTACT: Marilet A. Zablan, Vertebrate Conservation Coordinator, or Eric VanderWerf, Biologist, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, Hawaii 96850 (telephone: 808/541–3441; facsimile: 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

The Oahu elepaio (*Chasiempis sandwichensis ibidis*) is a small forest-dwelling bird approximately 12.5 grams (0.43 ounces) in weight and 15 centimeters (cm) (6 inches (in)) in length, and is a member of the monarch flycatcher family Monarchidae (VanderWerf 1998). It is dark brown above and white below, with light brown streaks on the breast. The tail is long (6.5 cm, 2.6 in) and often held up at an angle. Adults have conspicuous white wing bars, a white rump, and white tips on the tail feathers. The throat is white with black markings in both sexes, but males tend to have more black on the chin than females. Juveniles and subadults are reddish above, with a white belly and rusty wing-bars. The bill is medium-length, straight, and black, with the base of the lower mandible bluish-gray in adults and yellow in juveniles. The legs and feet are dark gray and the iris is dark brown (VanderWerf 1998).

Three subspecies of elepaio are recognized, each found only on a single island: the Oahu elepaio; the Hawaii elepaio (*Chasiempis s. sandwichensis*); and the Kauai elepaio (*C. s. sclateri*). The forms on different islands are similar in ecology and behavior, but differ somewhat in coloration and vocalizations (Conant 1977, van Riper 1995, VanderWerf 1998). The taxonomy used in this rule follows Pratt *et al.* (1987) and Pyle (1997), in which all forms are regarded as subspecies, but the form on each island was originally described as a separate species. The Oahu form was known as *C. s. gayi* (Wilson 1891) until Olson (1989) pointed out that the epithet *ibidis* (Stejneger 1887) has priority. The elepaio comprises a monotypic genus that is found only in the Hawaiian Islands (VanderWerf 1998). Its closest relatives are other monarch flycatchers from the Pacific region (Pratt *et al.* 1987, Sibley and Ahlquist 1985).

The Oahu elepaio occurs in a variety of forest types, but is most common in riparian vegetation along streambeds and in mesic forest with a tall canopy and a well-developed understory (Shallenberger and Vaughn 1978, VanderWerf *et al.* 1997). Population density is roughly 50 percent lower in shorter dry forest on ridges (VanderWerf *et al.* 1997). Elepaio currently are not found in very wet, stunted forest on windswept summits or in very dry shrub land, but these areas may be used by individuals dispersing among subpopulations. Forest structure appears to be more important to elepaio than plant species composition (VanderWerf *et al.* 1997), and unlike many Hawaiian forest birds, elepaio have adapted relatively well to disturbed forest composed of introduced plants (Conant 1977, VanderWerf *et al.* 1997, VanderWerf 1998). Fifty-five percent of the current range is dominated by introduced plants and 45 percent is dominated by native plants (VanderWerf *et al.* 2001). This observation does not imply that elepaio prefer introduced plant species, but probably reflects a preference by elepaio for riparian vegetation in valleys and the high degree of habitat disturbance and abundance of introduced plants in riparian areas (VanderWerf *et al.* 1997). Of the 45 percent dominated by native plants, 23 percent is categorized as wet forest, 17 percent as mesic forest, and 5 percent as dry forest, shrub land, and cliffs (Hawaii Heritage Program 1991).

Plant species composition in elepaio habitat varies considerably depending on location and elevation, but some of the most common native plants in areas where elepaio occur are ohia (*Metrosideros polymorpha*), papala kepau (*Pisonia umbellifera*), lama (*Diospyros sandwicensis*), mamaki (*Pipturus albidus*), kaulu (*Sapindus oahuensis*), hame (*Antidesma platyphyllum*), and alaa (*Pouteria sandwicensis*), and some of the most common introduced plants are guava (*Psidium guajava*), strawberry guava (P. cattleianum), kukui (*Aleurites moluccana*), mango (Mangifer indica), Christmasberry (*Schinus terebinthifolius*), and ti (*Cordyline terminalis*) (VanderWerf *et al.* 1997, VanderWerf 1998).

The current population of Oahu elepaio is approximately 1,982 birds distributed in six core subpopulations and several smaller subpopulations (Table 1, Figure 1; VanderWerf *et al.* 2001).

TABLE 1.—ESTIMATED SIZE AND AREA OF OAHU ELEPAIO SUBPOPULATIONS

[Data from VanderWerf et al. (2001). Letters before each subpopulation correspond to those on Figure 1]

Subpopulation	Total population size	Breeding population size	Area (ha)
Waianae Mountains:			
A. Southern Waianae (Honouliuli Preserve, Lualualei Naval Magazine)	458	418	1,170
B. Schofield Barracks West Range	340	310	538
C. Makaha, Waianae Kai Valleys	123	112	459

TABLE 1.—ESTIMATED SIZE AND AREA OF OAHU ELEPAIO SUBPOPULATIONS—Continued

[Data from VanderWerf et al. (2001). Letters before each subpopulation correspond to those on Figure 1]

Subpopulation	Total population size	Breeding population size	Area (ha)
D. Pahole, Kahanahaiki	18	4	256
E. Schofield Barracks South Range	6	0	20
F. Makua Valley	7	2	49
G. Kaala Natural Area Reserve	3	0	21
H. Makaleha Gulch	2	0	7
I. Kuaokala	3	2	14
J. Kaluakauila Gulch	1	0	6
Koolau Mountains:			
K. Southern Koolau (Pia, Wailupe, Kapakahi, Kuliouou, Waialae Nui)	475	432	1,063
L. Waikane, Kahana Valleys	265	242	523
M. Central Koolau (Moanalua, North and South Halawa, Aiea, Kalauao)	226	206	1,396
N. Palolo Valley	46	42	78
O. Waihee Valley	5	4	32
P. Manoa	2	0	19
Q. Hauula	1	0	4
R. Waianu Valley	1	0	8
Total	1,982	1,774	5,663

BILLING CODE 4310–55–P

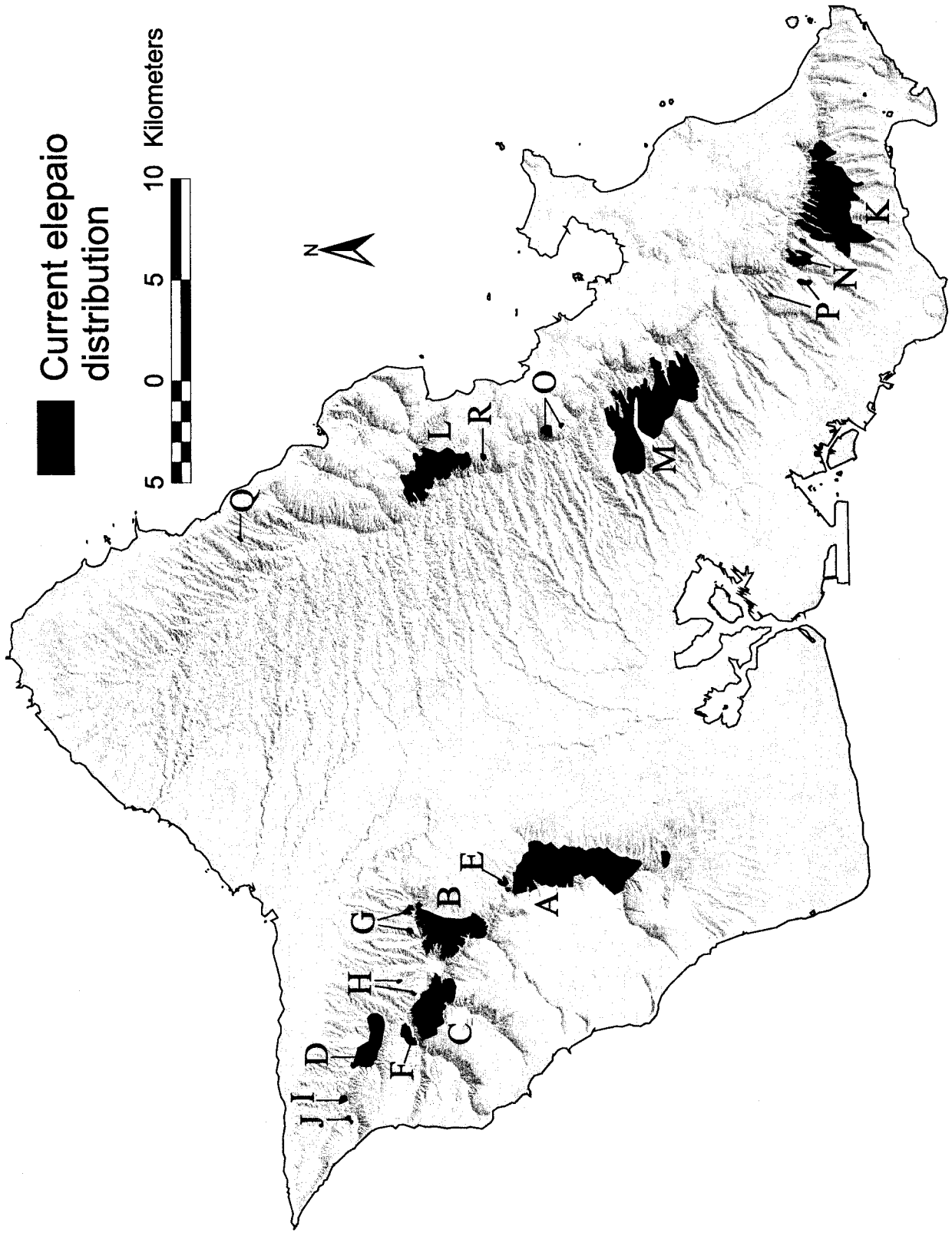

Figure 1. Current distribution of the Oahu elepaio. Subpopulations are identified by letters corresponding to those in Table 1.

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The only previous population estimate (200–500 birds; Ellis *et al.* 1992) was not accurate because little information was available when the estimate was made. The number of birds is divided about evenly between the Waianae Mountains in the west and the Koolau Mountains in the east, with three core subpopulations in each mountain range. At least 10 tiny remnant subpopulations consisting mostly or entirely of males remain in both the Waianae and Koolau mountains (Table 1). These remnant subpopulations were much larger or continuous with other subpopulations in the past, but because of their very small size, skewed sex ratio, and geographic isolation, these relicts likely will disappear in a few years as the last adults die.

The breeding population, about 1,774 birds, is less than the total population because of a male-biased sex ratio; only 84 percent of territorial males have mates in large populations (VanderWerf *et al.* 2001), and many small, declining populations contain mostly males (Table 1). The genetically effective population size, a measure that takes into account genetic population structure and variation in number of individuals over time, is probably even smaller than the breeding population because of the geographically fragmented distribution (Grant and Grant 1992). Offspring dispersal distances in elepaio are usually less than one kilometer (km) (0.62 mile (mi)) and adults have high site fidelity (VanderWerf 1998), but most elepaio populations on Oahu are separated by many kilometers of unsuitable urban or agricultural habitat. There may be some exchange among subpopulations within each mountain range, but dispersal across the extensive pineapple fields that separate the Waianae and Koolau mountains is unlikely. While the current distribution superficially appears to constitute a metapopulation, it is uncertain if dispersal occurs among subpopulations.

Before humans arrived, forest covered about 127,000 ha (313,690 ac) on Oahu (Figure 2; Hawaii Heritage Program 1991), and it is likely that elepaio once inhabited much of that area (VanderWerf *et al.* 2001). Reports by early naturalists indicate that elepaio were once widespread and abundant on Oahu. Bryan (1905) called the Oahu elepaio ''the most abundant Hawaiian species on the mountainside all the way from the sea to well up into the higher elevations.'' Perkins (1903) remarked on its ''universal distribution * * * from the lowest bounds to the uppermost edge of continuous forest.'' Seale (1900) stated the elepaio was ''the commonest native land bird to be found on the island,'' while MacCaughey (1919) described it as ''the most abundant representative of the native woodland avifauna'' and ''abundant in all parts of its range.'' The historical range of the Oahu elepaio apparently included most forested parts of the island, and it was formerly abundant.

Despite its adaptability, the Oahu elepaio has seriously declined since the arrival of humans, and it has disappeared from many areas where it was formerly common (Shallenberger 1977, Shallenberger and Vaughn 1978, Williams 1987, VanderWerf *et al.* 1997). The aggregate geographic area of all current subpopulations is approximately 5,660 ha (13,980 ac) (see Table 1) (VanderWerf *et al.* 2001). The Oahu elepaio thus currently occupies only about 4 percent of its original prehistoric range, and its range has declined by roughly 96 percent since humans arrived in Hawaii 1,600 years ago (Kirch 1982). In 1975, elepaio inhabited approximately 20,900 ha (51,623 ac) on Oahu, almost four times the area of the current range (Figure 2; VanderWerf *et al.* 2001). The range of the Oahu elepaio has thus declined by roughly 75 percent in the last 25 years. Much of the historical decline of the Oahu elepaio can be attributed to habitat loss, especially at low elevations. Fifty-six percent of the original prehistoric range has been developed for urban or agricultural use, and practically no elepaio remain in developed areas (VanderWerf *et al.* 2001).

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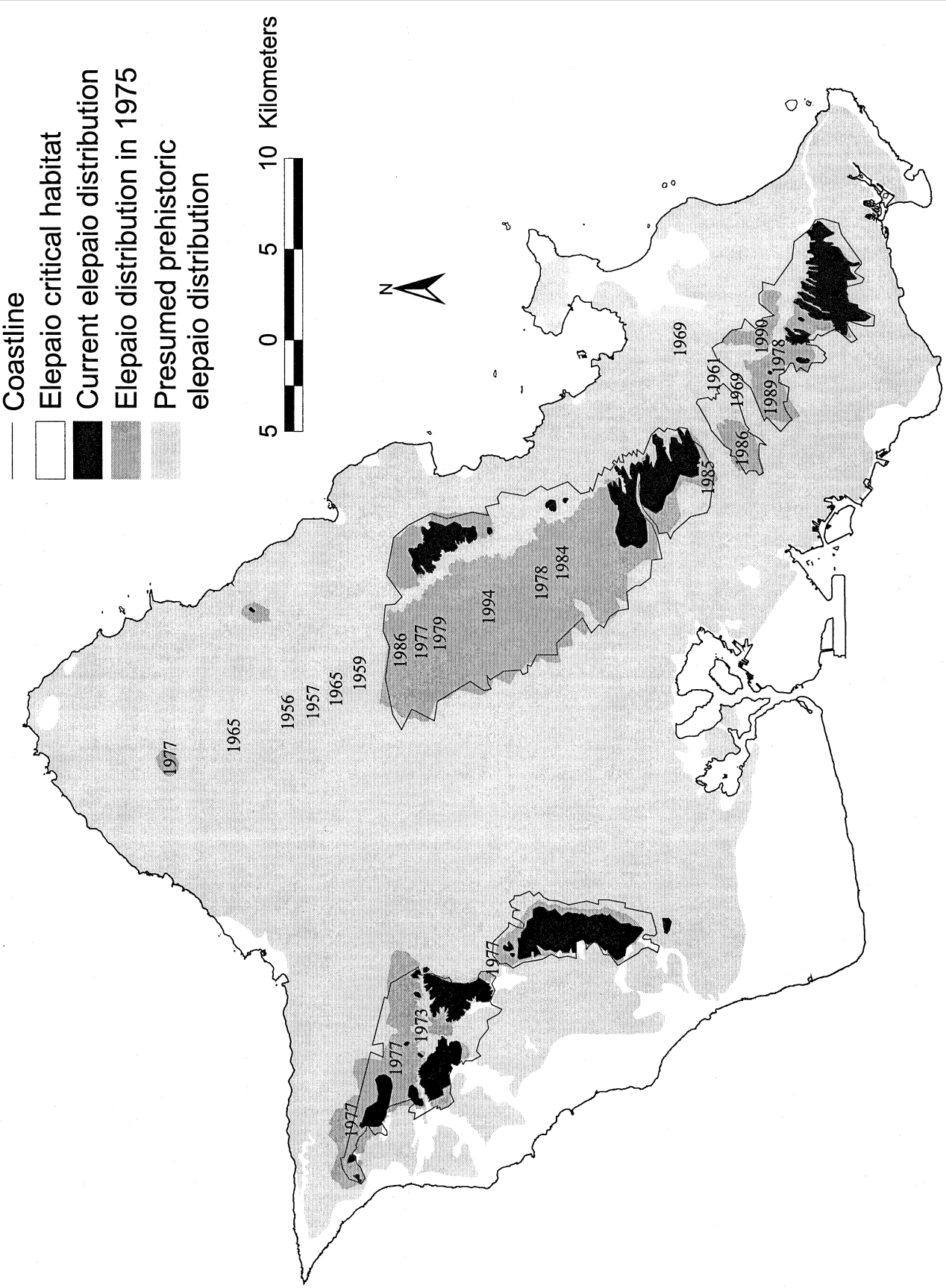

Figure 2. Critical habitat for the Oahu elepaio in relation to its current, recent historical (1975), and presumed prehistoric distributions. Years indicate when elepaio were last observed in that area.

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However, many areas of Oahu that recently supported elepaio and still contain suitable forest habitat are currently unoccupied, demonstrating that habitat loss is not the only threat. Recent declines in Oahu elepaio populations are due to a combination of low adult survival and low reproductive success. Both annual adult survival and reproductive success are lower on Oahu (0.76, 0.33, respectively) than in a large, stable population of another subspecies of elepaio at Hakalau Forest National Wildlife Refuge on Hawaii Island (0.85, 0.62; VanderWerf 1998). The two main causes of low survival and low reproduction on Oahu are nest predation by alien black rats (*Rattus rattus*) and alien diseases, particularly avian pox (*Poxvirus avium*) and avian malaria (*Plasmodium relictum*), which are carried by the alien southern house mosquito (*Culex quinquefasciatus*). Annual survival of birds with active avian pox lesions (60 percent) was lower than annual survival of healthy birds (80 percent) (E. VanderWerf unpubl. data). Pairs in which at least one bird had pox lesions produced fewer fledglings than healthy pair. (E. VanderWerf, unpubl. data). Many birds with active pox did not even attempt to nest, and infected birds were sometimes deserted by their mate. Malaria is a serious threat to many Hawaiian forest birds (Warner 1968, van Riper *et al.* 1986, Atkinson *et al.* 1995), but its effect on elepaio has not been investigated.

Nest predation by black rats causes many nests to fail, and rats also probably take adult female elepaio on the nest at night. An experiment in which automatic cameras were wired to artificial elepaio nests containing quail eggs showed that a black rat was the predator in all 10 predation events documented (VanderWerf 2001). Control of rats with snap traps and diphacinone (an anticoagulant rodenticide) bait stations was effective at improving elepaio reproductive success, resulting in an 85 percent increase in nest success and a 127 percent increase in fledglings per pair compared to control areas (VanderWerf 1999).

A comprehensive description of the life history and ecology of the elepaio is provided by VanderWerf (1998), from which much of the information below is taken. Elepaio are non-migratory and defend all-purpose territories year-round. The average territory size on Oahu was 2.0 ha (4.94 ac) in forest composed of introduced plant species (Conant 1977), but territory size likely varies with vegetation structure. Population density on Oahu was 50 percent lower in short forest on ridges than in tall riparian forest along streambeds (VanderWerf *et al.* 1997), and for the related subspecies on Hawaii, territory size was 50 percent larger in more disturbed forest with an open canopy and grass understory.

Oahu elepaio are socially monogamous, and approximately 63 percent of pairs remain together each year (E. VanderWerf, unpubl. data). Site fidelity is high, with 96 percent of males and 67 percent of females remaining on the same territory from year to year. Annual survival of healthy adults is high, approximately 85 percent in males and 70 percent in females (E. VanderWerf, unpubl. data). Young birds wander (or float) while they attempt to acquire a territory and a mate.

The nesting season usually extends from mid February through May, but active nests have been found from January through July (VanderWerf 1998). Nest site selection is not specialized, and nests have been found in a variety of plants, including 6 native species and 13 introduced species (E. VanderWerf, unpubl. data). The nest is a finely-woven, free-standing cup made of rootlets, bark strips, leaf skeletons, lichen, and spider silk, and is placed in a fork or on top of a branch (Conant 1977, VanderWerf 1998). Both sexes participate in all aspects of nesting, but the female plays a larger role in nest building and the male provides more food for the nestlings. Clutch size is 1 to 3 eggs, usually 2, and eggs hatch after 18 days. The nestling period is 16 days. Fledglings are fed by their parents for more than a month after leaving the nest, and may remain in the home territory for up to 9 months, until the start of the next breeding season. Fecundity (reproductive rate) is low; even if nest predators are removed, the mean reproductive rate is 0.75 fledglings per pair per year (VanderWerf 1999). Oahu elepaio will re-nest once or twice after failure, but they rarely attempt to re-nest if the first nest is successful. Other than introduced predators, storms with heavy rain and strong winds are the most common cause of nest failure.

The diet and foraging behaviors of elepaio are extremely varied. The diet consists of a wide range of arthropods, particularly insects and spiders, and includes introduced species such as fruit flies (Tephritidae) (VanderWerf 1998). Large prey, such as moths and caterpillars, are beaten against a branch before being eaten. In a study on Hawaii Island, VanderWerf (1993, 1994) found that elepaio foraged at all heights on all available plant species, and that they caught insects from a variety of substrates, including the ground and fallen logs (2 percent), trunks (5 percent), branches (24 percent), twigs (38 percent), foliage (20 percent), and in the air (11 percent). Elepaio are versatile and agile in pursuit of prey, using a diversity of foraging behaviors that is among the highest recorded for any bird, including perch-gleaning (48 percent), several forms of flight-gleaning (30 percent), hanging (11 percent), aerial flycatching (7 percent), and active pursuit (4 percent) (VanderWerf 1994).

Previous Federal Action

We were petitioned by Mr. Vaughn Sherwood on March 22, 1994, to list the Oahu elepaio as an endangered or threatened species with critical habitat. The November 15, 1994, Animal Candidate Notice of Review (59 FR 58991) classified the Oahu elepaio (then *Chasiempis sandwichensis gayi*) as a category 1 candidate. Category 1 candidates were those species for which we had sufficient data in our possession to support a listing proposal. On June 12, 1995 (60 FR 30827), we published a 90-day petition finding stating that the petition presented substantial information that listing may be warranted. On February 28, 1996 (61 FR 7596), and September 19, 1997 (62 FR 49398), we published notices discontinuing candidate category designations, and the Oahu elepaio was listed as a candidate species. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list as threatened or endangered. On October 6, 1998 (63 FR 53623), we published the proposed rule to list the Oahu elepaio as an endangered species. Because *C. s. gayi* is a synonym of *C. s. ibidis,* the proposed rule constituted the final 12-month finding for the petitioned action. On April 18, 2000 (65 FR 20760), we published the final rule to list the Oahu elepaio as an endangered species.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) also state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. In the proposed listing rule we indicated that designation of

critical habitat for the Oahu elepaio was not prudent because we believed a critical habitat designation would not provide any additional benefit beyond that provided through listing as endangered. Based on comments we received on the proposed listing rule and on recent court rulings which address the prudency standard, in the final listing rule we determined that a critical habitat designation for the Oahu elepaio was prudent because such a designation could benefit the species beyond listing as endangered by extending protection under section 7 of the Act to currently unoccupied habitat and by providing informational and educational benefits.

Although we determined in the final listing rule that critical habitat designation for the Oahu elepaio would be prudent, we also indicated in the final listing rule that we were not able to develop a proposed critical habitat designation for the Oahu elepaio at that time due to budgetary and workload constraints. However, on June 28, 2000, the United States District Court for the District of Hawaii established, in the case of *Conservation Council for Hawaii* v. *Babbitt,* CIV. NO. 00–00001 HG–BMK, a timetable to designate critical habitat for the Oahu elepaio, and ordered that the Service publish the final critical habitat designation by October 31, 2001. That date was extended to November 21, 2001. This final rule responds to the court's order.

On November 9, 2000, we mailed letters to 32 landowners on Oahu informing them that the Service was in the process of designating critical habitat for the Oahu elepaio and requesting from them information on management of lands that currently or recently (within the past 25 years) supported Oahu elepaio. The letters contained a fact sheet describing the Oahu elepaio and critical habitat, a map showing the historic and current range of the Oahu elepaio, and a questionnaire designed to gather information about land management practices, which we requested be returned to us by November 27, 2000. We received 11 responses to our landowner mailing with varying types and amounts of information on current land management activities. Some responses included detailed management plans, provided new information on locations where elepaio have been observed recently, and described management activities such as fencing, hunting, public access, fire management, methods for controlling invasive weeds and introduced predators, and collaboration with conservation researchers. In addition, we met with several landowners and managers, including the U.S. Army and the Hawaii State Division of Forestry and Wildlife, to obtain more specific information on management activities and suitability of certain habitat areas for the elepaio. The information provided in the responses and during meetings was considered and incorporated into this final rule.

On June 6, 2001, we published a proposed rule to designate critical habitat for the Oahu elepaio (66 FR 30372). The proposed critical habitat consisted of five units whose boundaries encompassed a total area of approximately 26,661 hectares (ha) (65,879 acres (ac)) in the Koolau and Waianae mountains on the island of Oahu, Hawaii. The public comment period was open for 60 days until August 6, 2001. We did not receive any requests for public hearings during the comment period and we did not hold any public hearings. On August 6, 2001, we published a notice announcing the reopening of the public comment period and the availability of the draft economic analysis for the proposed critical habitat designation for the Oahu elepaio (66 FR 40960). The comment period was open for an additional 30 days until September 6, 2001. On August 28, 2001, we held a public meeting in Honolulu to provide information and promote discussion about the critical habitat designation for the Oahu elepaio. The meeting was attended by 11 people, not including Service staff. During this meeting the Service presented a brief introduction to the biology of the Oahu elepaio, a summary of previous federal actions regarding the elepaio, information about critical habitat, and the methods used to identify critical habitat for the Oahu elepaio. The presentation was followed by a question and answer session and general discussion, and we made available information including maps, fact sheets, news releases, reprints of scientific papers, copies of the proposed rule and draft economic analysis, and instructions for submitting public comments. On September 5, 2001, we published a correction to the proposed rule (66 FR 46428). The proposed rule contained the correct maps and legal descriptions of the proposed critical habitat units, but figure 2 in the background section of the proposed rule, which showed the proposed critical habitat units in relation to the current, recent historical, and presumed prehistoric distribution of the Oahu elepaio, showed the proposed critical habitat units incorrectly. The correction provided an accurate version of figure 2 that matched the critical habitat units depicted in the legal description of the original proposed rule. Page 30377 of the proposed rule was replaced with page 46429 of the correction.

Critical Habitat

Critical habitat is defined in section 3, paragraph (5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation,'' as defined by the Act, means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. Destruction or adverse modification is direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical. Aside from the added protection that may be provided under section 7, the Act does not provide other forms of regulatory protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional regulatory protections under the Act against such activities.

Critical habitat also provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that

are essential for conservation of that species, and can alert the public as well as land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified or help to avoid accidental damage to such areas.

In order to be included in a critical habitat designation, the habitat must be ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known and using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)). Section 3(5)(C) of the Act states that not all areas that can be occupied by a species should be designated as critical habitat unless the Secretary determines that all such areas are essential to the conservation of the species. Our regulations (50 CFR 424.12(e)) also state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.''

Section 4(b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Our Policy on Information Standards Under the Endangered Species Act, published on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that decisions made by the Service represent the best scientific and commercial data available. It requires that our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing rule for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments or other unpublished materials (*i.e.*, gray literature).

Section 4 requires that we designate critical habitat based on what we know at the time of the designation. Habitat is often dynamic, however, and populations may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Habitat areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, and the section 9 take prohibition, as determined on the basis of the best available information at the time of the action. It is possible that federally funded or assisted projects affecting listed species outside their designated critical habitat areas could jeopardize those species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning and recovery efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12), we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the survival and recovery of the Oahu elepaio. This information included: peer-reviewed scientific publications (Conant 1977; Banko 1981; VanderWerf 1993, 1994, 1998, 2001; VanderWerf *et al.* 1997, 2001); the final listing rule for the Oahu elepaio (65 FR 20760); unpublished reports by the Hawaii State Division of Forestry and Wildlife (VanderWerf 1999); the Hawaii Natural Heritage Program database; the Sightings database from the Occurrence and Status of Birds in Hawaii project maintained at Bishop Museum in Honolulu; the Oahu Forest Bird Survey conducted in 1991 by the Hawaii State Division of Forestry and Wildlife; field trip reports in the ''Elepaio'' (journal of the Hawaii Audubon Society); responses to the Oahu elepaio critical habitat outreach package mailed to Federal, State, and private land managers and landowners; and comments received during the comment period.

The distribution and abundance of the Oahu elepaio have declined seriously in the last few decades (Williams 1987; Oahu elepaio final listing rule, 65 FR 20760; VanderWerf *et al.* 2001). The area currently occupied by the Oahu elepaio represents only about four percent of the species' original range, and the distribution has contracted into numerous small fragments (Figure 2). Moreover, the remaining elepaio subpopulations are small and isolated, comprising six core subpopulations that contain between 100 and 500 birds, and numerous small remnant subpopulations, most of which contain fewer than 10 birds (Table 1). Even if the threats responsible for the decline of the elepaio were controlled, the existing subpopulations would be unlikely to persist because their small sizes make them vulnerable to extinction due to a variety of natural processes. Small populations are particularly vulnerable to reduced reproductive vigor caused by inbreeding depression, and they may suffer a loss of genetic variability over time due to random genetic drift, resulting in decreased evolutionary potential and ability to cope with environmental change (Lande 1988, IUCN 2000). Small populations are also demographically vulnerable to extinction caused by random fluctuations in population size and sex ratio and to catastrophes such as hurricanes (Lande 1988). Survival and reproduction of elepaio are known to fluctuate across years in response to variation in disease prevalence and predator populations (VanderWerf 1998, 1999), possibly due to El Niñno episodes and variation in rainfall, which may exacerbate the threats associated with small population size (Lande 1988).

Elepaio are highly territorial; each pair defends an area of a certain size, depending on the forest type and structure, resulting in a maximum population density or carrying capacity (VanderWerf 1998). Although elepaio have declined island-wide and the range has contracted, density in the remaining core subpopulations is high, and much of the currently occupied land is at or near carrying capacity and cannot support many more elepaio than it currently supports (VanderWerf *et al.* 1997, 2001). Consequently, each of the currently occupied areas is too small to support an elepaio population large enough to be considered safe from extinction. In order for the number of birds in each subpopulation to increase,

additional land must be available for young birds to establish new territories and attract mates. The potential for expansion is especially important for the smallest subpopulations that currently contain only a few individuals. Because of their very small size and skewed sex ratio, these tiny subpopulations are unlikely to persist more than a few generations if limited to the currently occupied area.

Elepaio are also relatively sedentary; adults have high fidelity to their territory and juveniles rarely disperse more than 1 km (0.62 mi) in search of a territory (VanderWerf 1998). Because the areas currently occupied by elepaio are separated from each other by many kilometers (Figure 1) and elepaio are unlikely to disperse long distances, the existing subpopulations probably are isolated (VanderWerf *et al.* 2001). The Oahu elepaio evolved in an environment with large areas of continuous forest habitat covering much of the island (Figure 2), and their dispersal behavior is not adapted to a fragmented landscape. In the past, subpopulations were less isolated and dispersal and genetic exchange among different parts of the island probably was more frequent. Providing links among subpopulations via dispersal would increase the overall effective population size through genetic exchange and equalization of sex ratios and breeding opportunities, thereby helping to alleviate the threats associated with small population size, and would better reflect the conditions under which the elepaio dispersal behavior evolved. In particular, enlargement of small subpopulations by expansion onto adjacent lands not only would increase the chances of their long-term survival, but also would improve connectivity among subpopulations by enhancing their value as ''stepping stones'' within the distribution of the entire population.

Section 3(5)(A)(i) of the Act provides that areas outside the geographical area currently occupied by the species may meet the definition of critical habitat upon determination that they are essential for the conservation of the species. Because of the territorial nature of the Oahu elepaio, its small total population size, limited range, fragmented distribution, and resulting vulnerability to genetic, demographic, and environmental threats, we find that inclusion of currently unoccupied areas identified as containing the primary constituent elements is essential to the conservation of the species. The final rule listing the Oahu elepaio as endangered emphasized that the ''small total population size, limited distribution, and population fragmentation make this taxon particularly vulnerable to reduced reproductive vigor and the effects of naturally occurring events'' (65 FR 20760). Recovery will require restoration of elepaio in areas that were formerly inhabited but that are not currently occupied, through natural dispersal, translocation, or release of captive birds. Unoccupied areas adjacent to currently occupied areas are needed for recovery to allow expansion of existing subpopulations and help alleviate the threats associated with small population size. Unoccupied lands linking subpopulations are needed for recovery to provide opportunities for dispersal among subpopulations, promote genetic exchange, and facilitate finding of mates. Specifically, each of the existing core populations in Pahole-Kahanahaiki, Makaha-Waianae Kai, Schofield Barracks West Range, the southern Waianae Mountains, the central leeward Koolau Mountains, Waikane-Kahana, and the southern leeward Koolau Mountains are small and isolated, and are unlikely to be viable on their own. The long-term chances for persistence of these subpopulations would increase if each subpopulation increased in size by expanding onto adjacent lands and if the connectivity among the subpopulations was enhanced by occasional dispersal of individuals across intervening lands.

We determined the amount and spatial arrangement of critical habitat needed to support a viable population of Oahu elepaio. Because a recovery plan for the Oahu elepaio has not been completed yet, in making this determination we looked to the historical distribution of the Oahu elepaio for a model of a viable population. The best and most recent information available on the distribution of an apparently viable Oahu elepaio population is from 1975, when extensive surveys were conducted over much of the island (Shallenberger 1977, Shallenberger and Vaughn 1978, Banko 1981). Elepaio began declining on Oahu before 1975 and already had disappeared from some parts of the island (Figure 2; Conant 1977, Williams 1987, VanderWerf *et al.* 2001), but in 1975 the subpopulations were still relatively large and birds were distributed in two well-connected population clusters, one in the Waianae Mountains and one in the Koolau Mountains. The areas occupied since 1975 also are likely to be most suitable for recovery because they supported elepaio for a longer period. The number and distribution of Oahu elepaio in 1975 has allowed for the persistence of a population, albeit in a declining state, for more than 25 years. We believe that active management of threats, including nest predation and disease, in areas reflecting the distribution in 1975 would allow for long-term recovery. This approach is consistent with the approved recovery outline for the Oahu elepaio; if, after critical habitat for the Oahu elepaio is designated, a final approved recovery plan for Hawaiian forest birds calls for a different approach to the conservation of the Oahu elepaio, we will consider amending the critical habitat designation, subject to resource and workload priorities.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations and protection. Such features are termed primary constituent elements, and include but are not limited to: space for individual and population growth and for normal behavior; food, water, air, light, minerals and other nutritional or physiological requirements; cover or shelter; sites for nesting and rearing of offspring; and habitats that are protected from disturbance and are representative of the historic geographical and ecological distributions of the species.

Elepaio are adaptable and able to forage and nest in a variety of forest types composed of both native and introduced plant species (Conant 1977, VanderWerf 1993, 1994, 1998). Nest site selection by elepaio is non-specialized; nests have been found in 7 native and 13 introduced plant species (E. VanderWerf, unpubl. data). Shallenberger and Vaughn (1978) found the highest relative abundance of elepaio in forest dominated by introduced guava and kukui trees, but they also found elepaio in the following forest types (in order of decreasing abundance): mixed native-exotic; tall exotic; koa dominant; mixed koa-ohia; low exotic; ohia dominant; and ohia scrub. This distribution does not imply that elepaio prefer introduced plant species, but probably reflects a preference by elepaio for riparian vegetation in valleys and the high degree of habitat disturbance and abundance of introduced plants in riparian areas. VanderWerf *et al.* (1997) found that (1) forest structure was more

important to elepaio than plant species composition, (2) most birds occurred in areas with a continuous forest canopy and a dense understory, and (3) population density was roughly twice as high in tall riparian vegetation in valleys as in shorter forest on ridges. Fifty-five percent of the currently occupied area consists of forest dominated by introduced plant species, 23 percent is native wet forest, 17 percent is native mesic forest, and 5 percent is native dry forest and shrub land (VanderWerf *et al.* 2001).

The primary constituent elements required by the Oahu elepaio for foraging, sheltering, roosting, nesting, and rearing of young are undeveloped wet, mesic, and dry forest habitats composed of native or introduced plant species. Higher population density can be expected in tall, closed canopy riparian forest than in low scrubby forest on ridges and summits. In addition, the primary constituent elements associated with the biological needs of dispersal and genetic exchange among populations are undeveloped wet or dry shrub land and wet or dry cliff habitats. Elepaio may not establish territories in shrub or cliff habitats and may use them only transiently, but areas containing these habitats are important for linking populations by providing the opportunities for dispersal and genetic exchange.

Within the forests and shrub lands providing the primary constituent elements, plant species composition varies with rainfall, elevation, and degree of habitat disturbance, and plant species occur in a variety of assemblages. Common native and introduced species within these plant assemblages include, but are not limited to, ohia (*Metrosideros polymorpha*), koa (*Acacia koa*), papala kepau (*Pisonia umbellifera*), lama (*Diospyros sandwicensis*), mamaki (*Pipturus albidus*), kaulu (*Sapindus oahuensis*), hame (*Antidesma platyphyllum*), alaa (*Pouteria sandwicensis*), aalii (*Dodonaea viscosa*), naupaka kuahiwi (*Scaevola* spp.), pukiawe (*Styphelia tameiameiae*), uluhe (*Dicranopteris linearis*), guava (*Psidium guajava*), strawberry guava (*P. cattleianum*), mango (*Mangifera indica*), kukui (*Aleurites moluccana*), christmasberry (*Schinus terebinthifolius*), ti (*Cordyline terminalis*), rose apple (*Syzygium jambos*), mountain apple (*S. malaccense*), and Java plum (*S. cumini*).

Criteria Used To Identify Critical Habitat

We used several criteria to identify and select lands for designation as critical habitat. We began with areas that are currently occupied by elepaio, excluding a few very small, isolated subpopulations that contain only a single male. We then added unoccupied lands containing the primary constituent elements that were needed for recovery of the species. As discussed in greater detail in the Methods section, in deciding which unoccupied areas were essential for recovery, we used the distribution of elepaio in 1975 as a model of a viable population. Within this area of distribution in 1975, we gave preference to lands that (a) provided more preferred forest types, (b) were more recently occupied (since 1975), and (c) were contiguous and formed large blocks of preferred habitat or provided links between areas of preferred habitat. We determined the boundaries of critical habitat units by the extent of suitable forest containing the primary constituent elements, which in many areas coincided with the boundaries of State Forest Reserves, Natural Area Reserves, or other conservation lands. We did not include urban and agricultural lands because they generally do not contain the primary constituent elements and are not suitable for elepaio. We included lower Wailupe Valley because it contains the primary constituent elements, is currently occupied by elepaio, and is contiguous with a large subpopulation. Although this area is zoned for urban use, the topography and unstable soil conditions make it unsuitable for development.

We were unable to map the critical habitat unit boundaries in sufficient detail to exclude all existing developed lands that do not contain the primary constituent elements. However, existing development features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, antennas, water tanks, agricultural fields, paved areas, lawns, and other urban landscaped areas generally do not contain the primary constituent elements and are not critical habitat. Federal actions limited to those areas, therefore, would not trigger a section 7 consultation, unless they affect the species or primary constituent elements in adjacent critical habitat.

Application of the Section 3(5)(A) Criteria Regarding Special Management Considerations or Protection

Critical habitat is defined in section 3, paragraph (5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Special management and protection are not required if adequate management and protection are already in place. Adequate special management or protection is provided by a legally operative plan or agreement that addresses the maintenance and improvement of the primary constituent elements important to the species and manages for the long-term conservation of the species. If any areas containing the primary constituent elements currently were being managed to address the conservation needs of the Oahu elepaio and did not require special management or protection, these areas would not meet the definition of critical habitat in section 3(5)(A)(i) of the Act and would not be included in the designation.

To determine if a plan provides adequate management or protection we consider 3 criteria: (1) Whether the plan is current and specifies the management actions and whether such actions provide sufficient conservation benefit to the species; (2) whether the plan provides assurances that the conservation management strategies will be implemented, and in determining this we consider whether: (a) A management plan or agreement exists that specifies the management actions being implemented or to be implemented; (b) the schedule for implementation is timely; (c) there is a high probability that the funding source(s) or other resources necessary to implement the actions will be available; and (d) the party(ies) have the authority and long-term commitment to implement the management actions, as demonstrated, for example, by a legal instrument providing enduring protection and management of the lands, and (3) whether the plan provides assurances that the conservation management strategies will be effective. In determining whether an action is likely to be effective, we consider whether: (a) The plan specifically addresses the management needs, including reduction of threats to the species; (b) such actions have been successful in the past; (c) there are provisions for monitoring and assessment of the effectiveness of the management actions; and (d) adaptive management principles have been incorporated into the plan.

Based on information provided to us by landowners and managers to date, we

find that no areas are adequately managed and protected to address the threats to elepaio. Several areas are covered under current management plans and are being managed in a manner that meets some of the conservation needs of the Oahu elepaio, but in no areas does the management adequately reduce the primary threats to this species. Specifically, the threat from introduced nest predators, primarily rodents, has been successfully managed on a small scale in Honouliuli Preserve by The Nature Conservancy of Hawaii, in Schofield Barracks West Range and Makua Military Reservation by the U.S. Army, and in the Honolulu Watershed Forest Reserve by the Hawaii State Division of Forestry and Wildlife, but in each case the management actions have affected only a small proportion of the elepaio in the area. Adequate reduction of the threat from rodents will require larger scale management that protects more elepaio. The other primary threat to the Oahu elepaio, introduced diseases carried by mosquitoes, has not been managed in any area. In several areas, such as Schofield Barracks, the threat from fire also has not been managed adequately.

The Oahu Forest National Wildlife Refuge does not meet these criteria because the refuge was created only recently (December 2000) and current management does not yet provide adequate management for the Oahu elepaio. Refuge lands have not been adequately surveyed yet, and it remains uncertain whether the area is currently occupied by elepaio.

The Sikes Act Improvements Amendment of 1997 (Sikes Act) requires each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resources Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP is to include an assessment of the ecological needs on the installation, including needs to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species. We believe that bases that have completed and approved INRMPs that address the needs of the species generally do not meet the definition of critical habitat discussed above, because they require no additional special management or protection. Therefore, we do not include these areas in critical habitat designations if they meet the following three criteria: (1) A current INRMP must be complete and provide a conservation benefit to the species; (2) the plan must provide assurances that the conservation management strategies will be implemented; and (3) the plan must provide assurances that the conservation management strategies will be effective, by providing for periodic monitoring and revisions as necessary. If all of these criteria are met, then the lands covered under the plan would not meet the definition of critical habitat. To date, no military installation on Oahu has completed a final INRMP that provides sufficient management and protection for the elepaio. The Service received information from the Army indicating they understand and agree that the current INRMP for Army installations on Oahu does not obviate the need for critical habitat designations because it does not meet criteria for special management or protection necessary to ensure long-term conservation of the species (Department of the Army, *in litt.* 2001).

Critical Habitat Designation

Lands designated as critical habitat occur in five separate units and provide the full range of primary constituent elements needed by the Oahu elepaio, including: a variety of currently occupied undeveloped forested areas that are used for foraging, roosting, sheltering, nesting, and raising offspring; a variety of currently unoccupied undeveloped forested areas that are adjacent to occupied areas and provide for expansion of existing subpopulations; and shrub land and cliff habitats that link subpopulations and can be used for dispersal. If elepaio were restored throughout each of the critical habitat units, the resulting distribution would resemble the distribution in 1975, when the subpopulations were larger and less isolated, the overall population appeared to be viable, and the Oahu elepaio was not considered endangered. The area designated as critical habitat (26,661 ha) is larger than the area occupied in 1975 (20,900 ha) because the critical habitat contains not only lands expected to support breeding elepaio populations, but also intervening lands that provide for periodic dispersal, which is a primary biological need, but not for permanent occupation.

TABLE 2.—CRITICAL HABITAT UNITS AND POTENTIAL ELEPAIO POPULATIONS

[Data on current density from VanderWerf *et al.* (2001). Unit 4 is not currently occupied by elepaio; the density used to estimate the potential elepaio population of this unit is an average of the densities in the two nearest units, central and southern Koolau.]

Critical habitat unit	Area	Elepaio density in currently occupied parts of unit	Potential elepaio population in unit
1. Northern Waianae Mountains	4,454 ha 11,005 ac	0.45 per ha 0.18 per ac	2,004
2. Southern Waianae Mountains	2,422 ha 5,985 ac	0.39 per ha 0.16 per ac	945
3. Central Koolau Mountains	14,801 ha 36,573 ac	0.33 per ha 0.14 per ac	4,884
4. Kalihi-Kapalama	804 ha 1,987 ac	0.39 per ha 0.16 per ac	314
5. Southern Koolau Mountains	4,180 ha 10,329 ac	0.45 per ha 0.18 per ac	1,881
All units	26,661 ha 65,879 ac	0.37 per ha 0.15 per ac	10,028

The potential elepaio population in the area designated as critical habitat is approximately 10,028 birds, as estimated by multiplying the current density of elepaio in different parts of the island by the area of each critical habitat unit (Table 2). Although population density varies somewhat among locations depending on the habitat quality, we believe the current overall density of elepaio on Oahu, 37.6 birds per square kilometer, is a reasonable estimate of the potential population density throughout the entire area designated as critical habitat. It may be possible to restore elepaio to higher densities in some large blocks of dense forest, but in other areas, such as steep slopes and ridges, it likely will be difficult to establish dense populations. The densities used to calculate these potential populations are average values and the estimates are approximate.

Critical habitat for the Oahu elepaio includes land under Federal, State, and private ownership, with Federal lands being managed by the Department of Defense and the Department of the Interior. Designated lands include most (99 percent) of the species' current range and encompass approximately 21 percent of the species' original range. Approximately 22 percent of designated lands are currently occupied by elepaio, and 78 percent are currently unoccupied but were recently occupied (since 1975). A detailed description of each unit and reasons for designating each portion of the unit as critical habitat are presented below. The approximate area and land ownership within each critical habitat unit are shown in Table 3.

TABLE 3.—APPROXIMATE AREA (HECTARES, ACRES) OF CRITICAL HABITAT UNITS BY LAND OWNERSHIP

Unit	Federal [1]	State	County	Private	Total
1. Northern Waianae Mountains	774 ha	3,033 ha	646 ha	0.7 ha	4,454 ha.
	1,913 ac	7,494 ac	1,596 ac	2 ac	11,005 ac.
2. Southern Waianae Mountains	616 ha	308 ha.		1,498 ha	2,422 ha.
	1,522 ac	761 ac		3,702 ac	5,985 ac.
3. Central Koolau Mountains	2,852 ha	3,754 ha	308 ha	7,887 ha	14,801 ha
	7,047 ac	9,276 ac	761 ac	19,489 ac	36,573 ac.
4. Kalihi-Kapalama		397 ha	179 ha	228 ha	804 ha.
		981 ac	442 ac	564 ac	1,987 ac.
5. Southern Koolau Mountains	3 ha	2,553 ha	476 ha	1,148 ha	4,180 ha.
	7 ac	6,309 ac	1,176 ac	2,837 ac	10,329 ac.
Total	4,245 ha	10,045 ha	1,609 ha	10,762 ha	26,661 ha.
	10,489 ac	24,821 ac	3,975 ac	26,594 ac	65,879 ac.

[1] Federal lands include Department of Defense and U.S. Fish and Wildlife Service.

Unit 1: Northern Waianae Mountains

Unit 1 consists of approximately 4,454 ha (11,005 ac) encompassing the higher elevations of the northern Waianae Mountains. It is bounded on the south by Kolekole pass, and on the north, east, and west by forest edge created by human actions. Natural features within the unit include Mt. Kaala, the highest peak on Oahu at 1,227 m (4,025 feet), several other high peaks along the spine of the Waianae Range, and the upper portions of valleys and slopes, including Waianae Kai, Makaha, Makua, Kahanahaiki, and Kuaokala valleys on the west slope, Haleauau and Mohiakea gulches on the east slope, and several narrow valleys on the north slope. Vegetation consists primarily of mixed-species wet, mesic, and dry forest communities composed of native and introduced plants, with smaller amounts of dry shrub land and cliff plant communities (Hawaii Heritage Program 1991).

Unit 1 contains two important elepaio core subpopulations: One in upper Haleauau and Mohiakea gulches above the firebreak road on U.S. Army Schofield Barracks West Range, and the other in upper Makaha and Waianae Kai valleys on Waianae Kai State Forest Reserve and City and County of Honolulu land. The unit also includes small scattered elepaio subpopulations in Pahole and Kaala State Natural Area Reserves, Mokuleia, Makua-Keaau, and Kuaokala State Forest Reserves, and the upper portion of the U.S. Army Makua Military Reservation. Thirty percent of Unit 1 is currently occupied by elepaio. Of critical habitat lands on the West Range of Schofield Barracks, approximately 70 percent are currently occupied by elepaio. The subpopulation on Schofield Barracks is of particular importance to the conservation of the species because it is the densest and third largest subpopulation on the island, contains the majority of birds remaining in the northern Waianae Mountains, and may serve as a source that supports smaller subpopulations nearby. Elepaio in the northern Waianae Mountains are morphologically and behaviorally distinct from elepaio in other parts of the island, and conservation of this population segment would not be possible without the core subpopulation on Schofield Barracks.

In addition to protecting lands occupied by the two core elepaio subpopulations and six smaller subpopulations, designated lands in Unit 1 provide for expansion of these subpopulations by including currently unoccupied lands that were occupied within the past 30 years and contain the types of forest most preferred by elepaio. Specifically, currently unoccupied lands in Pahole and Kaala State Natural Area Reserves, Mokuleia, Makua-Keaau, and Kuaokala State Forest Reserves, upper Makua Valley, and upper Kahanahaiki Valley are needed for recovery to allow the number of birds in existing subpopulations to increase. The current distribution of elepaio in Unit 1 represents a remnant of what was once a single, large, continuous elepaio population in the northern Waianae Mountains. Inclusion of currently unoccupied forested lands that provide for expansion and shrub land and cliff habitats that provide for dispersal among subpopulations will provide linkage needed to approximate the original genetic and demographic conditions that once existed in this area.

Unit 2: Southern Waianae Mountains

Unit 2 consists of approximately 2,422 ha (5,985 ac) encompassing the higher elevations of the southern Waianae Mountains. It is bounded on the north by Kolekole Pass, and on the east, west, and south by forest edge created by human actions. Natural features of the unit include several high peaks along the spine of the southern Waianae Range, including Palikea, Kaua, Kanehoa, and Hapapa, the upper portions of Lualualei and Nanakuli valleys on the west side of the mountains, and the upper portions of numerous narrower valleys on the east side of the mountains. Vegetation consists primarily of mixed-species

mesic and dry forest communities composed of native and introduced plants, with smaller amounts of dry shrub land and cliff communities (Hawaii Heritage Program 1991).

Unit 2 contains the second largest Oahu elepaio subpopulation, encompassing several land parcels, including Honouliuli Preserve (managed by The Nature Conservancy of Hawaii), Naval Magazine Pearl Harbor Lualualei Branch, Nanakuli State Forest Reserve, and other unmanaged State lands. This unit also contains several scattered elepaio territories north of the core subpopulation on U.S. Army Schofield Barracks South Range. Fifty percent of Unit 2 is currently occupied by elepaio. In addition to protecting currently occupied habitat, designated lands in Unit 2 include peripheral areas of currently unoccupied habitat in Honouliuli Preserve, Lualualei, and Schofield Barracks South Range that are needed for recovery to allow expansion of the core subpopulation, and dry shrub land and cliff habitats on unmanaged State land between Lualualei and Honouliuli and on Schofield Barracks South Range that provide for dispersal among parts of the southern Waianae subpopulation and between the northern and southern Waianae subpopulations.

Unit 3: Central Koolau Mountains

Unit 3 is the largest unit, encompassing 14,801 ha (36,573 ac) of the higher elevations of the central Koolau Mountains. Natural features of the unit include the summit of the Koolau Range and the upper portions of numerous narrow valleys separated by steep ridges, including (from south to north) Manaiki, Moanalua, South Halawa, North Halawa, Kalauao, Waimalu, Waimano, Manana, Waiawa, Kipapa, Kaukonahua, and Poamoho on the leeward (western) side, and Waihee, Kaalaea, Waiahole, Waikane, and Kahana on the windward (eastern) side. Vegetation consists primarily of montane and lowland wet and mesic forest, and smaller areas of shrub land and wet cliff plant communities (Hawaii Heritage Program 1991). The higher elevations of the unit are primarily native forest dominated by ohia and koa, but the lower elevations are more disturbed and dominated by a variety of introduced plant species.

Unit 3 contains two important core elepaio subpopulations: one located almost entirely on private land in Moanalua, North and South Halawa, Manaiki, and Kalauao valleys at the southern end of the unit; the other on the windward side in Kahana Valley State Park and on private lands in Waikane Valley. The unit also contains a few scattered elepaio territories in Waiahole State Forest Reserve. Thirteen percent of Unit 3 is currently occupied by elepaio. Designated lands include the existing subpopulations, and also provide for the expansion and recovery of existing subpopulations by including adjacent lands in Manaiki, Waimalu, Waimano, Manana, Waiawa, Kipapa, Kaukonahua, and Poamoho on the leeward (western) side, and in Waihee, Kaalaea, Waiahole, Waikane, and Kahana on the windward (eastern) side that are currently unoccupied but were occupied since 1975. Unit 3 also includes wet shrub land and cliff habitats along the Koolau summit that provide for dispersal of elepaio between the windward and leeward sides of the Koolau Mountains. The existing core subpopulations are geographically distant from each other and probably are isolated. Restoration of elepaio in intervening areas would increase the chances of dispersal and genetic exchange between subpopulations. Currently unoccupied habitat lies on the Oahu Forest National Wildlife Refuge, U.S. Army Schofield Barracks East Range, U.S. Army Fort Shafter, Ewa and Waiahole State Forest Reserves, Kahana Valley State Park, and 9 privately owned parcels. The narrow indentation in the southern portion of Unit 3 reflects the H–3 freeway and adjacent cleared areas in North Halawa Valley.

Unit 4: Kalihi-Kapalama

Unit 4 consists of approximately 804 ha (1,987 ac) encompassing the higher elevations of the leeward (western) side of the central Koolau Mountains above Kalihi and Kapalama. It is bounded on the north by the Likelike Highway and on the south by the Pali Highway. Natural features of the unit include the upper portions of Kalihi, Kamanaiki, and Kapalama valleys. Vegetation consists primarily of mixed-species wet and mesic forest composed of native and introduced plant species (Hawaii Heritage Program 1991). The higher elevations are primarily native forest dominated by ohia and koa, but the lower elevations are more disturbed and are dominated by introduced plant species. This unit is not known to contain any elepaio at present, but it was occupied within the last 20 years, still contains suitable forest habitat, and provides an important habitat stepping-stone that increases the chances of dispersal and genetic exchange between elepaio subpopulations in the central and southern Koolau units. This unit includes lands within the State of Hawaii Honolulu Watershed Forest Reserve, two parcels owned by the City and County of Honolulu, and 3 private parcels.

Unit 5: Southern Koolau Mountains

Unit 5 consists of approximately 4,180 ha (10,329 ac) encompassing the higher elevations of the southern Koolau Mountains. It is bounded on the west by the Pali Highway. Natural features of the unit include: the summit of the southern Koolau Mountains, including Konahuanui, the highest peak in the Koolau Range at 960 m (3,150 ft), the upper portion of Maunawili Valley on the windward (northern) side of the mountains, and the upper portions of numerous narrow valleys separated by steep ridges on the leeward side, including (from east to west) Kaalakei, Kuliouou, Kupaua, Pia, Kului, Wailupe, Kapakahi, Waialae Nui, Palolo, Manoa, Tantalus, and Pauoa. The vegetation consists primarily of mixed-species wet, mesic, and dry forest communities, with small areas of mesic shrub land and wet cliff plant communities (Hawaii Heritage Program 1991). The higher elevations are primarily native forest dominated by ohia and koa, but the lower elevations are more disturbed and are dominated by introduced plant species, particularly guava, kukui, christmasberry, and mango.

Unit 5 contains the largest remaining elepaio subpopulation, located in Kuliouou, Kupaua, Pia, Kului, Wailupe, Kapakahi, and Waialae Nui valleys, and two smaller elepaio populations located nearby in Palolo and Manoa valleys. Twenty-nine percent of Unit 5 is currently occupied by elepaio. The current distribution of elepaio in the southern Koolau Mountains represents a remnant of what was once a single, large, continuous population. In addition to protecting the largest remaining subpopulation and two smaller subpopulations, designated lands in Unit 5 provide for recovery through expansion of existing subpopulations by including currently unoccupied lands in Maunawili, Palolo, Manoa, Nuuanu, Tantalus, and Pauoa that were occupied since 1975 and contain the most preferred forest types. Designated lands in Unit 5 also provide for recovery by including shrub land and wet cliff habitats along the Koolau summit that are used for dispersal and link subpopulations on the windward and leeward sides of the Koolau Mountains, thereby increasing the potential genetic exchange and maintenance of optimal sex ratios. Restoration of elepaio in unoccupied lands in Tantalus and Pauoa at the western end of Unit 5 would increase the chances of dispersal and genetic exchange between the southern Koolau

subpopulation and the central Koolau subpopulation. Ownership within Unit 5 consists of the Honolulu Watershed, Maunawili, and Kuliouou State Forest Reserves, several parcels owned by the City and County of Honolulu, and nine private parcels.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat. Destruction or adverse modification occurs when a Federal action directly or indirectly alters critical habitat to the extent it appreciably diminishes the value of critical habitat for the conservation of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat was designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, the Federal action agency would ensure that the permitted actions do not destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we would also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat.

Activities on Federal lands that may affect the elepaio or its critical habitat will require section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act, or some other Federal action, including funding (e.g., from the Federal Highway Administration, Federal Aviation Administration, Federal Emergency Management Agency, or Natural Resources Conservation Service) will also continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal lands that are not federally funded or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to evaluate briefly in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may result in the destruction or adverse modification of critical habitat include those that alter the primary constituent elements to an extent that the value of critical habitat for the survival and recovery of the elepaio is appreciably reduced. We note that such activities also may jeopardize the continued existence of the species. Activities that may directly or indirectly adversely affect critical habitat for the Oahu elepaio include, but are not limited to:

(1) Removing, thinning, or destroying elepaio habitat (as defined in the Primary Constituent Elements discussion), whether by burning, mechanical, chemical, or other means (e.g., woodcutting, grading, overgrazing, construction, road building, mining, herbicide application, etc.).

(2) Appreciably decreasing habitat value or quality as an indirect effect of an action (e.g., introduction or promotion of potential nest predators, diseases or disease vectors, vertebrate or invertebrate food competitors, or invasive plant species; forest fragmentation; overgrazing; augmentation of feral ungulate populations; water diversion or impoundment, groundwater pumping, or other activities that alter water quality or quantity to an extent that these activities affect vegetation structure or produce mosquito breeding habitat; and activities that increase the risk of fire).

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat.

Actions likely to result in the destruction or adverse modification of critical habitat would almost always result in jeopardy to the species concerned, particularly when the area affected by the proposed action is occupied by the species concerned. In those cases, critical habitat provides little additional protection to a species, and the ramifications of its designation

are few or none. However, critical habitat designation in unoccupied areas may trigger consultation under section 7 of the Act where it would not have otherwise occurred if critical habitat had not been designated.

Federal agencies already consult with us on activities in areas currently occupied by the species to ensure that their actions do not jeopardize the continued existence of the species. These actions include, but are not limited to:

(1) Regulation of activities affecting waters of the United States by the Army Corps of Engineers under section 404 of the Clean Water Act;

(2) Regulation of water flows, damming, diversion, and channelization by Federal agencies;

(3) Development on private or State lands requiring permits from other Federal agencies, such as the Department of Housing and Urban Development;

(4) Military training or similar activities of the U.S. Department of Defense (Army and Navy) on their lands or lands under their jurisdiction at Schofield Barracks, Makua Military Reservation, Fort Shafter, Kawailoa Training Area, and Pearl Harbor Naval Magazine Lualualei Branch;

(5) Construction of communication sites licensed by the Federal Communications Commission;

(6) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities by Federal agencies;

(7) Hazard mitigation and post-disaster repairs funded by the Federal Emergency Management Agency; and

(8) Activities not previously mentioned that are funded or authorized by the U.S. Department of Agriculture (Forest Service, Natural Resources Conservation Service), Department of Defense, Department of Transportation, Department of Energy, Department of the Interior (U.S. Fish and Wildlife Service, U.S. Geological Survey, National Park Service), Department of Commerce (National Oceanic and Atmospheric Administration), Environmental Protection Agency, or any other Federal agency.

If you have questions regarding whether specific activities would constitute adverse modification of critical habitat, contact the Field Supervisor, Pacific Islands Ecological Services Field Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife and plants and inquiries about prohibitions and permits should be directed to the U.S. Fish and Wildlife Service, Endangered Species Act Section 10 Program at the same address.

Exclusions Under Section 4(b)(2)

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific and commercial information available, and that we consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat designation if the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We conducted an analysis of the economic impacts of designating these areas as critical habitat prior to a final determination. We find that in no area do the benefits of exclusion outweigh the benefits of inclusion, and we did not exclude any areas under Section 4(b)(2).

Currently, no habitat conservation plans (HCPs) include the Oahu elepaio as a covered species. However, we believe that in most instances the benefits of excluding HCPs from critical habitat designations will outweigh the benefits of including them. In the event that future HCPs are developed within the boundaries of proposed or designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of this species. This will be accomplished by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the critical habitat.

We will provide technical assistance and work closely with applicants throughout the development of any future HCPs to identify lands essential for the long-term conservation of the Oahu elepaio and appropriate management for those lands. The take minimization and mitigation measures provided under such HCPs would be expected to protect the essential habitat lands designated as critical habitat in this rule and provide for the conservation of the covered species. Furthermore, we will complete intra-Service consultation on our issuance of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat.

Summary of Comments and Recommendations

In the proposed rule published on June 6, 2001 (66 FR 30372), we requested that all interested parties submit comments on the proposal. We also contacted all appropriate State and Federal agencies, county governments, landowners, and other interested parties and invited them to comment. In addition, we requested three expert ornithologists and conservation biologists to provide peer review of the proposed critical habitat designation. The first comment period closed on August 6, 2001 (66 FR 30372). The comment period was reopened from August 6 to September 6, 2001, to allow for comments on the draft economic analysis of the proposed critical habitat and additional comments on the proposed rule (66 FR 40960).

We received a total of 22 written comments during the two comment periods. Comments were received from 2 Federal agencies, 5 State agencies, 8 private organizations or individuals, and 3 peer reviewers. Four commenters provided comments in both comment periods. We reviewed all comments received for substantive issues and new data regarding critical habitat and the Oahu elepaio. Peer reviewer comments are summarized separately in the next paragraph. Public comments are grouped into 4 general issues relating to the proposed critical habitat determination and draft economic analysis, and are addressed in the following summary.

All three peer reviewers thought our methods for designating critical habitat were sound, the best available scientific information was used, and the relevant scientific literature, reports, and recent research were summarized adequately. All three also felt that inclusion of currently unoccupied areas was justified and well supported, and that the definition of primary constituent elements and the criteria used to identify critical habitat were comprehensive, valid, and justified. One reviewer commented that the short dispersal distances of elepaio offspring justify the inclusion of large tracts of contiguous forest. Two reviewers felt that the size and distribution of the units would allow for development of sustainable populations, but one reviewer expressed some doubt whether the amount of critical habitat proposed, which is similar to the area occupied in 1975, was sufficient to ensure the survival of the species, because the distribution in 1975 was unstable. Finally, one reviewer suggested that the importance of wet stunted forest and dry shrubland for dispersal should be more clearly demonstrated if possible. None of the reviewers provided new information about the biology or distribution of elepaio or about areas that should be considered essential to its conservation.

Issue 1: Biological Justification and Methodology

(1) *Comment:* Several commenters supported the CH designation and felt that critical habitat is needed because habitat loss is one of the primary causes in the decline of the Oahu elepaio.

Service Response: Habitat loss has been an important factor in the decline of the Oahu elepaio; 56 percent of the former range has been lost to urban and agricultural development.

(2) *Comment:* Several commenters supported the inclusion of unoccupied habitat due to the clear need for the elepaio to expand outside currently occupied areas if it is to recover.

Service Response: As stated in both the proposed rule and this final rule, the small population size and fragmented distribution of the Oahu elepaio make it vulnerable to extinction. Each of the currently occupied areas is too small to support a viable long-term population, and recovery will require restoration of elepaio in areas that were formerly inhabited.

(3) *Comment:* The area proposed as critical habitat is larger than necessary. One commenter stated that a smaller area than that proposed would meet all legal requirements and lessen the regulatory burden. Based on the area of the proposed critical habitat (26,853 ha, 66,354 ac) and the current population density of elepaio on Oahu (37.6 birds per square kilometer), the area proposed would provide habitat for 10,100 elepaio. The commenter asserted that elepaio occur at densities over 200 birds per square kilometer on other islands, that it is possible to attain densities of 50–100 elepaio per square kilometer on Oahu, so that less land is needed to support the same number of elepaio.

Service Response: The critical habitat designation was based on the distribution of lands required to support a viable population of elepaio, not on the amount of land required to support a certain number of elepaio. The viability of a population depends not only on the number of birds, but also on their distribution. We feel the distribution of lands in the designation, in large blocks of contiguous habitat, is necessary for the long-term conservation of elepaio on Oahu, as a large number of birds distributed in many tiny habitat fragments is less likely to persist than birds in a single large population or in several well-connected populations. We also believe the current density of elepaio on Oahu, 37.6 birds per square kilometer, is a reasonable estimate of the overall potential population density throughout the entire area designated as critical habitat. It probably will be possible to restore elepaio to densities of 50–100 birds per square kilometer in some large blocks of dense forest, but in other areas density probably will be lower than 37.6 birds per square kilometer because it will be difficult to establish populations in other portions of the former range. The density we used to estimate the potential population is an average value.

(4) *Comment:* Several commenters supported the designation of critical habitat on military lands, citing the threats from military training, particularly fire, to the elepaio.

Service Response: We included all areas containing the primary constituent elements that are essential to the conservation of the elepaio, regardless of ownership. We determined that no areas, including military lands, were sufficiently protected so as not to meet the definition of critical habitat under section 3(5)(A)(i)(II) of the Act, or qualified for exclusion from critical habitat under Section 4(b)(2) of the Act. Also see comments 6 and 7.

(5) *Comment:* Critical habitat designation is not appropriate in particular areas. One commenter stated it was not appropriate to designate critical habitat in areas that are not occupied by the elepaio, and that none of the physical or biological features necessary to the conservation of the species are present in unoccupied areas. The Army requested that an area southeast of Puu Pane be removed from Unit 1 because it is marginal habitat for the elepaio and has limited potential for recovery.

Service Response: All currently unoccupied areas designated as critical habitat were occupied by elepaio within the past 25 years, and these areas still contain the primary constituent elements needed by the elepaio. Even if the threats responsible for the decline of the elepaio were controlled, the existing subpopulations would be unlikely to persist because their small sizes and isolation make them vulnerable to extinction due to a variety of natural processes, such as inbreeding depression, loss of genetic variability due to genetic drift, decreased evolutionary potential and ability to cope with environmental change, random fluctuations in population size and sex ratio, and catastrophes such as hurricanes. Unoccupied areas that still contain the primary constituent elements are needed for recovery to allow the number of elepaio to increase. (Also see comment 2 and summary of reviewer's comments).

Since the proposed rule was published we visited the area southeast of Puu Pane with Army biologists, and we agree with the Army that it is marginal habitat for the elepaio and should not have been included in the proposed designation. Much of this area consists of exposed ridges and steep slopes that support dry shrubland, and most of the remainder is dominated by Eucalyptus robusta, an alien tree that is not favored by elepaio. The small forested areas in the dry gulches southeast of Puu Pane could support at most a few pairs of elepaio, and they are isolated from other forested areas and would not serve as habitat stepping stones between other subpopulations. In this final rule we removed 48 ha (119 ac) from the proposed rule that should not be designated as critical habitat.

(6) *Comment:* The U.S. Navy requested that lands in NAVMAG Pearl Harbor Lualualei Branch be excluded from the critical habitat designation because existing protections and management are sufficient, thereby resulting in their lands not requiring special management or protection and not meeting the definition of critical habitat under Section 3(5)(A) of the Act. The Navy also stated that it has prepared a full management strategy for the Oahu elepaio in the pending INRMP for NAVMAG Pearl Harbor Lualualei Branch, which includes an evaluation of population distribution, quality and quantity of nesting habitat, threats, and management needs for recovery. The Navy maintains that the management strategy in the INRMP provides adequate management and protection and should exempt NAVMAG Pearl Harbor Lualualei Branch from critical habitat.

Service Response: The primary threats to the elepaio, predation by alien rats and diseases carried by alien mosquitoes, have not been addressed on Navy lands. The Navy conducts predator control in a small wetland in Lualualei to protect endangered waterbirds, but this site is several kilometers from elepaio critical habitat and provides no benefit to elepaio. After reviewing the draft INRMP for NAVMAG Pearl Harbor Lualualei Branch, we have determined that it does not provide for adequate protection or management for the Oahu elepaio. The draft INRMP does not include a management strategy for the Oahu elepaio and does not provide an evaluation of population distribution, quality and quantity of nesting habitat, threats, and management needs for recovery.

We agree that INRMPs can provide adequate management and protection of military lands such that they no longer require critical habitat designation. To determine if an INRMP provides

adequate management or protection we consider: (1) Whether there is a current plan specifying the management actions and whether such actions provide sufficient conservation benefit to the species; (2) whether the plan provides assurances that the conservation management strategies will be implemented; and (3) whether the plan provides assurances that the conservation management strategies will be effective, i.e., provide for periodic monitoring and revisions as necessary. If all of these criteria are met, then under current Service policy the lands covered under the plan would no longer meet the definition of critical habitat.

(7) *Comment:* The U.S. Army stated that current management actions for the Oahu elepaio at Schofield Barracks and Makua Military Reservation and existing wildfire management programs afford adequate protection for the elepaio, suggesting these areas should be excluded from critical habitat.

Service Response: We agree that the Army has conducted some valuable management for the elepaio, but thus far only a small fraction of elepaio on Army lands have benefited from management activities such as rodent control, and the threat to elepaio at Schofield Barracks of wildfires resulting from training activities has not been managed adequately. Larger scale rodent control and improved fire management will be necessary to meet the long-term conservation needs of the elepaio. We have determined that current management does not adequately address the conservation needs of the Oahu elepaio, and that Army lands cannot be excluded from critical habitat under Section 3(5)(A)(i)(II).

(8) *Comment:* Before final designation, the Service should ground-truth all suitable habitat and the known range of elepaio to maximize the area available for recovery.

Service Response: The critical habitat designation was based on the best information available at the time, and included data from numerous surveys by university, State, military, and private biologists. We recognize that more information on habitat suitability and distribution of the elepaio would be useful, and the Service recently ground-truthed several areas. If new scientific information shows that there is a need to add or remove lands from the critical habitat, an amendment or correction to the designation could be considered.

Issue 2: Policy and Regulations

(9) *Comment:* Efforts by the Service to protect elepaio habitat must include incentives and support for landowners to manage habitat. Several commenters mentioned that they have ongoing management for elepaio, and four commenters urged the Service to provide financial and technical support to private landowners to implement additional voluntary predator control and habitat management.

Service Response: The Service agrees there is a need to provide financial and technical support to private landowners who would like to help recover listed species. Since the proposed rule was published, the Partners for Fish and Wildlife Program of the Service has provided a private land manager with money to manage elepaio habitat through the Hawaii Community-Based Endangered Species Conservation Initiative. The Service also is working, in collaboration with the State Department of Land and Natural Resources, to design potential Safe Harbor Agreements with private landowners under section 10 of the Act, in which the Service would provide technical support and up to 75 percent of the cost of managing habitat for elepaio recovery. One Safe Harbor Agreement is approved and funded, and there is potential to develop more. (see also comments 13 and 22).

(10) *Comment:* Several commenters questioned whether critical habitat designation would provide any benefit to the elepaio, particularly on privately owned lands with no Federal nexus. One commenter requested that, since there are no discernible benefits to including private lands in the designation, such lands be excluded under Section 4(b)(2) of the Act. Another commenter stated that the majority of land proposed as critical habitat already is protected by State conservation zoning, Natural Area Reserves, Forest Reserves, and watershed partnerships, and that critical habitat designation is not necessary and would duplicate existing zoning and land use protection.

Service Response: It is true that most (99.6%) of the critical habitat for the Oahu elepaio is in areas that already receive protection from State regulations, zoning restrictions, private preserves, and partnerships, but the critical habitat designation provides an additional type of protection that only affects actions carried out, funded, or permitted by the Federal Government. If actions with a Federal nexus occur on State, County, or private lands, then critical habitat designation will ensure that those actions do not adversely modify the habitat elements important to the elepaio. Over 39,000 acres of the critical habitat are in the Resource Subzone of the State Conservation District, which allows such actions as commercial forestry, mining, and extraction of any material or natural resource. An additional 1,136 acres are in the General Subzone of the Conservation District, which in addition to the activities listed above, allows farming, nurseries, orchards, and grazing. Critical habitat designation ensures that any of these actions on State conservation lands that involve a Federal nexus will not adversely modify critical habitat. Because State Conservation zoning already places limitations on land use, we expect very few if any economic impacts from the designation of critical habitat.

Critical habitat designation provides educational as well as regulatory benefits. Attention brought by critical habitat designation can help educate the public about the conservation needs of a species, aid landowners and managers in focusing and concerting management efforts, and can even result in increased funding opportunities (see response to comment 9).

(11) *Comment:* Critical habitat designation will result in expensive additional land management requirements for private landowners. There is no benefit to designating critical habitat on the property of a small landowner if they do not have the resources to manage the area and government agencies do not have access for management.

Service Response: Critical habitat designation does not require any additional management to be done by private landowners, State agencies, or the Federal Government. Critical habitat designation does not create a wilderness area or preserve; it does not require fencing, control of rodents, ungulates, or weeds; and it does not close an area to hunting or hiking. It requires only that actions carried out, funded, or permitted by the Federal Government must not destroy or adversely modify critical habitat. The decision to manage land to control threats to the elepaio, such as nest predation or disease, is separate from critical habitat designation and at the discretion of the landowner.

(12) *Comment:* Designation of critical habitat may discourage private landowners from entering cooperative management programs such as watershed partnerships, particularly if a landowner is concerned or uncertain about Federal regulations.

Service Response: The goals of watershed partnerships are compatible with the conservation needs of the Oahu elepaio and with the objectives of critical habitat. There is no reason that critical habitat designation should discourage private landowners from entering watershed partnerships. We

welcome the opportunity to discuss concerns or uncertainties about critical habitat regulations with any such partnership. Our Partnerships Program is actively involved in cooperative management programs, such as watershed partnerships, and helps guide and fund partnerships toward good land stewardship practices.

(13) *Comment:* Money spent on this and future regulatory processes to enforce critical habitat could be much better spent on management activities. More management, not more regulations, can best address the decline of the elepaio.

Service Response: We agree that greater management of threats such as predation and disease is needed for recovery of the elepaio, but habitat protection also is essential to the recovery of the elepaio, and critical habitat is a method of habitat protection. The Service provides financial and technical support for several elepaio recovery actions, and critical habitat designation can lead to increased funding opportunities for recovery actions (see comments 9 and 22).

(14) *Comment:* One commenter questioned the Service's policy not to include existing structures within the boundaries of the mapped critical habitat units because doing so could create confusion as to whether a given area contains the primary constituent elements and thus whether section 7 consultation is necessary.

Service Response: Within the critical habitat units there are numerous small structures that do not contain the primary constituent elements required by the elepaio, such as buildings, roads, aqueducts, water tanks, and antennas. Including such structures in the critical habitat designation would imply that they are required by the elepaio and therefore must be present for the elepaio to survive, which is not true and easily could be misinterpreted. In the text of the proposed rule we therefore stated that any such features within the critical habitat units are not included in the critical habitat designation. The alternative to describing such features in the text is to depict each one as a ''hole'' in the critical habitat. However, these structures are too small to be visible on a map and it was impossible to map every existing structure that does not contain the primary constituent elements. A few structures, such as the H–3 freeway and the Palehua Road, are large enough to be mapped.

(15) *Comment:* One commenter objected to the suggestion in the proposed rule that habitat cannot be ''critical'' unless it contains the primary constituent elements, and stated that for unoccupied areas the only relevant consideration is whether the area is essential for the conservation of the species. Some unoccupied areas may be degraded, but that does not mean they do not require protection from further adverse modification for the elepaio to have a chance at recovery.

Service Response: We recognize that areas outside the boundaries of the critical habitat may be suitable for elepaio recovery, and that it is possible, although perhaps expensive, to restore degraded areas that do not currently contain the primary constituent elements. The focus of critical habitat, however, is the area essential to the conservation of the species. For some species there may not be sufficient land available that contains the primary constituent elements, and it may be necessary to restore additional habitat in order to provide for the conservation of the species. In the case of the Oahu elepaio, we believe that the designated critical habitat does contain the areas essential to the conservation of the species, and that these lands alone are sufficient to provide for its recovery. This does not mean that areas outside the designated critical habitat units are not suitable and cannot be used for elepaio recovery, nor does it imply that they should not be protected or restored. It simply reflects our conclusions that sufficient lands are available that already contain the primary constituent elements.

(16) *Comment:* One commenter urged the Service not to exclude any areas containing the primary constituent elements, including areas covered by Conservation Agreements and Safe Harbor Agreements, that are being managed to address the conservation needs of the species and therefore allegedly do not meet the definition of critical habitat in Section 3(5)(A) of the Act because they do not require special management or protection.

Service Response: No areas were excluded from the designation on the basis that current management was adequate and special management or protection was not required. Currently there are no Conservation Agreements or Safe Harbor Agreements that include the Oahu elepaio.

(17) *Comment:* The inability to use flares and tracer ammunition at Schofield Barracks would require that the Army conduct all such training elsewhere, which would have tremendous economic impact and would adversely affect training readiness.

Service Response: Designation of critical habitat for the Oahu elepaio on Army lands would not necessarily prohibit any training activities or the use of any type of ammunition at Schofield Barracks. The critical habitat does not contain any lands used for training, but an impact area for live-fire training is adjacent to critical habitat. The primary potential effect on elepaio from military training at Schofield Barracks is the risk of wildfires that cross the firebreak road and burn forested areas comprising the critical habitat. If an adequate fire management plan is implemented and fires that affect critical habitat are controlled, there should be no effect on elepaio from military training and no changes needed to the types of training conducted at Schofield Barracks.

Although it would be possible, but more expensive, to conduct training with flares and tracer ammunition at an alternate site, we believe that moving such training is not necessary if the risk of fires resulting from use of such munitions at Schofield Barracks is adequately controlled. A detailed fire management plan has been prepared for nearby Makua Military Installation, but the draft INRMP for Schofield Barracks does not contain a full fire management plan and currently there are no specific procedures to control wildfires at Schofield Barracks. Because most of the critical habitat at Schofield Barracks is occupied by elepaio, the effect of military training on elepaio would require consultation under Section 7 of the Act even if critical habitat were not designated. Since the area is occupied by elepaio, consultations will point to a need for a fire management plan regardless of any CH designation, which, if adequately done, will moot any impact to the Army from the critical habitat designation. The Service expects to work with the Army on the development of a sound fire management plan for Schofield Barracks and on minimizing or mitigating potential impacts of training on the elepaio in ways that will not compromise training readiness.

Issue 3: Economic Issues

(18) *Comment:* Several commenters stated that critical habitat designation will have an adverse economic impact to private landowners, and requested that a particular area be excluded from designation under Section 4(b)(2) because costs outweigh benefits. One commenter pointed out that the draft economic analysis found that the area along Palehua Road might experience a large economic impact, and that exclusion of the area would not compromise conservation objectives, would maximize efficiency of private land use for commercial purposes, and

would not result in extinction of the species.

Service Response: Critical habitat designation would not affect any uses of private land unless actions on the land were carried out, funded, or somehow permitted by the Federal Government. The economic analysis showed that the economic impact of the proposed critical habitat designation would be minimal in most areas, and that only a few locations potentially could experience a moderate impact. Some of the areas where the economic impact might be moderate also are of high value to the elepaio, and we feel that the benefits of inclusion outweigh the benefits of exclusion.

Since publication of the proposed rule, we have re-evaluated the Palehua Road area and decided that for biological reasons it should not have been included in the proposed designation, and we removed it from the final designation (see Summary of Changes From the Proposed Rule).

(19) *Comment:* One commenter expressed concern about the impact of critical habitat designation on agricultural resources, particularly the water catchment and distribution facilities of the Waiahole Ditch (which is within the boundaries of Unit 3), and recommended that a corridor be established around the ditch excluding it from critical habitat. This ditch is the sole source of irrigation water for several thousand acres of agricultural land in south-central Oahu, and it will require periodic maintenance.

Service Response: Existing features and structures within the boundaries of the critical habitat units, such as the Waiahole Ditch, are not included in the critical habitat because they do not contain the primary constituent elements needed by the elepaio. Maintenance of these features and structures would only be affected by the critical habitat designation and would only require section 7 consultation if the maintenance is federally funded or permitted and if the action affected the species or the primary constituent elements in adjacent areas of critical habitat. It was not practical to create a corridor in the critical habitat around the Waiahole Ditch because the ditch is too small.

(20) *Comment:* One commenter objected to the draft Economic Analysis because it does not meet the requirements of the Tenth Circuit Court's opinion in *New Mexico Cattle Growers Association* v. *U.S. Fish and Wildlife Service,* No. 00–2050, May 11, 2001, which requires a full analysis of all economic impacts of a critical habitat designation, regardless of whether those impacts are attributable co-extensively to other causes.

Service Response: On May 11, 2001, the U.S. Court of Appeals for the Tenth Circuit issued a ruling that addressed the analytical approach used by the Service to estimate the economic impacts associated with the critical habitat designation for the southwestern willow flycatcher. *New Mexico Cattle Growers Association* v. *U.S. Fish and Wildlife Service,* 248 F.3d 1277 (10th Cir. 2001). Specifically, the court rejected the approach used by the Service to define and characterize baseline conditions. Defining the baseline is a critical step in an economic analysis, as the baseline in turn identifies the type and magnitude of incremental impacts that are attributed to the policy or change under scrutiny. In the flycatcher analysis, the Service defined baseline conditions to include the effects associated with the listing of the flycatcher and presented only the incremental effects of the rule.

We have revised the economic analysis for the Oahu elepaio through the Addendum to specifically address the Tenth Circuit Court's instructions. Specifically, the economic analysis quantifies, to the extent possible, the effects of section 7 in its entirety on current and planned activities that are reasonably expected to occur in the near future within proposed critical habitat. For these reasons we believe the economic analysis of the critical habitat designation for the Oahu elepaio meets the requirements of the Tenth Circuit Court's opinion.

Issue 4: Other Relevant Issues

(21) *Comment:* The Service and other agencies should work together in a cooperative fashion to benefit endangered species. The U.S. Navy commented that, although this critical habitat designation was generated as a result of litigation, that fact should not limit the ability of the Navy and the Service to work together. A State agency commended the Service for the process used in developing the critical habitat designation for the Oahu elepaio, and commented that State and Service biologists have worked together to identify and manage important habitat for the Oahu elepaio.

Service Response: We fully agree, and we expect to continue working closely with all Federal and State agencies and private landowners and managers in developing effective management for the elepaio and other endangered species. We see no reason that this designation, or any other action that results from litigation, should affect existing positive working relationships.

(22) *Comment:* Current management efforts fall short of meeting the conservation needs of the Oahu elepaio. Recovery of the elepaio will require larger, landscape-scale management, more funding, and possibly different methods, such as aerial broadcast of rodenticide to control rodents.

Service Response: We agree that current management is not sufficient and that recovery of the elepaio will require not just habitat protection but large-scale active habitat management. Both the proposed rule and this final rule clearly state that additional management will be necessary for recovery of the elepaio. The Service has provided technical assistance with rodent control to the U.S. Army, the U.S. Navy, the State, and private land managers, and financial support for rodent control to the State and private managers. We also are actively involved in obtaining EPA registration for aerial broadcast of rodenticide, which will be an important tool in reducing the threat from nest predation by rats.

(23) *Comment:* The critical habitat designation for the Oahu elepaio directly conflicts with approved Federal recovery plans for 12 endangered plant species, which identify control of introduced plant species as a needed recovery action. The proposed rule identifies the primary constituent elements for the elepaio as wet, mesic, and dry forest composed of both native and introduced plant species. Preservation of a native forest ecosystem should be emphasized and protected over a mixed or introduced forest. Mixed or introduced forest should be excluded as a primary constituent element of elepaio habitat.

Service Response: Elepaio are generalized in habitat use and are able to occupy a variety of forest types composed of many different plants, including native and introduced species. Many areas currently occupied by elepaio contain mostly introduced plants, but this does not mean that elepaio must have those introduced plants to survive. The structure of the forest is more important to elepaio than the species of plants present. The plant species listed in the description of primary constituent elements are examples of common plants in areas suitable for elepaio; it is not necessary for all those species to be present. The critical habitat designation for the Oahu elepaio does not require or advocate the preservation of introduced forests over native forests. Recovery actions for endangered native plant species that involve removal of alien plants do not conflict with recovery of the elepaio, as long as the alien plant species are

replaced with native plant species and the vegetative cover is retained in the long term. To avoid this misconception in the final rule, the description of the primary constituent elements has been changed to wet, mesic, and dry forest composed of native or introduced plant species.

(24) *Comment:* Several commenters supported the critical habitat designation for the Oahu elepaio, citing the species cultural significance to the Hawaiian people, its uniqueness and value to the Hawaiian ecosystem, its intangible existence value, and the benefits it provides to human communities that cannot be measured.

Service Response: We recognize the cultural and natural significance of the Oahu elepaio. The elepaio is familiar to many people in Hawaii, and it has served as a symbol not only for the natural environment, but also for conservation and collaborative management. In addition to being a guardian spirit of Hawaiian canoe makers, the elepaio was prominent in legends and folklore. Elepaio are often the first birds to sing in the morning, and their songs were thought to warn spirits of the night that their work must end because dawn was approaching.

(25) *Comment:* Hunting for various mammals and game birds currently is authorized in portions of all five critical habitat units. Because nothing in the proposed rule indicates there will be a curtailment or cessation of hunting, it must be assumed that current authorized hunting programs will continue. A well-designed hunting program is a vital element of game management and overall conservation. If hunting is considered to have negative impacts, or a hunting program is considered for expansion or improvement, hunter groups should be involved in any discussions or planning.

Service Response: Alteration of native ecosystems by feral mammals is not one of the primary threats to the Oahu elepaio, and no changes in authorized hunting programs are expected as a result of critical habitat designation for the Oahu elepaio. The Service agrees that in many circumstances a well-designed hunting program can be an important component in the conservation of native ecosystems in Hawaii by helping to control excessive damage caused by large populations of feral mammals. Should a change in authorized hunting programs result from this critical habitat designation, the Service would work with State agencies and hunting groups to address any concerns.

Summary of Changes From the Proposed Rule

In the proposed rule we attempted to use Hawaiian language diacritical marks in the spelling of Hawaiian words, but there were numerous conversion errors and the marks were not printed correctly. We published a correction to the proposed rule (66 FR 46428) in which we said we would ensure that the marks are either used correctly or eliminated. In this final rule we eliminated the diacritical marks because we cannot ensure they will be printed properly in the short time before the court-ordered publication deadline. We recognize the importance of using the marks to accurately portray the pronunciation of Hawaiian words and we regret not being able to use them, but we feel that printing the marks incorrectly would be worse than not using them.

Based partly on public comments received on the proposed determination of critical habitat for the Oahu elepaio and partly on additional biological examination of several areas, we re-evaluated our proposed designation of critical habitat for the Oahu elepaio. This resulted in the removal for biological reasons of five relatively small areas totaling 207 ha (513 ac) in this final determination, including: (1) 48 ha (119 ac) in Unit 1 on Schofield Barracks West Range; (2) 31 ha (77 ac) in Unit 2 around the Palehua-Mauna Kapu road; (3) 63 ha (156 ac) in Unit 2 in Nanakuli Valley; (4) 49 ha (121 ac) in Unit 3 in Keaiwa Heiau State Recreation Area; and (5) 16 ha (40 ac) in Unit 5 in and around Lyon Arboretum in Manoa Valley. These areas comprise less than 1 percent of the area originally proposed. The designation is based on the distribution of lands needed to support a viable population, not on the amount of land required to support a certain number of birds. The lands in question were all located on the edge of one of the habitat units and were unlikely to serve as habitat stepping stones between other forested areas. A more detailed discussion and justification for removal of each of these areas is provided below.

On Schofield Barracks West Range we removed 48 ha (119 ac) in the area southeast of Puu Pane, which was the easternmost portion of Unit 1, because it is less suitable for elepaio than we realized. This area consists largely of exposed ridges, steep dry slopes that support dry shrub land, and open forest dominated by *Eucalyptus robusta,* an introduced tree not favored by elepaio. The gulches contain small areas of more mesic forest that could support a few pairs of elepaio, but these areas are isolated from other suitable forest and would not provide habitat stepping stones between other elepaio subpopulations.

As a result of the economic analysis and information provided to us during the public comment period on the proposed rule, we learned that the area along the Palehua Road at the southern edge of Unit 2 contains a large concentration of telecommunication antennas and associated facilities, several houses, and other structures. The forest has been largely removed due to the extensive development, and the existing vegetation is dominated by ironwood (*Casuarina* spp.) and *Eucalyptus robusta,* introduced trees that are not favored by elepaio. The existing structures in this area were not included in the proposed designation because they are developed features that do not contain the primary constituent elements required by elepaio, but to make this more explicit and clear, we removed a total of 31 ha (77 ac) in a corridor roughly 200 meters wide centered on the road between Palehua and Mauna Kapu. Of this area, 24 ha (60 ac) is privately owned and 7 ha (17 ac) is owned by the State.

In Nanakuli Valley we removed 63 ha (156 ac) from the southwest corner of Unit 2 because it is does not contain forest with the primary constituent elements needed by elepaio and is unlikely to be useful for dispersal. This valley is much drier than we previously realized and contains mostly dry shrubland and grassland. Portions of the valley are very steep and contain almost no vegetation. This area is on the very edge of the potential elepaio distribution and is unlikely to serve as a link to other subpopulations because of its location.

In Unit 3, we removed 49 ha (121 ac) that contained developed areas of the Keaiwa Heiau State Recreation Area, including roads, parking areas, campsites, picnic areas, and restrooms. These are developed features and do not contain the primary constituent elements needed by the elepaio, and as such were not included in the proposed critical habitat. To clarify this, in this final rule we have moved the boundary so it does not include the developed section of the recreation area, but the higher, undeveloped section of the recreation area is retained.

Finally, we removed 16 ha (40 ac) on the edge of Unit 5 that consisted of landscaped areas in and near Lyon Arboretum in Manoa Valley. The landscaped gardens in Lyon Arboretum are developed features that do not contain the primary constituent

elements needed by the elepaio, and as such were not included in the proposed designation. To clarify this, in this final rule we moved the boundary so it does not include the lower, developed section of the arboretum, but it still contains the higher, undeveloped section.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial data available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat, but we cannot exclude such areas from critical habitat if the exclusion will result in the extinction of the species.

In the addendum, the methodology was modified to more fully describe and explore the baseline conditions attributable to the listing of the elepaio. This change in methodology is consistent with the planned modification discussed in the Foreword to the DEA, and is consistent with the ruling of the Tenth Circuit Court concerning the analytical approach used by the Service to estimate economic impacts. The results of the analysis cover economic impacts that are attributable to (1) both the listing of the elepaio as an endangered species and its critical habitat designation and (2) just the critical habitat designation. In general, cost and benefit estimates were not developed for projects and activities in cases where: (1) The economic impacts attributable to both the listing and the critical habitat are expected to be small, (2) the probability of the impacts occurring is small, (3) the impacts are highly speculative, or (4) data needed to quantify the impacts are not reasonably available.

An analysis of the economic impacts of critical habitat designation for the Oahu elepaio was prepared by Decision Analysts Hawaii, Incorporated, under subcontract to the Service through Industrial Economics, Incorporated, and was made available for public review from August 6 through September 6, 2001 (66 FR 40960). The final analysis, which reviewed and incorporated public comments, concluded that no significant economic impacts are expected from critical habitat designation. Few new developments, land uses, or other activities are expected in the critical habitat units because of the mountainous terrain, poor access, and existing conservation zoning. Most current and planned projects and land uses in the critical habitat areas have no Federal involvement, and thus would not be affected by critical habitat designation. Most activities with a Federal nexus involve the operation and management of existing facilities, and also would not be affected by critical habitat designation. The primary economic impact on most activities would be a small cost associated with an increased number of section 7 consultations and an increased length of time required for consultations resulting from critical habitat. There may be a modest economic impact of critical habitat designation on lands owned or controlled by the Department of Defense.

A copy of the final economic analysis and supporting documents are included in our administrative record and may be obtained by contacting the Pacific Islands Field Office (see **ADDRESSES** section). Copies of the final economic analysis also are available on the Internet at *http://pacificislands.fws.gov/wesa/endspindex.html*.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document has been reviewed by the Office of Management and Budget (OMB). OMB makes the final determination of significance under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis therefore is not required. The Oahu elepaio was listed as an endangered species in April 2000. In fiscal years 2000 through 2001 we have conducted two informal section 7 consultations with other Federal agencies to ensure that their actions would not jeopardize the continued existence of the Oahu elepaio. We have not issued any section 10(a)(1)(B) incidental take permits for the elepaio.

Under the Act, critical habitat may not be adversely modified by a Federal agency action; critical habitat does not impose any restrictions on non-Federal persons or agencies unless they are conducting activities funded or otherwise sponsored, authorized, or permitted by a Federal agency. Section 7 requires Federal agencies to ensure that they do not jeopardize the continued existence of this species. Based upon our experience with this species and its needs, we conclude that any Federal action or authorized action that could potentially cause adverse modification of proposed critical habitat would currently be considered as ''jeopardy'' under the Act in areas occupied by the species. Accordingly, the designation of currently occupied areas as critical habitat does not have any impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding beyond the existing impacts. The designation of areas as critical habitat where section 7 consultations would not have occurred but for the critical habitat designation may have impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding that are not attributable to the species listing. These impacts were evaluated in our economic analysis (under section 4 of the Act; see Economic Analysis section of this rule). Non-Federal persons or agencies that do not have Federal involvement in their actions are not restricted by the designation of critical habitat.

(b) This rule will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of the Oahu elepaio since its listing in April 2000. We evaluated the impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation in our economic analysis (see Economic Analysis section of this rule). The prohibition against adverse modification of critical habitat is not expected to impose any additional restrictions to those that currently exist on currently occupied lands and will not create inconsistencies with other agencies' actions on unoccupied lands. Specifically, construction and land management activities carried out by the Service on the newly created Oahu Forest National Wildlife Refuge are expected to benefit the elepaio and other listed species in the long term, and those actions therefore will not be affected by this designation. Storage of munitions by the U.S. Navy at NAVMAG Pearl Harbor Lualualei Branch is not expected to be affected by this designation because the lands used for munitions storage and those designated as critical habitat do not overlap, and storage of munitions on adjacent lands does not affect the elepaio. Training by the U.S. Army at Makua Military Reservation and Schofield Barracks is not expected to be affected by this designation because

wildfires caused by training exercises are the only means by which training may affect the elepaio, and the Army has implemented a detailed fire management plan for Makua and soon plans to implement a fire management plan for Schofield Barracks.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of a listed species, and, as discussed above, we do not anticipate that the adverse modification prohibition resulting from critical habitat designation will result in additional restrictions.

(d) OMB has determined that this rule raises novel legal or policy issues. Therefore, this rule is significant under E.O. 12866, and, as a result, has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement 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 effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The 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 effect on a substantial number of small entities. The SBREFA also amended the Regulatory Flexibility Act to require a certification statement. In this rule, we are certifying that the critical habitat designation for the Oahu elepaio will not have a significant effect on a substantial number of small entities. The following discussion explains our rationale.

Small entities include small organizations, such as independent non-profit organizations, small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (e.g., housing development, grazing, oil and gas production, timber harvesting, etc.). We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement. Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect the Oahu elepaio. Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat therefore could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities. However, since the Oahu elepaio was proposed for listing in October 1998, we have conducted only two informal consultations and one formal consultation, involving the Oahu Forest National Wildlife Refuge and the U.S. Army. As a result, the requirement to reinitiate consultation for ongoing projects will not affect any small entities.

In areas where the species clearly is not present, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act. We are aware of relatively few activities in the critical habitat for the Oahu elepaio that have Federal involvement and thus would require consultation or reinitiation of already-completed consultations for ongoing projects. Moreover, no activities currently undertaken by small entities in the critical habitat units have Federal involvement, nor, for the reasons explained herein, would Federal involvement be expected in the future, and thus we do not anticipate that this designation of critical habitat will result in any additional regulatory impacts to small entities.

Current activities with Federal involvement that will require consultation are; training by the U.S. Army; storage of munitions by the U.S. Navy; Federally funded land management and wildlife restoration and game-hunting projects; and improvements to communications facilities that require approval from the FCC. We are not aware of any additional projects that have been proposed, but potential future activities that might have Federal involvement include; maintenance of water diversion and flood control facilities that may require authorization from the Army Corps of Engineers under Section 404 of the Clean Water Act; watershed and restoration management projects sponsored by NRCS; projects to improve access and management for the Oahu Forest National Wildlife Refuge. The requirement in section 7(a)(2) to avoid jeopardizing listed species and destroying or adversely modifying designated critical habitat may result in Federal agencies requiring certain modifications to proposed projects.

The five critical habitat units identified in this rule consist of 15, 6, 37, 12, and 43 parcels, of which 0, 1, 16, 3, and 12 parcels are owned by 0, 1, 11, 3, and 9 different small entities, respectively. The majority of parcels are owned by the Federal government, the State of Hawaii, and the City and County of Honolulu, which are not small entities.

Of the lands designated as critical habitat for the Oahu elepaio, 99.6% are zoned for conservation. Projected uses of these lands consist of; recreation (hiking, camping, hunting, and fishing); protection of natural and cultural resources, including threatened and endangered species; watershed protection and management; ecotourism; and in certain areas, harvesting of natural resources under an approved management plan. As discussed in the economic analysis,

most of the critical habitat lands are in mountainous areas where access is difficult due to the steep terrain, and these lands are not suited to development or agriculture. Because use of the vast majority of lands designated as critical habitat already is limited by existing zoning regulations and mountainous terrain with difficult access, we do not anticipate a significant decline in property values as a result of this critical habitat designation.

Unit 5 includes a portion of one parcel in Wailupe Valley that is zoned for urban use and is occupied by elepaio. Residential development of this parcel was considered before 1970, but was abandoned due to the unstable nature of the soil in this area. The parcel recently was purchased by the City and County of Honolulu, and future development is unlikely. Unit 2 includes one parcel owned by the U.S. Navy that is partially zoned for agriculture, but this area is very dry and access is restricted by the Naval installation, making agriculture unlikely.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer ''reasonable and prudent alternatives.'' Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives. Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with section 7 consultations for all listed species, virtually all projects-including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations-can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. As we have a very limited consultation history for the Oahu elepaio, we can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this critical habitat designation. The kinds of actions that may be included in future reasonable and prudent alternatives include; conservation set-asides; management of non-native predators, particularly black rats; management of non-native mosquitoes that carry non-native avian diseases; restoration of degraded habitat; and regular monitoring. These measures are not likely to result in a significant economic impact to project proponents.

As required under section 4(b)(2) of the Act, we conducted an analysis of the potential economic impacts of this critical habitat designation, and that analysis was made available for public review and comment before finalization of this designation. Based on estimates provided in the economic analysis, the potential economic impact of critical habitat designation for the Oahu elepaio over the next 10 years ranged from $296,000 to $1,347,000, of which the cost to small entities ranged from $40,000 to $60,000. The high estimate of the total potential impact includes control of alien rodents in all Army and navy installations, which probably will not be required as a result of critical habitat designation, and implementation of a fire management plan at Schofield Barracks, which also is attributable to other purposes, so the lower estimate of $296,000 is a more realistic estimate of the impact attributable to the critical habitat designation. The estimate of the potential impact to small entities varied depending on the number of small entities attempting to investigate the implications of critical habitat designation on their land.

In summary, we have considered whether this rule would result in a significant economic effect on a substantial number of small entities. It would not affect a substantial number of small entities. The entire critical habitat designation involves fewer than 120 parcels, only 32 of which are owned by 23 different small entities. All of these parcels are zoned for conservation, and most of these parcels are located in mountainous areas where access is limited. Future uses of these lands are already limited, and are not expected to have Federal involvement or result or section 7 consultations. This rule would result in project modifications only when proposed Federal activities would destroy or adversely modify critical habitat. While this may occur, it is not expected frequently enough to affect a substantial number of small entities. Even when it does occur, we do not expect it to result in a significant economic impact, as the measures included in reasonable and prudent alternatives must be economically feasible and consistent with the proposed action. The kinds of measures we anticipate we would provide can usually be implemented at very low cost. Therefore, we are certifying that the designation of critical habitat for the Oahu elepaio will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we determined whether designation of critical habitat would cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not ''significantly or uniquely'' affect small governments. A

Small Government Agency Plan is not required. Small governments will only be affected to the extent that they must ensure that any programs involving Federal funds, permits or other authorized activities will not adversely affect the critical habitat.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Executive Order 13211

On May 18, 2001, the President issued Executive Order EO 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this is a significant regulatory action under Executive Order 12866, this final rule is not expected to significantly affect energy supplies, distribution, or use, therefore this action is not a significant energy action and no Statement of Energy Effects is required.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for the Oahu elepaio in a takings implication assessment. The takings implications assessment concludes that this final rule does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. As discussed above, the designation of critical habitat in areas currently occupied by the Oahu elepaio would have little incremental impact on State and local governments and their activities. The designations may have some benefit to these governments in that the areas essential to the conservation of these species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are identified. While this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning rather than waiting for case-by-case section 7 consultation to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order. We designate critical habitat in accordance with the provisions of the Act. The proposed rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Oahu elepaio.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required.

National Environmental Policy Act

We have determined that an Environmental Assessment or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. The designation of critical habitat for the Oahu elepaio does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this document is Eric A. VanderWerf, Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h) revise the entry for ''Elepaio, Oahu'' under ''BIRDS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
BIRDS							

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Elepaio, Oahu	*Chasiempis sandwichensis ibidis (Chasiempis sandwichensis gayi)*.	U.S.A. (HI)	Entire	E	696	17.95(b)	NA
*	*	*	*	*	*	*	

3. Amend § 17.95(b) by adding critical habitat for the Oahu elepaio (*Chasiempis sandwichensis ibidis*) in the same alphabetical order as this species occurs in § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) Birds.

* * * * *

Oahu elepaio (*Chasiempis sandwichensis ibidis*)

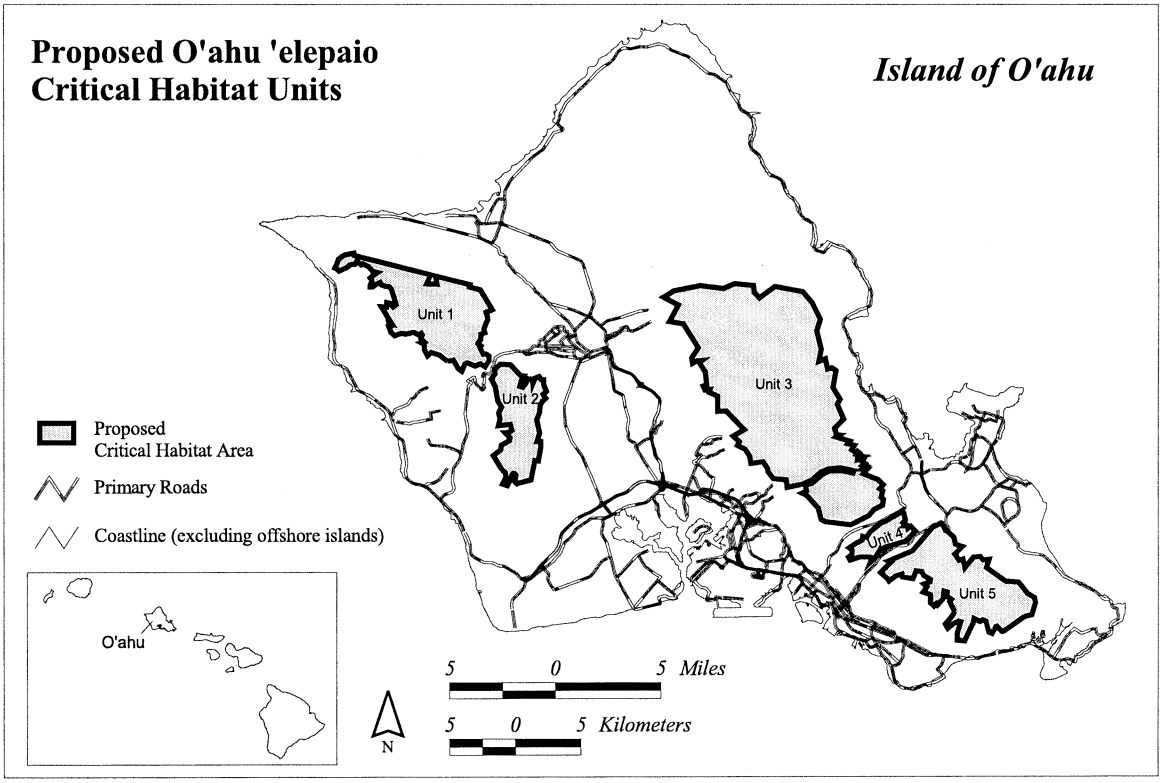
(1) Critical Habitat Units are depicted for the City and County of Honolulu on the maps below.

(2) (i) Within these areas, the primary constituent elements required by the Oahu elepaio are those habitat components that are essential for the biological needs of foraging, sheltering, roosting, nesting, and rearing of young. These primary constituent elements are undeveloped wet, mesic, and dry forest habitats with a generally continuous canopy and a dense understory and that are composed of native and/or introduced plant species. Such forests are found in valleys and on mountain slopes and ridges. The primary constituent elements associated with the biological needs of dispersal and genetic exchange are undeveloped wet or dry shrub land and wet or dry cliff habitats composed of native and/or introduced plant species that separate elepaio populations. Elepaio may not establish territories in shrub or cliff habitats and may use them only transiently, but undeveloped areas containing these habitats are important for linking populations by providing dispersal corridors and promoting genetic exchange among populations.

(ii) Within the forests and shrub lands providing the primary constituent elements, plant species composition varies with rainfall, elevation, and degree of habitat disturbance, and plant species occur in a variety of assemblages. Common native and introduced species within these plant assemblages include, but are not limited to, ohia (*Metrosideros polymorpha*), koa (*Acacia koa*), papala kepau (*Pisonia umbellifera*), lama (*Diospyros sandwicensis*), mamaki (*Pipturus albidus*), kaulu (*Sapindus oahuensis*), hame (*Antidesma platyphyllum*), alaa (*Pouteria sandwicensis*), aalii (*Dodonaea viscosa*), naupaka kuahiwi (*Scaevola spp.*), pukiawe (*Styphelia tameiameiae*), uluhe (*Dicranopteris linearis*), guava (*Psidium guajava*), strawberry guava (*P. cattleianum*), mango (*Mangifera indica*), kukui (*Aleurites moluccana*), christmasberry (*Schinus terebinthifolius*), ti (*Cordyline terminalis*), rose apple (*Syzygium jambos*), mountain apple (*S. malaccense*), and Java plum (*S. cumini*).

(3) Existing developed features and structures, such as buildings, roads, aqueducts, antennas, water tanks, agricultural fields, paved areas, lawns, and other urban landscaped areas, that do not contain one or more of the primary constituent elements, are not included as critical habitat.

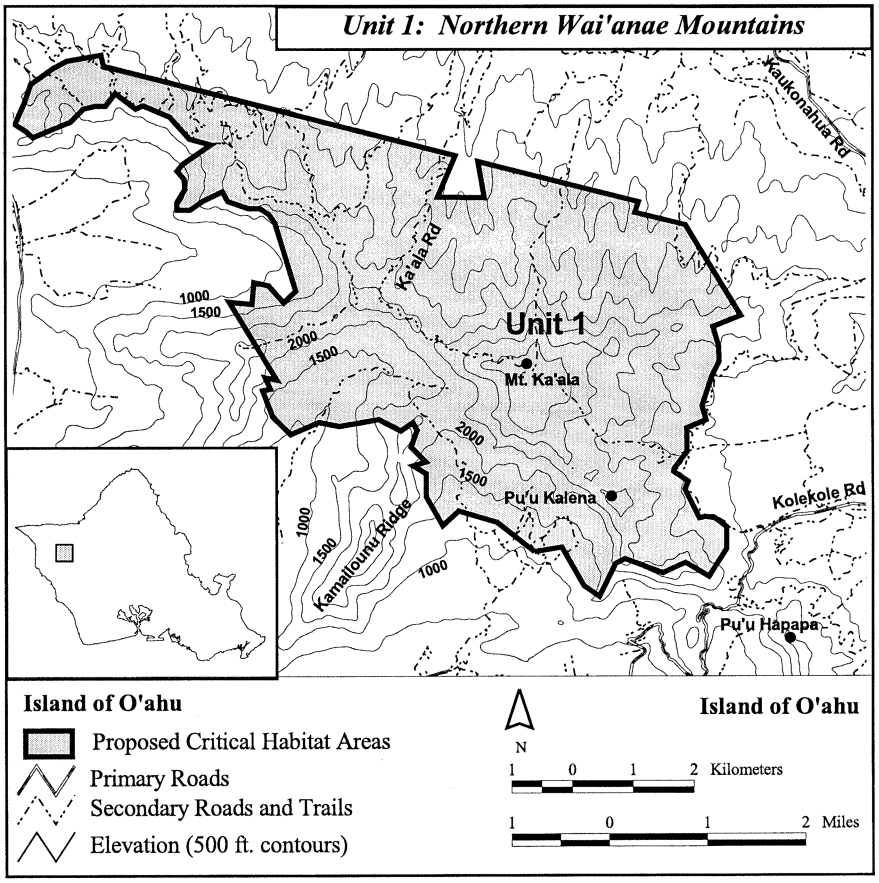
(4) Map of critical habitat units for the Oahu elepaio follows.



(5) Unit 1 (4,454 ha; 11,005 ac)

(i) Unit 1 consists of 94 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 588465, 2375750; 587846, 2376228; 587213, 2376416; 586946, 2376176; 586675, 2376658; 586672, 2377028; 586468, 2377154; 586672, 2377219; 586430, 2377462; 586532, 2377741; 586464, 2377863; 586261, 2377727; 585895, 2377915; 585242, 2377801; 584907, 2377864; 584433, 2377671; 584139, 2377961; 583974, 2378388; 584099, 2378414; 584016, 2378599; 584207, 2378563; 583425, 2379849; 583801, 2379814; 583831, 2380171; 584075, 2380122; 584324, 2379841; 584526, 2380031; 584181, 2381150; 584078, 2381295; 583938, 2381385; 583738, 2381388; 583402, 2381505; 583315, 2381668; 582998, 2381518; 582785, 2381368; 582566, 2381369; 582561, 2381485; 582694, 2381702; 582685, 2381865; 582566, 2382005; 582651, 2382112; 583122, 2382432; 582768, 2382529; 582445, 2382889; 581998, 2383075; 581881, 2383019; 581546, 2383276; 581387, 2383071; 581221, 2383069; 581023, 2383019; 580811, 2382809; 580192, 2382557; 580070, 2382662; 579894, 2382772; 580060, 2383144; 580151, 2383425; 580526, 2383690; 580750, 2383802; 581314, 2383901; 581353, 2383719; 587168, 2382252; 586876, 2381574; 587645, 2381564; 587539, 2382159; 590187, 2381495; 590131, 2381324; 590955, 2381123; 591864, 2379621; 591408, 2379439; 591501, 2379125; 591510, 2378867; 591393, 2378631; 591229, 2378138; 591294, 2377905; 590979, 2377773; 590984, 2377387; 590770, 2377109; 590760, 2377063; 590999, 2376896; 590945, 2376772; 591176, 2376297; 591268, 2376320; 591426, 2376305; 591624, 2376158; 591620, 2375793; 591334, 2375340; 590950, 2375570; 590580, 2375400; 589956, 2375632; 589799, 2375555; 589539, 2375014; 589285, 2375190; 588919, 2375824; 588465, 2375750.

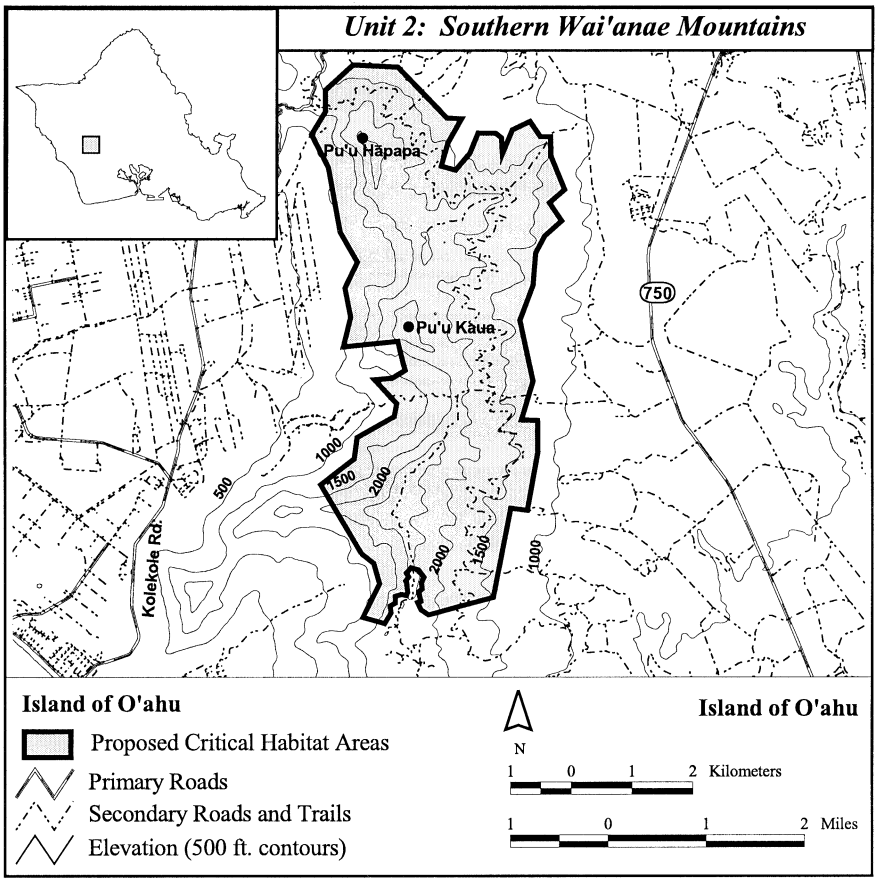
(ii) Map of Unit 1 follows.



(6) Unit 2 (2,422 ha; 5,985 ac)

(i) Unit 2 consists of 78 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 592645, 2367498; 591970, 2368628; 592530, 2369066; 592575, 2369415; 593190, 2369759; 593231, 2369971; 592864, 2370362; 593156, 2370385; 593368, 2370513; 593249, 2370991; 592348, 2370899; 592469, 2371381; 592374, 2371861; 592582, 2372284; 592295, 2372774; 592100, 2373836; 591816, 2374384; 592053, 2374764; 592045, 2375115; 592504, 2375529; 593245, 2375497; 594056, 2374659; 594299, 2374644; 594081, 2374253; 593970, 2373860; 594207, 2373793; 594437, 2374070; 594578, 2374412; 594867, 2374406; 594965, 2374331; 594978, 2374067; 595140, 2374463; 595431, 2374602; 595604, 2374352; 595772, 2374351; 595782, 2374020; 596005, 2373471; 595754, 2373256; 595960, 2372960; 595678, 2372709; 595531, 2372434; 595485, 2371908; 595272, 2371337; 595489, 2370340; 595296, 2369703; 595561, 2369694; 595565, 2369178; 595390, 2368213; 595117, 2368245; 594830, 2366778; 594015, 2366560; 593884, 2366525; 593756, 2366491; 593635, 2366570; 593574, 2366695; 593629, 2366713; 593594, 2366869; 593651, 2366917; 593639, 2367019; 593682, 2367104; 593591, 2367228; 593472, 2367265; 593388, 2367176; 593425, 2367112; 593379, 2367045; 593395, 2367010; 593413, 2366861; 593391, 2366809; 593307, 2366826; 593203, 2366792; 593207, 2366684; 593121, 2366632; 593137, 2366521; 593030, 2366348; 592668, 2366451; 592945, 2366998; 592852, 2367332; 592645, 2367498.

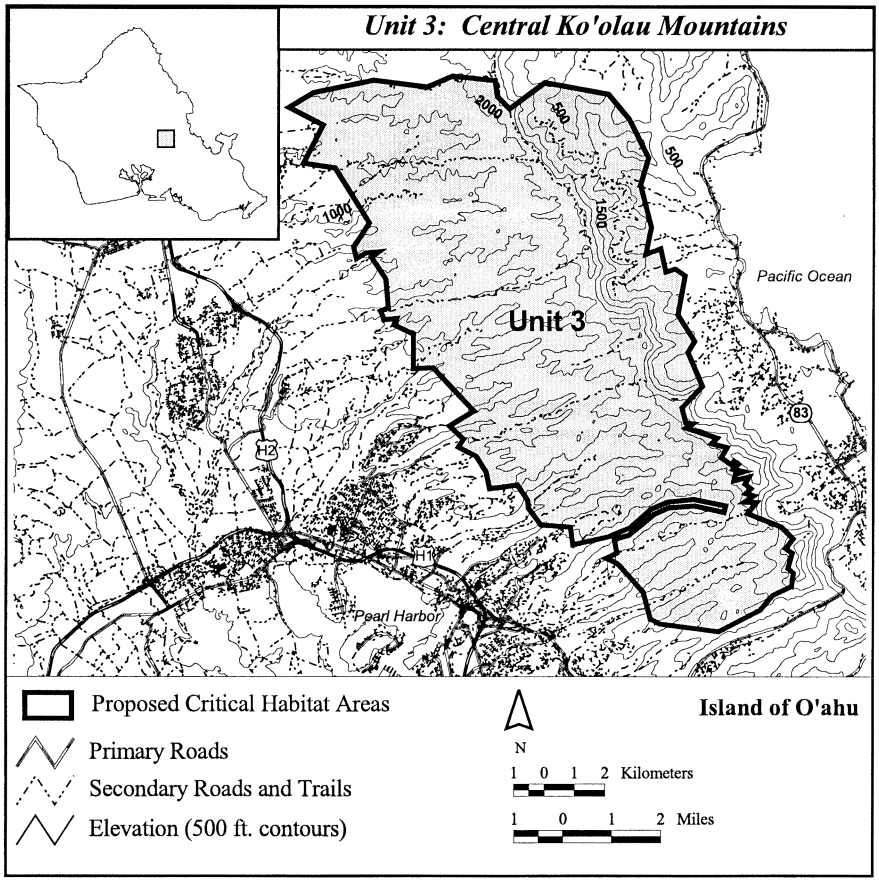
(ii) Map of Unit 2 follows.



(7) Unit 3 (14,801 ha; 36,573 ac)

(i) Unit 3 consists of 108 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 615481, 2366443; 614313, 2366190; 614232, 2366761; 613262, 2366836; 612845, 2367394; 612829, 2367639; 612488, 2368140; 611561, 2368027; 611448, 2368566; 611117, 2369088; 610523, 2369387; 610693, 2369643; 610226, 2370083; 611040, 2370565; 609681, 2371985; 609025, 2371951; 609034, 2373100; 608391, 2373401; 608469, 2373609; 608065, 2373567; 607941, 2373859; 608199, 2373978; 608109, 2374925; 607637, 2375635; 607869, 2375817; 607456, 2375780; 607136, 2375598; 607046, 2375977; 607565, 2376766; 606428, 2378568; 605381, 2378725; 606026, 2379972; 604900, 2380551; 605708, 2381032; 607698, 2381439; 609468, 2381214; 610319, 2381573; 611728, 2381425; 611797, 2380904; 612201, 2380506; 613364, 2381362; 615459, 2380980; 616152, 2380161; 616780, 2378903; 616513, 2378013; 616873, 2376632; 616699, 2375737; 617180, 2375933; 617356, 2375158; 617664, 2375259; 617994, 2375029; 617757, 2373739; 618311, 2372859; 618082, 2372506; 618563, 2371385; 617894, 2370668; 618022, 2370181; 618247, 2370148; 618043, 2370014; 619043, 2369685; 618878, 2369509; 619381, 2369376; 619182, 2369040; 619525, 2368805; 619611, 2368922; 619747, 2368829; 619588, 2368664; 619928, 2368585; 619650, 2368496; 619614, 2368284; 620097, 2368401; 619967, 2368174; 620164, 2368022; 620005, 2367870; 620257, 2367795; 619954, 2367590; 620341, 2367572; 620055, 2367214; 621150, 2366779; 621549, 2366388; 621302, 2366064; 621511, 2365913; 621381, 2365424; 621553, 2365265; 621489, 2364827; 620880, 2364530; 620469, 2364040; 619115, 2363338; 617176, 2363590; 616868, 2363761; 616638, 2364642; 615913, 2365439; 615777, 2365575; 615420, 2365753; 615767, 2365918; 615684, 2366361; 616156, 2366495; 616990, 2367187; 617469, 2367398; 618312, 2367466; 619282, 2367250; 619336, 2367460; 618293, 2367672; 617426, 2367594; 616876, 2367352; 616189, 2366748; 615713, 2366555; 615481, 2366443.

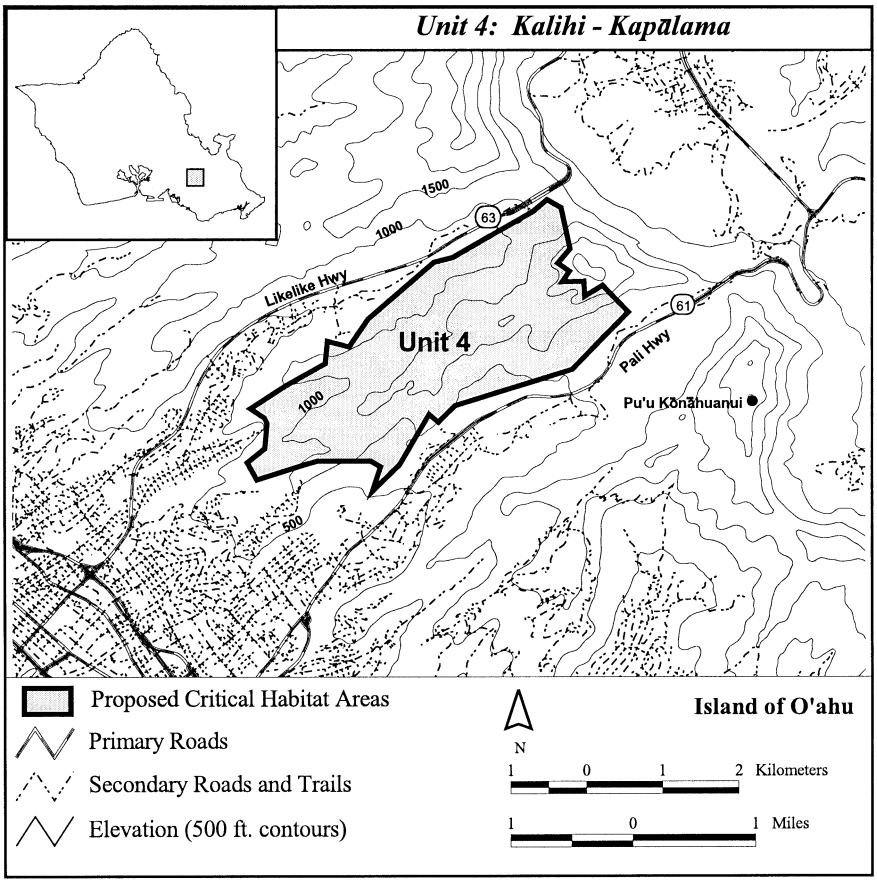
(ii) Map of Unit 3 follows.



(8) Unit 4 (804 ha; 1,987 ac)

(i) Unit 4 consists of 35 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 619449, 2361897; 619967, 2362184; 619999, 2362473; 620286, 2362404; 620537, 2362773; 621409, 2363520; 621660, 2363584; 622719, 2364191; 622901, 2364348; 623091, 2364242; 623209, 2363699; 623046, 2363507; 623201, 2363403; 623106, 2363264; 623391, 2363271; 623404, 2363073; 623634, 2363216; 623976, 2362864; 623238, 2362105; 621688, 2361633; 621467, 2361418; 621345, 2361518; 620954, 2360860; 620598, 2360514; 620700, 2360831; 620572, 2360908; 619869, 2360908; 619670, 2360852; 619064, 2360661; 618935, 2360886; 619170, 2361072; 619199, 2361402; 619163, 2361470; 618977, 2361595; 619449, 2361897.

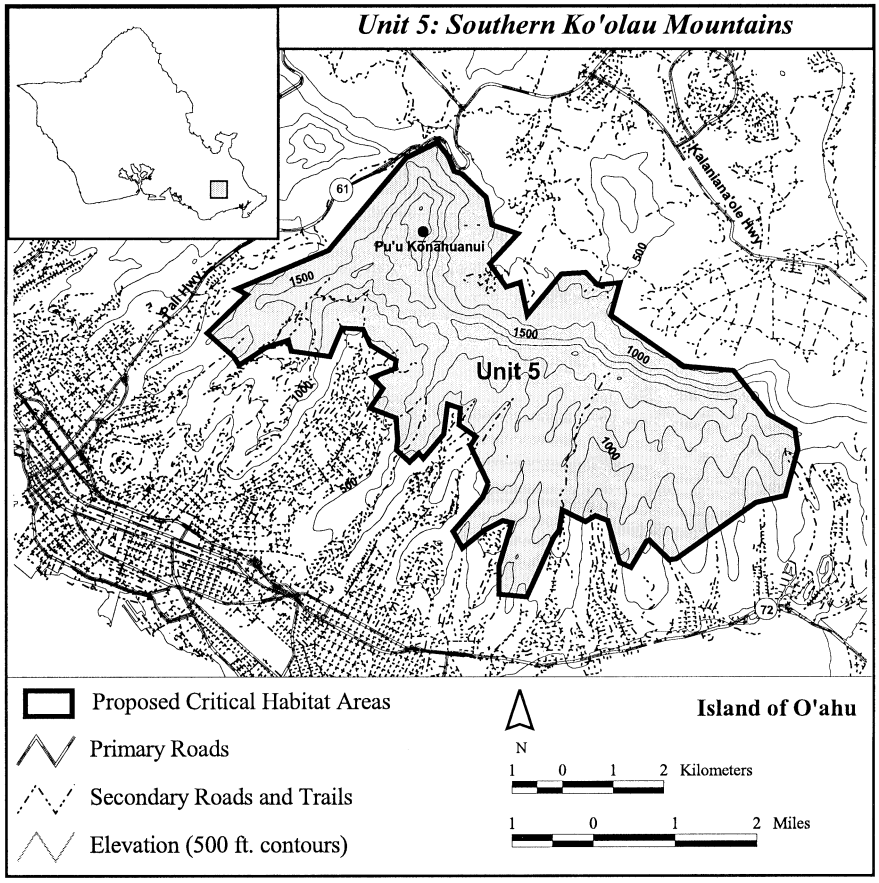
(ii) Map of Unit 4 follows.



(9) Unit 5 (4,180 ha; 10,329 ac)

(i) Unit 5 consists of 78 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 626915, 2356759; 626560, 2357502; 626675, 2357669; 626333, 2357906; 626359, 2358234; 626110, 2358313; 626031, 2357725; 625623, 2357254; 625538, 2357354; 625351, 2357186; 625091, 2357420; 625118, 2357617; 625085, 2358039; 624568, 2358236; 624821, 2358624; 624612, 2358850; 625059, 2359019; 625083, 2359182; 624571, 2359489; 624430, 2359798; 624013, 2359828; 623768, 2359261; 623004, 2359366; 622941, 2359584; 622499, 2359435; 621968, 2359088; 621864, 2359256; 621335, 2359722; 622127, 2360488; 621920, 2360603; 623746, 2361359; 625281, 2363179; 625896, 2363475; 626109, 2363219; 626146, 2363135; 626234, 2362910; 626392, 2362857; 626871, 2362399; 626986, 2361859; 627500, 2361686; 626946, 2361095; 627268, 2360638; 627548, 2360727; 627690, 2360077; 628361, 2360895; 628839, 2360922; 629079, 2360676; 629519, 2360722; 629341, 2360070; 630776, 2359069; 631754, 2358982; 632440, 2358108; 632959, 2357815; 633019, 2357425; 632769, 2356517; 632191, 2356385; 630620, 2355286; 630491, 2355266; 630104, 2355644; 630041, 2355624; 629732, 2355117; 629510, 2355214; 629279, 2356032; 629033, 2356130; 628836, 2356015; 628378, 2356236; 628317, 2355841; 628209, 2355703; 627673, 2354542; 627125, 2354591; 627125, 2355143; 627381, 2355990; 627200, 2356033; 626832, 2355846; 626399, 2355498; 626215, 2355823; 626806, 2356493; 626915, 2356759.

(ii) Map of Unit 5 follows.



Dated: November 20, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–29475 Filed 12–7–01; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Monday,
December 10, 2001

Part III

Department of the Treasury

Internal Revenue Service

Privacy Act of 1974, as Amended; System of Records; Notice

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974, as Amended; System of Records

AGENCY: Internal Revenue Service, 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 Internal Revenue Service, 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 Internal Revenue Service (IRS) has completed a review of its Privacy Act systems of records notices to identify minor changes that will more accurately describe these records.

The changes throughout the document are editorial in nature and consist principally of changes to system locations and system manager addresses. Revisions have also been made due to the restructuring of the IRS along business lines.

The IRS Restructuring and Reform Act of 1998 included specific provisions impacting the Office of the Chief Inspector, Internal Revenue Service. The law provided for the appointment of a Treasury Inspector General for Tax Administration (TIGTA), effective January 19, 1999, who reports directly to the Secretary of the Treasury. As a consequence, two IRS systems of records were affected by the transfer of responsibility (published June 15, 1999 at 64 FR 32096). The first, IRS 60.008—Security, Background, and Character Investigation Files, Inspection, has been renumbered and renamed as ''IRS 34.021—Personnel Security Investigations, National Background Investigations Center-Treasury/IRS.'' The second, IRS 60.011—Internal Security Management Information System (ISMIS) has been renumbered and renamed as ''IRS 34.022—National Background Investigations Center Management Information System (NBICMIS)—Treasury/IRS.''

The following seven systems of records have been added to the IRS' inventory of Privacy Act notices since September 30, 1998:

IRS 00.334—Third Party Contact Reprisal Records. (Published October 25, 2000, at 65 FR 63917)

IRS 00.333—Third Party Contact Records. (Published June 15, 1999, at 64 FR 32095, and as amended on October 25, 2000, at 65 FR 63919)

IRS 22.062—Electronic Filing Records. (Published August 31, 2000, at 65 FR 53089)

IRS 46.051—Criminal Investigation Audit Trail Records System. (Published April 4, 2000, at 65 FR 21236)

IRS 22.028—Disclosure Authorizations for United States Residency Certification Letters. (Published March 6, 2000, at 65 FR 11833)

IRS 34.037—IRS Audit Trail and Security Records System. (Published November 18, 1999, at 64 FR 63108).

The following systems of records have been removed from IRS' inventory of Privacy Act systems:

IRS 34.005—Parking Space Application and Assignment. (December 14, 2000, at 65 FR 78263).

IRS 36.888—Employee Tax Compliance Records (ETC). (Published February 6, 2001, at 66 FR 9142).

Systems Covered by This Notice

This notice covers all systems of records adopted by the Bureau up to August 1, 2001. The systems notices are reprinted in their entirety following the Table of Contents.

Dated: September 26, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

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IRS Appendix A—Addresses of System Locations

Internal Revenue Service

Treasury/IRS 00.001

SYSTEM NAME:

Correspondence Files (including Stakeholder Relationship files) and Correspondence Control Files-Treasury/IRS.

SYSTEM LOCATION:

Various area and other offices of the Internal Revenue Service maintain files of correspondence received, including the Eastern Distribution Center, 4300 Carolina Avenue, Richmond, VA 23222; the Central Area Distribution Center, 2402 East Empire, Bloomington, IL 61799; the Western Area Distribution Center, 3041 Sunrise Boulevard, Rancho Cordova, CA 95742; and the Tennessee Computing Center, PO Box 30309, Airport Mail Facility, Stop 76, Memphis, TN 38130. (See IRS appendix A for addresses of other offices).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Initiators of the correspondence. (2) Persons upon whose behalf the correspondence was initiated. (3) Subjects of the correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Correspondence received. (2) Responses to correspondence (including surveys of individuals to improve IRS service and stakeholder relationship correspondence). Correspondence may be included in other systems of records described by specific notices. Files are maintained in connection with a variety of correspondence received and the uses vary widely in accordance with the content of the correspondence. Correspondence may include letters, telegrams, memoranda of telephone calls, and other forms of communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

Often taxpayers choose to communicate with the IRS through correspondence. The ability to access the information when the need arises is paramount to our success as an agency. This system will allow the IRS to quickly access correspondence received from the taxpayers and their representatives.

This system also provides a means for IRS to track correspondence responses from quality and improvement surveys we may periodically ask our customers to voluntarily participate in.

ROUTINE USES OF RECORDS MAINTAINED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosures of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) Appropriate Federal, State, local, or foreign agencies responsible for enforcing or implementing a statute, rule, regulation, order or license; (3) disclose information to a Federal, State, or local agency, or other public authority 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 bureau's or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media, in accordance with guidelines contained in 28 CFR 50.2, concerning this agency's functions relating to civil and criminal proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to 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 records, microfiche, and magnetic media.

RETRIEVABILITY:

Controlled items are generally retrievable by name, but it depends upon the controls established locally.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with the Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, disposition varies in accordance with the nature of the correspondence file.

SYSTEM MANAGER(S) AND ADDRESS:

Head of the Office maintaining the file. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the office believed to have received the correspondence. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information supplied by the initiators of the correspondence and information secured internally from other systems of records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.002

SYSTEM NAME:

Correspondence Files/Inquiries About Enforcement Activities-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers, Detroit Computing Center, Martinsburg Computing Center. (See IRS appendix A for addresses.) Other offices of the Internal Revenue Service maintain files of correspondence received, including the Eastern Distribution Center, 4300 Carolina Avenue, Richmond, VA 23222; the Central Area Distribution Center, 2402 East Empire, Bloomington, IL 61799; the Western Area Distribution Center, 3041 Sunrise Boulevard, Rancho Cordova, CA 95742; and the Tennessee Computing Center, PO Box 30309, Airport Mail Facility, Stop 76, Memphis, TN 38130.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Initiators of correspondence. (2) Persons upon whose behalf the correspondence was initiated. (3) Persons who are subjects of the correspondence. Includes individuals for whom tax liabilities exist, individuals who have made a complaint or inquiry relative to an Internal Revenue tax matter, or individuals for whom a third party is interceding relative to an Internal Revenue tax matter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number (if applicable), information about tax matters (if applicable), chronological investigative history. Other information relative to the conduct of the case and/or the taxpayer's compliance history (if applicable). Correspondence may include letters, telegrams, memoranda of telephone calls, and other forms of communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

Often taxpayers choose to communicate with the IRS through correspondence. The ability to access the information when the need arises is paramount to our success as an agency. This system will allow the IRS to quickly access correspondence received from the taxpayers and their representatives and provide a chronological record of what has transpired concerning tax matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose information to 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) disclose information to a Federal, state, or local agency, or other public authority, 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 bureau's or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) provide information to the news media, in accordance with guidelines contained in 28 CFR 50.2 concerning this agency's functions relating to civil and criminal proceedings; (7) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (8) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (9) provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violation of law to appropriate law enforcement agencies; (10) provide information to states, the Area of Columbia, the Commonwealth of Puerto Rico, or possessions of the United States, to assist in the administration of tax laws.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Controlled items are generally retrievable by name, but it depends upon the controls established locally.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1 (16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with the Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, disposition varies in accordance with the nature of the correspondence file.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioners, Regional Commissioners, Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 00.003

SYSTEM NAME:

Taxpayer Advocate Service and Customer Feedback and Survey Records—Treasury/IRS

SYSTEM LOCATION:

Internal Revenue Service Centers, National Office, Area Offices, including National Office Chief Counsel Offices, Regional Counsel Offices, and Area Counsel Offices, the Martinsburg Computing Center, the Detroit Computing Center, and the Tennessee Computing Center, and Area Distribution Centers. Area Distribution Center addresses are as follows: the Eastern Distribution Center, 4300 Carolina Avenue, Richmond, VA 23222, the Central Area Distribution Center, 2402 East Empire, Bloomington, IL 61799, and the Western Area Distribution Center, 3041 Sunrise Boulevard, Rancho Cordova, CA 95742. (See IRS Appendix A for other addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system consists of records relating to (1) individuals (customers) who make complaints and compliments about Internal Revenue Service employees (including customer responses to surveys) and; (2) Internal Revenue Service employees who have had complaints and compliments made about them.

CATEGORIES OF RECORDS IN THE SYSTEM:

A variety of documents and/or reports reflecting customer feedback on current and former IRS employees and the resolution of that feedback. Records include quality review and tracking information that helps the Service measure and improve service quality for our customers. This system includes The Taxpayer Advocate Management Information System (TAMIS) records that track taxpayer advocate cases for administrative and quality improvement purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 1211 of Pub. L. 104–168, TBOR 2, Reports on Misconduct of IRS Employees.

PURPOSE(S):

This system will capture customer feedback, including complaints and compliments. The capture of this data will provide a means to analyze trends to identify and take corrective action on systemic problems. The data will not be used to affect any rights or benefits of individuals in the records system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Tax returns and return information may be disclosed as provided by IRC 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and magnetic media.

RETRIEVABILITY:

Documents are stored and retrieved by control numbers and by taxpayer name, taxpayer identification number or person to contact. The control number can be determined by reference to the entries for the individual to whom they relate.

SAFEGUARDS:

Access is limited to authorized personnel who have a direct need to know. Access controls will not be less than those provided for by the Manager's Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM (2)(10)00. This includes the use of passwords and access codes.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1.15.2.1 and Records Control Schedule 301—General Records Schedules, IRM 1.15.3.

SYSTEM MANAGER(S) AND ADDRESS:

Taxpayer Advocate or Head of the Office maintaining the file. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for the purpose of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

Individuals should write to the head of the office Where the records are kept.

CONTESTING RECORD PROCEDURES:

See ''Records access procedures'' above.

RECORD SOURCE CATEGORIES:

Information originates from IRS employees and customer feedback.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.333

SYSTEM NAME:

Third-party Contact Records—Treasury/IRS.

SYSTEM LOCATION:

Area offices, IRS Service Centers and Computing Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom Federal tax assessments have been made; individuals believed to be delinquent in filing Federal tax returns or in paying Federal taxes, penalties or interest; individuals who are or have been considered for examination for tax determination purposes; i.e., income, estate and gift, excise or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of third-party contacts as required by 26 U.S.C. 7602 (c), including the taxpayer name control, taxpayer identification number, the third-party contact's name, date of contact, and IRS personnel's identification number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, and 7801.

PURPOSE(S):

The IRS is establishing the third-party contact records to comply with section 7602(c) of the Internal Revenue Code as enacted by section 3417 of the IRS Restructuring and Reform Act of 1998. The third-party contact records will be used to report to the taxpayers regarding third-party contacts that the IRS would normally make with respect to the determination or collection of the tax liability of the taxpayer. Third-party contact data will be provided periodically to taxpayers and upon the taxpayer's request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may only be made as authorized by 26 U.S.C. 6103 and 7602.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

By taxpayer identification number (social security number or employer identifier number) and taxpayer name control.

SAFEGUARDS:

Access controls will be no less than those provided by the Automated Information Systems Security Handbook IRM 2.10 and IRM 1(16)12, Manager's Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1(15)59.1 through IRM 1(15)59.32.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner (Collection). Officials maintaining the system: Assistant Commissioner (International), Regional Chief Compliance Officers, District Directors, IRS Service Center Directors, IRS Computing Center Directors, Associate Chief Counsel, Regional Counsel, and District Counsel.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Records Access Procedure'' below.

RECORDS ACCESS PROCEDURE:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing in 31 CFR part 1, subpart C, appendix B. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURE:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax records of the individual; public information sources; third parties including individuals, city and state governments, other Federal agencies, taxpayer's employer, employees and/or clients, licensing and professional organizations, and foreign governments via Tax Treaty.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.334

SYSTEM NAME:

Third Party Contact Reprisal Records-Treasury/IRS.

SYSTEM LOCATION:

Area offices, Service Centers, Office of Assistant Commissioner (International), and IRS Computing Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom Federal tax assessments have been made; individuals believed to be delinquent in filing Federal tax returns or in paying Federal taxes, penalties or interest; individuals who are or have been considered for examination for tax determination purposes; i.e., income, estate and gift, excise or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of third party contacts as described in 26 U.S.C. 7602(c), where reprisal determinations have been made, including the taxpayer name control, taxpayer identification number, date of contact, fact of reprisal determination, and IRS personnel's identification number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, and 7801.

PURPOSE(S):

These records will be used to track the number of reprisal determinations made pursuant to IRC Sec. 7602(c)(3)(B).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may only be made as authorized by 26 U.S.C. 6103 and 7602(c).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

By taxpayer identification number. Safeguards: Access controls will be no less than those provided by IRM 2.1.10, Automated Information Systems Security Handbook; 1(16)12, Manager's Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1(15)59.1 through IRM 1(15)59.32.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Area Directors, IRS Service Center Directors, IRS Computing Center Directors, Chief Counsel management officials.

NOTIFICATION PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act.

RECORDS ACCESS PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act and may not be accessed for the purpose of determining if the system contains a record pertaining to a particular individual.

CONTESTING RECORD PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act and may not be accessed for purposes of inspection or contest of record contents. Also, 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records is exempt from the Privacy Act provision which requires that record source categories be reported. (See ''Exemptions Claimed for the System,'' below.)

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (see 31 CFR 1.36)

Treasury/IRS 10.001

SYSTEM NAME:

Biographical Files, Chief, Communications and Liaison-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are biographical data and photographs of key IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. Information contained in this system may be included in news releases issued to the media and the public.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files or magnetic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Office doors locked at night. Access controls will not be less than those provided for by the Manager's Security Handbook IRM 1(16)12,and IRM 2.10 regarding electronic security.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Communications and Liaison), Area Managers (see IRS appendix A for addresses).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant to the Commissioner (Chief, Communications and Liaison), IRS, Washington, DC 20224, for National Office file or head of the office for the area office where the record is maintained. See Appendix A for appropriate addresses for and area office or service center files.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information is supplied by the IRS official on an IRS biographical data form.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 10.004

SYSTEM NAME:

Stakeholder Relationship Management and Subject Files, Chief, Communications and Liaison-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Internal Revenue Service Centers. (see IRS appendix A for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In general, records are maintained concerning individuals who have stakeholder relationships with the IRS including individuals whose names have been mentioned in the press in connection with their relationship with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records include stakeholder relationship records, correspondence, newspaper clippings, inter-office memoranda and similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be provided in response to inquiries from the media and the public.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files or magnetic media.

RETRIEVABILITY:

Alphabetically by subject or other identifier.

SAFEGUARDS:

Office doors locked at night. Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2.10), and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.11.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Communications and Liaison), National Office; Area, Internal Revenue Service Center/Campus Directors, or Head of the Office that maintains the file (see IRS appendix A for addresses).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Records generally are clippings from newspapers, magazines, and similar sources, and stakeholder relationship documents and memoranda.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 21.001

SYSTEM NAME:

Tax Administration Resources File, Office of Tax Administration Advisory Services-Treasury/IRS.

SYSTEM LOCATION:

Office of the Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and potential tax administration advisors who have served or indicated an interest in serving on advisory assignments, and selected officials engaged in tax administration and related fields.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant roster database, locator cards and lists with names, addresses, telephone numbers, and organizational affiliations of officials engaged in tax administration; work assignment or application folders of past and potential tax administration advisors, which contain employment history, information, medical abstracts, security clearances, and passport information; bio-data sketches on IRS employees and others engaged in tax administration and related fields.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The purpose is to identify IRS employees who have expressed an interest in overseas assignments, and to further identify historical and current activities in given countries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Maintained for use by Office management officials as a reference in obtaining and presenting information related to tax administration, and for administrative selection and processing of overseas and domestic assignments. The records and information in these records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Access limited to authorized office personnel. File folders kept in locked file or locked room. Access controls will not be less than those provided for by the Manager's Security Handbook, IRM 1(16)12 and IRM 2.10 regarding electronic security.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of when they are no longer needed for official use.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (International), Internal Revenue Service, 950 L'Enfant Plaza, SW, Fourth Floor, Washington, DC 20024.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Office of the Director (International), Internal Revenue Service, 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

From the individual, from the organization with which he or she is associated, or from other knowledgeable experts in the field of Tax Administration.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.003

SYSTEM NAME:

Annual Listing of Undelivered Refund Checks-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose refund checks have been returned as undeliverable since the last Annual Listing of Undelivered Refund Checks was produced.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity information (Name, Street Address, City, State, Zip Code and social security number) and records containing tax module information (Tax Period, Amount of Credit Balance and Control Document Locator Number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

The purpose of this system is to keep a record of refund checks that have been returned undeliverable.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Individuals entitled to undeliverable refund checks will be notified of such checks by publication of their names in the news media.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents stored in files or on magnetic media.

RETRIEVABILITY:

By taxpayer name or taxpayer social security number (SSN).

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Commissioners, LMSB, TE/GE, W&I, SB/SE. Officials maintaining the system—Area Directors, Internal Revenue Service Centers Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the area office servicing the areas in which the individual resided at the time he or she filed the return which created the undeliverable refund. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.011

SYSTEM NAME:

File of Erroneous Refunds-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Campuses/Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers issued erroneous refunds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case reference name, number, control number, date of erroneous refunds, statute expiration date, status of case, location, correspondence and research material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to resolve erroneous refund issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document files.

RETRIEVABILITY:

By Social Security Number (SSN) or Employer Identification Number (EIN).

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks IRM 1.15.2.1 through IRM 1(15) 59.32. Generally, records are retained for four years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Head of the Office maintaining the file. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.026

SYSTEM NAME:

Form 1042S Index by Name of Recipient-Treasury/IRS.

SYSTEM LOCATION:

Philadelphia Internal Revenue Service Center/Campus, 11601 Roosevelt Boulevard, Philadelphia, PA 19154.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-resident aliens and U.S. citizens living abroad whose taxes are covered by IR Chapter 3 Withholding.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include taxpayer's name, address, tax data, country of residence and employer identification number and name of withholding agent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer the back-up withholding laws and regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and by the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1(15)59.32. Generally, records are retained at the Service Center for 5 years and then at a Federal Records Center for 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Philadelphia Internal Revenue Service Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Director, Philadelphia Internal Revenue Service Center, Mid-Atlantic Region, 11601 Roosevelt Boulevard, Philadelphia, PA 19154.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.027

SYSTEM NAME:

Foreign Information System (FIS)—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Philadelphia Internal Revenue Service Center, and its servicing Federal Records Centers, and the Detroit Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who file Form 5471, Information Return with Respect to a Foreign Corporation and Form 5472, Information Return of a Foreign Owned Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, identification number), foreign corporation identification, information relating to stock, U.S. shareholders, Earnings and Profits, Balance Sheet, and other available accounting information relating to a specific taxable period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer laws and regulations relative to foreign owned corporations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media. (Various tables are published from this media.)

RETRIEVABILITY:

Documents are stored and retrieved by document locator numbers.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1.15.2.22.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Director, International Commissioner (Wage and Investment, Commissioner Small Business/Self Employed). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.028

SYSTEM NAME:

Disclosure Authorizations for U.S. Residency Certification Letters—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Northeast Region, Philadelphia Service Center, 11601 Roosevelt Boulevard, Philadelphia, PA 19154.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and third parties who are subjects of correspondence and who initiate correspondence for disclosure authorizations for U.S. Residency Certification Letters. The correspondence may include any form of communications, including telephone calls, and e-mail.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the entity requesting certification, including taxpayer identification number, name and address, countries for which certification has been requested, and when applicable, business activity code; records relating to the designated entity authorized to receive tax information specific to the U.S. Residency Certification Letters, name, address, and number of years authorization has been granted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 & 7802.

PURPOSE(S):

The records will enable the IRS to determine if there is a valid disclosure authorization to provide a third party with the Residency Certification Letter (Form 6166, Form 2297 or Form 2298) or related taxpayer information.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may only be made as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media, and/or hard copy media (paper).

RETRIEVABILITY:

Records may be retrieved by the taxpayer's name, authorized individual or company name, and by the Taxpayer Identification Number (TIN).

SAFEGUARDS:

Protection and control of the records are in accordance with the requirements of IRM 2(10), the Automated Security System Security Handbook, and IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1(15)59.26. Records will be maintained up to 3 years. Hard copy and microfilm media will be disposed by shredding or incineration. Electronic media will be erased electronically.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Philadelphia Service Center, Internal Revenue Service, Northeast Region, Philadelphia Service Center, 11601 Roosevelt Boulevard, Philadelphia, PA 19154.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Philadelphia Service Center Director. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

See record access procedures above. 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Information supplied by the initiators of the correspondence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.032

SYSTEM NAME:

Individual Microfilm Retention Register—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers/ Campuses and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals on whom records are maintained are: For Individual Master File (IMF) registers—Individuals who file, or may be required to file, individual tax returns such as Form 1040, 1040A, or 1040EZ.

CATEGORIES OF RECORDS IN THE SYSTEM:

Abstracts of tax and/or entity modules that have been removed from the IMF. These abstract records indicate the taxpayer name, identification number, specific tax returns filed, document locator number, tax years, debit and credit amounts, balances, and other transactions which have been recorded relative to the module(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains individual tax account information which is retained in microfilm after a certain period of inactivity on the master file in order not to overburden the computer system required for active accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm tape.

RETRIEVABILITY:

IMF Reference Register (for IMF Register only), taxpayer identification number, tax Period, name, and type of tax. Methods of retrievability are explained in the Research Operations Handbook, IRM 36(66)0.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Commissioner (Wage and Investment and Commissioner, Small Business/ Self Employed). Officials maintaining the system-Internal Revenue Service Center Directors, and the Martinsburg Computing Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record

pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.034

SYSTEM NAME:

Individual Returns Files, Adjustments and Miscellaneous Documents Files-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers/ Campuses, IRS areas.(See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers or return preparers who have had changes made to their accounts, or have had information posted to the Individual Master File or other tax accounting files as a result of filing returns, applications, or other documents, or as a result of actions initiated by the Service. A record will be maintained for those taxpayers whose individual income tax overpayments have been retained or transferred from the IMF to apply against past due child and/or spousal support payments as reported to IRS by the states under Pub. L. 97–35.

CATEGORIES OF RECORDS IN THE SYSTEM:

A variety of records reflecting tax matters which have served as input documents or supporting documentation for entries on the Individual Master File, or other tax accounting files, including tax return forms, declarations, applications, case records, processing documents, vouchers, computer notices, posting and correction forms, Interest Equalization Tax Forms, withholding allowance certificates, and similar records. Information will be maintained as to the name, SSN, address of individuals owing past due child and/or spousal support payments submitted by states under Pub. L. 97–35. Also maintained will be the name of the submission state, the amount owed, and the amount of any individual income tax overpayment retained and transferred to the state to apply against the amount owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

The purpose of this system is to provide background and supporting documentation for inputs affecting taxpayer account information. Additionally, overpayments retained and transferred against outstanding liabilities from the state in which it occurred will be recorded. This will aid taxpayers in reconciling their account balances with state agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document files or magnetic media.

RETRIEVABILITY:

Documents are stored and retrieved by document locator numbers and by taxpayer name. The document locator numbers can be determined by reference to the Individual Master File entries for the individual to whom they relate.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1.15.2.22.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—(Wage and Investment and Small Business/Self Employed). Officials maintaining the system-Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.043

SYSTEM NAME:

Potential Refund Litigation Case Files-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers, the Austin Compliance Center and Federal Records Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have indicated to the Service that they may file suit against the Service for a refund.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms filed by the taxpayer and case documents determined by the Service to be related.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer potential refund litigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document files.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 206 for Service Centers, IRM 1.15.2.22.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Commissioners for Wage and Investment, Small Business/Self Employed, and Large and Mid Size business. Officials maintaining the system-Internal Revenue Service Center/Campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in **Record access procedures** below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.044

SYSTEM NAME:

P.O.W.–M.I.A. Reference File-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and the Austin Internal Revenue Service Center/Campus. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

P.O.W./M.I.A.-originated from Department of Defense lists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of P.O.W./M.I.A., Regulations, Rulings, and Instructions as to how to handle specific tax questions relating to their special tax status, copies of individual tax returns, claims, and other documents germane to specific cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer the tax accounts with POW/MIA issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents in file folders.

RETRIEVABILITY:

Cases filed alphabetically by last name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Wage and Investment and Small Business/Self Employed). Officials maintaining the system—Austin Internal Revenue Service Center Director and Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in **Record access procedures** below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Austin Internal Revenue Service Center or the Director of the Area Office servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.054

SYSTEM NAME:

Subsidiary Accounting Files—Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals on whom records are maintained are taxpayers affected by one or more of the transactions reflected in the categories of records listed below.

CATEGORIES OF RECORDS IN THE SYSTEM:

The types of records maintained in the system are documents containing entity information (name, address, social security number or employer identification number and other information necessary to identify the taxpayer) and accounting information relevant to one of the following categories: Funds held pending, disposition and not applied to the taxpayer's liability at present, properties, tangible or intangible, now in the custody of the Internal Revenue Service, counterfeit money, misappropriation or robbery of Internal Revenue Service funds, credits which

cannot be applied to a specific taxpayer account at this time, accounts transferred to other Service Centers or agencies, substantiation for the receipt of funds collected by the Service for other agencies, abatements or assessments of tax on individuals, deposits received from taxpayers, refunds to taxpayers, taxpayer accounts written off by the Service as uncollectible, credits allowed taxpayers requiring special consideration due to processing constraints, litigation, seized and acquired property and Offers-in-Compromise.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

This system maintains records necessary to effectively administer the accounting files relevant to the unusual circumstances described in ''categories of records in the system,'' above.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Accounting Files consist of paper documents, computer printouts, magnetic media and disk storage.

RETRIEVABILITY:

By social security number, name, or document locator number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are retired to Federal Records Centers and retrieved by request from authorized individuals when account substantiation is necessary.

SYSTEM MANAGER(S) AND ADDRESS:

Head of the office maintaining the file (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account. Some Justice Department investigations are an additional source for the information contained in litigation case files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.059

SYSTEM NAME:

Unidentified Remittance File—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Remittances which have been received but cannot be positively identified, either as to taxpayer who sent it or the tax period to which it is to be applied.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each record contains a fourteen digit unidentified remittance (UR) control number, the amount, received date, and all known identifying data. In addition, the URF contains a record of all doubtfully applied Estimated Tax (ET) credits. The ES record contains the taxpayers' name, address, type of payment, taxpayer identification number, tax period, received date, money amount, and the transaction document locator number (DLN).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains the records controlling remittances where accounting is delayed for lack of the data required to properly post a credit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

By remittance amount, unidentified remittance control number, taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are kept 180 days after the amount is reduced to zero balance.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Wage and Investment and Small Business/Self Employed). Officials maintaining the system-Internal Revenue Service Center/campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Remittances received from taxpayers that cannot be positively identified either as to the taxpayer who sent it or the type of tax to which it is to be applied.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.060

SYSTEM NAME:

Automated Non-Master File (ANMF)—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on taxpayers having accounts with the Internal Revenue Service which are not compatible with the normal master file processes; e.g., penalties, transferee assessments, termination assessments, excise protest accounts, Master File overflow accounts, culpable and non-petitioning spouses, Forms 1042, 1040–NR, 926, 5330, 4720, 990–AR (Penalty) and any pre-ADP returns. Also, a record will be maintained for those taxpayers whose individual income tax overpayment has been retained and transferred from the IMF to apply against past due child and/or spousal support payments as reported to IRS by the States under Pub. L. 97–35.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained are taxpayer entity records (name, address, taxpayer identification number or employer identification number and other indicators relevant to entity maintenance) and records containing tax module information (the tax return, the tax period, the balance due or credit balance, and transactions which have been recorded relative to the module). Information will be maintained as to the name, SSN, address of individuals owing past due child and/or spousal support payments submitted by the States under Pub. L. 97–35. Also maintained will be names of the submission state, the amount owed, and the amount on any individual income tax overpayment retained and transferred to the state to apply against the amount owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary for efficient accounting on files which are not compatible with the master file system Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card file or magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number), or document locator card.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Management Official prescribing policies and practices—(Wage and Investment and Small Business Self Employed). Officials maintaining the system-Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.061

SYSTEM NAME:

Individual Return Master File (IRMF)—Treasury/IRS.

SYSTEM LOCATION:

Martinsburg Computing Center, Martinsburg, West Virginia 25401, and Detroit Computing Center, 985 Michigan Ave., Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of various types of income; wages; dividends; interest; rents and royalties; medical payments; capital gains distributions; non-taxable distributions; pensions, annuities, retired pay or IRA payments; patronage dividends, distributions, and allocations; fishing crew payments; sales or redemption of securities, future transactions, commodities, bartering exchange transactions; original issue discount; distributions and prizes; currency transactions; state tax refunds; unemployment compensation, agricultural payments, taxable grants, indebtedness forgiveness; non-employees compensation; gambling winnings; and miscellaneous income.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained are records representing certain wage and information returns: Forms W–2, W–2P, the 1087 and 1099 series; currency transaction reports; state tax refunds; statements of sales of equity obligations; and records of agricultural subsidy payments. Information included on each record identifies the recipient of the income (name, address, taxpayer identifying number, and other indicators relating to payee identification), identifies the income payer (very similar information), and identifies the type(s) and amount(s) of income.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary for the efficient administration of tax accounts related to Wage and Information Returns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By taxpayer social security number and name control.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, until tax year 1974, records were maintained until processed. After tax year 1974, records are maintained for four years and then magnetically erased.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Management officials—(Wage and Investment and Small Business Self Employed). Officials maintaining the system—Internal Revenue Service Center/campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 22.062

SYSTEM NAME:

Electronic Filing Records—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, area offices, Service Centers, and Computing Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Electronic return providers (electronic return preparers, electronic return collectors, electronic return originators, electronic filing transmitters, individual filing software developers) who have applied to participate, are participating, or have been rejected, expelled or suspended from participation in the electronic filing program (including Volunteer Income Tax Assistance (VITA) volunteers). Individuals who attend, or have indicated interest in attending, seminars and marketing programs to encourage electronic filing and improve electronic filing programs (including individuals who provide opinions or suggestions to improve electronic filing programs), or who otherwise indicate interest in participating in electronic filing programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to individual electronic filing providers including applications to participate in electronic filing, credit reports, conduct reports, law enforcement records, and other information from investigations into suitability for participation. Records pertaining to marketing electronic filing, including surveys and opinions about improving electronic filing programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6011, 6012, and 7803.

PURPOSES(S):

This system will maintain records for administration and marketing of electronic filing programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies or instrumentalities responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a violation or potential violation of civil or criminal law or regulation or licensing requirements; (2) Disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (4) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) Provide information to third parties during the course of an investigation to the extent necessary to obtain information that is pertinent to the investigation, including credit bureaus for credit checks and fingerprint records to the FBI or other law enforcement agencies; (6) Provide information to 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) Provide information to contractors for use in contracted services for electronic filing programs; (8) Disclose information to state taxing authorities to promote joint and state electronic filing, including marketing such programs and enforcing the legal and administrative requirements of such programs; (9) Disclose to the public the identities (including addresses) of electronic return originators, electronic return preparers, electronic return transmitters, and individual filing software developers, who have been suspended, removed, or otherwise disciplined. The Service may also disclose the effective date and duration of the suspension, removal, or other

disciplinary action; (10) Disclose information to 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 or in connection with criminal law proceedings or in response to a subpoena.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

By electronic filing provider name or tax identification number (SSN, EIN, EFIN, PTIN) or document control number (DCN).

SAFEGUARDS:

Access controls will not be less than those provided for by the Manager's Security Handbook, IRM 1(16)12, and the Automated Information System Security Handbook, IRM 2.10.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbook, IRM 1.15.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner (Electronic Tax Administration). Officials maintaining the system: Assistant Commissioner (Electronic Tax Administration), Business Systems Modernization Executive/Chief Information Officer, or head of the IRS office maintaining the file (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or to gain access to records maintained in the system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official maintaining the system (above).

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. See ''Notification procedure'' above for seeking amendment to records that are not tax records.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the following sources: (1) Electronic filing providers; (2) informants and third party information; (3) city and state governments; (4) IRS and other Federal agencies; (5) professional organizations; (6) business entities; and (7) participants in marketing efforts or who have otherwise indicated interest in electronic filing programs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.013

SYSTEM NAME:

Combined Account Number File, Taxpayer Services—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers/ campuses. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and businesses having specific, current business with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance; no return has been posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains tax account information necessary for the efficient resolution of accounting issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

By social security number or employer identification number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Management Official (Wage and Investment and Small Business and Self Employed). Officials maintaining the system—Internal Revenue Service Center/campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part I, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' above.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.029

SYSTEM NAME:

Individual Account Number File (IANF)—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals having specific, current business with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance; no return has been posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary to efficiently identify individuals having specific current business with the IRS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

By social security number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—management official (Wage and Investment and Small Business Self Employed). Officials maintaining the system—Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.030

SYSTEM NAME:

CADE Individual Master File (IMF)—Treasury/IRS.

SYSTEM LOCATION:

Martinsburg Computing Center, Martinsburg, West Virginia 25401, and IRS Service Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file and/or are included on Federal Individual Income Tax Returns (i.e., Forms 1040, 1040A, and 1040EZ); individuals who file other information filings; and power of attorney notifications for individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, identification number (SSN), and other indicators pertaining to entity maintenance, including zip code), and tax modular records which contain all records relative to specific tax returns for each applicable tax period or year. Modular records for authorization information (name, address, identification number and type of authority granted, and the name of the representative(s) for the taxpayer. Modular records for the representative (name, address and unique identification number). Recorded here are tax transactions such as tax amount, additions, abatements of tax payments, interest and like type transactions recorded relative to each tax module, power or attorney authorization transactions, and a code identifying taxpayers who threatened or assaulted IRS employees. An indicator will be added to any taxpayer's account who owes past due child and/or spousal support payments and whose name has been submitted to IRS by a state under provisions of Pub. L. 97–35.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To increase the efficiency of tax administration, the IRS maintains records of tax returns, payments, and assessments including Telefile records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by (1) 26 U.S.C. 3406, and (2) 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By taxpayer identification number (social security number or employer identification number), document locator numbers and alphabetically by name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, the code identifying taxpayers who threatened or assaulted IRS employees may be removed five years after initial input.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Commissioner (Commissioner, Wage and Investment). Officials maintaining the system—Internal Revenue Service Center /Campus Directors and the Director, Martinsburg Computing Center. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in

accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director or the Internal Revenue Service Center/Campus Director servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.046

SYSTEM NAME:

CADE Business Master File (BMF)—Treasury/IRS.

SYSTEM LOCATION:

Martinsburg Computing Center, Martinsburg, West Virginia 25401, Cincinnati Service Center, 201 West River Center Blvd., Covington, KY 41019; Memphis Service Center/Campus, 3131 Democrat Road, Memphis, TN 38118; and Ogden Service Center/Campus, 1160 West 1200 South Street, Ogden, UT 84201, and other IRS Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons in a sole proprietary role who file business tax returns, including Employer's Quarterly Federal Tax Returns (Form 941), Excise Tax Returns (Form 720), Wagering Returns (Forms 11C and 730), Highway Use Returns (Form 2290), and Form 1065 (U.S. Partnership Returns of Income), and U.S. Fiduciary Returns (Form 1041) and Estate and Gift Taxes (Forms 706, 706NA, and 709). The latter can be individuals not in a sole proprietorship role.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number (TIN) which may be either EIN or SSN, and other indicators pertaining to entity maintenance, including zip code), and tax modules which are all the records relative to specific tax returns for each applicable tax period. Recorded are tax transactions such as tax amount, statements/additions to tax, payments, interest and like type transactions relative to each tax module. The Employer Identification Number (EIN)/Name Control file which contains EINs and the associated IRS name controls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To increase the efficiency of tax administration, the Service maintains magnetic media records of tax returns filed by business taxpayers, and payments and assessments made to the accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made as provided by 26 U.S.C. 6103, and for meeting the requirements of 26 U.S.C. 3406. 26 U.S.C. 3406 provides, in part, that the Secretary of the Treasury notify a payor that the TIN (Taxpayer Identification Number) furnished by the payee is incorrect.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By name, type of tax, and identifying number (including document locator number).

SAFEGUARDS:

Access Controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Management Official—Small Business Self Employed. Officials maintaining the system—Internal Revenue Service Center/Campus Directors, and the Director, Martinsburg Computing Center. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part I, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.047

SYSTEM NAME:

Audit Underreporter Case File-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of income who appear not to have declared on their income tax returns (Forms 1040, 1040A, and 1040EZ) all income paid to them in the tax year under study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained are taxpayer (i.e., payee) entity records containing payee name, address, taxpayer identification number, and other indicators relating to entity maintenance; and income records containing the types and amounts of income received/reported, and information identifying the income payer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

These records provide a way to identify recipients of income who

appear not to have declared all taxable income paid to them in the tax year under study.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By matching social security number and name control.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are retained for one year and then magnetically erased.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Executive Officer for Customer Service, National Office. Officials maintaining the system—Internal Revenue Service Center/Campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purpose of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Information returns filed by payers and Forms 1040, 1040A, and 1040EZ.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 24.070

SYSTEM NAME:

Debtor Master File (DMF)—Treasury/IRS.

SYSTEM LOCATION:

Martinsburg Computing Center, Martinsburg, West Virginia 25401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have delinquent obligations to a Federal or State agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Entity records (names and social security numbers), the amount owed by the individual, the name of the Federal or State agency to whom the debt is owed and a cross-reference number (SSN) of the spouse in the case of a jointly filed return.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6305, 6402(c) and 6402(d); 31 U.S.C. 3720A.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and disk file.

RETRIEVABILITY:

By name, address, and social security number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

The information is kept for one year and then destroyed. A new Debtor Master File is established each year.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Commissioner (Wage and Investment and Small Business Self Employeds) and Commissioner (Information Systems Management). Officials maintaining the system-Director, Submission Processing Division. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part I, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director or the Internal Revenue Service Center Director servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest any record contained in this system of records must contact the agency to whom the debt is owed.

RECORD SOURCE CATEGORIES:

Names, SSNs, and obligation amounts are supplied by the Federal or state agency to whom the delinquent obligation is owed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.001

SYSTEM NAME:

Acquired Property Records-Treasury/IRS.

SYSTEM LOCATION:

Area Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delinquent taxpayers whose property has been acquired by purchase by government or right of redemption.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, revenue officer reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The system tracks property acquired under Internal Revenue Code section 6334 to provide fiscal accountability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security

number or employer identification number), seizure number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.006

SYSTEM NAME:

Form 2209, Courtesy Investigations-Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom a delinquent account or delinquency or other investigation is or was located in one IRS area offices, but the individual is now living or has assets located in the jurisdiction of another IRS Area office. Taxpayers on whom an investigation has been initiated for purposes of securing information necessary for federal tax administration purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains taxpayer name, current and former addresses, taxpayer identifying number, if known. Contains the information, including class of tax, if applicable, or information concerning the action desired to be taken. The name and address of party that was contacted, chronological investigative history and/or information secured. The following types of investigations are included in this system: Form SSA–1273 cases—Notice of determination of FICA wages—issued when SSA obtains evidence that wages paid to claimant have not been recorded on his earnings record; requests for data needed in proof of claim cases; applications for discharge of property from tax lien; service of tax court subpoenas; complaints of employers failing to provide withholding statements; recovery of unassessable erroneous refunds; Form SSA–7010 cases—Request for preferential investigation. This is a request for preferential treatment (over other SSA cases) on an earning discrepancy case. Secure application for exemption from self-employment tax. Offers in compromise and related activities; i.e., follow-up on defaulted installments, secure payments on collateral agreements, etc. Maximize compliance with withholding requirements on alien's earnings; other miscellaneous uses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The Form 2209 system provides a record of the nature of the investigation and to whom the investigation is assigned. It also provides a method of follow-up to ensure investigations are accomplished in a timely manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Retrievable by taxpayer name and taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors, and Internal Revenue Service Center/Campus Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.008

SYSTEM NAME:

IRS and Treasury Employee Delinquency-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS and Treasury employees who are shown on the Master File as delinquent in meeting Federal tax requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, social security number, address, fact of IRS or Treasury employment code, Area location code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system enables the IRS to secure documentation concerning the resolution of balance due and return delinquency cases concerning IRS employees. This documentation may be used to support conduct investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name and taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Assistant Commissioner (SB/SE, W&I, LMSB), Regional Commissioners, Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.009

SYSTEM NAME:

Lien Files (Open and Closed)-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and the Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax liens have been filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment including class of tax, period, dollar amount. Open and closed Federal tax liens including: Certificates of Discharge of Property from Federal Tax Lien; Certificates of Subordination; Certificates of Non-Attachment; Exercise of Government's Right of Redemption of Seized Property; Releases of Government's Right of Redemption. Federal tax lien information entered in Treasury Enforcement Communications System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6323, 7801 and 7802.

PURPOSE(S):

To identify those taxpayers on whom a Federal tax lien, discharge, or subordination on lien attachment has been filed. The file also provides notice to the public that the Federal Government has an interest in property or rights to the property of the identified taxpayer. Further, the file also provides evidence that the lien has been released, a specific piece of property has been discharged and the government has obtained its interest in the property, or a subordination has been granted and the government has taken a junior lien position, or a certification of nonattachment has been issued.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Notices of lien and the index thereto are available to the public.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name and taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Assistant Commissioner (SB/SE, W&I, LMSB), Regional Commissioners, Area Directors and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 2, Subpart C, Appendix B. Inquires should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director of each Area where records are to be searched. (See IRS appendix A for addresses.) This system contains copies of public records, the originals of which are filed in accordance with the laws of each state, the Area of Columbia, the Commonwealth of Puerto Rico, or possessions of the United States.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.010

SYSTEM NAME:

Lists of Prospective Bidders at Internal Revenue Sales of Seized Property—Treasury/IRS.

SYSTEM LOCATION:

Area Offices. (See IRS appendix A for addresses.)

Categories of individuals covered by the system:

Individuals who have requested that they be notified of Internal Revenue sales of seized property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address and phone number (if provided).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system provides an up-to-date list of prospective bidders that may be notified when the IRS has seized property that is going to sale. Notification of prospective bidders is done to enhance the possibility of obtaining a higher price for the property.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records and magnetic media.

RETRIEVABILITY:

By name of prospective bidder.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system-Area Directors. (See IRS appendix A for addresses.) Notification procedure:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Area Office servicing the area in which the individual resides. (See IRS appendix A for addresses.) Contesting record procedures:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Supplied voluntarily by the subject prospective bidder.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.011

SYSTEM NAME:

Litigation Case Files-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers/Campuses. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax assessments have been made but against whom litigation has been initiated or is being considered by the government or who have instituted suits against the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, and dollar amount. This file includes: Suit to Reduce Tax Claim to Judgement; Suit for Failure to Honor a Levy; Suit to Enforce Federal Tax Lien; Suit Against Transferee; Suit to Set Aside Fraudulent Transfer; Suit to Recover Erroneous Refund; other suits include those which the United States may intervene to assert a Federal tax lien; a proceeding to require opening of a safe deposit box, etc. The following suits against the United States are also included in this file: Quiet Title Suit; Foreclosure of Mortgage or other Lien; Partition; Condemnation; Interpleader; Refund Suits Involving Trust Fund Recovery Penalty Assessments; Injunction Suits under Freedom of Information Act. Also included in Litigation Files are: Individuals against whom bankruptcy proceedings are pending; decedent estates in probate with outstanding Federal tax liabilities; individuals executing Assignments for the Benefit of Creditors; individuals in Receivership Proceedings; individuals conducting a bulk sale; summons referrals; subpoena files; advisory opinions; collateral security agreements; revenue officer reports; and various other legal instruments and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The purpose of the system is to maintain a record of all categories of suits filed either by the taxpayer against the government or the government against the taxpayer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Commissioner (SB/SE or W&I,or LMSB), Officials maintaining the system—Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.012

SYSTEM NAME:

Offer in Compromise (OIC) File-Treasury/IRS.

SYSTEM LOCATION:

Area offices, Area Offices, Internal Revenue Service and computing Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have submitted an offer to compromise a liability imposed by the Internal Revenue Code.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form 2515, used to control offer cases, contains space for entering taxpayer name, address, taxpayer identification number, and all other pertinent information for identifying and assigning the OIC investigation. The file contains all records, documents, reports and work papers relating to the assignment, investigation, review and adjudication of the offer. This includes such items as the original offer, results of property records checks, interviews with third parties and the taxpayer, collateral income agreements, financial statements, tax return copies, and other information submitted by the taxpayer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

These records are used to control offer in compromise cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. This includes disclosure to the extent necessary to permit public inspection of any accepted offer-in-compromise as required by 26 U.S.C. 6103(k)(1).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name and identification number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported. If an offer is accepted, an Abstract and Statement which identifies the taxpayer, the liability, the amount compromised and the basic circumstances of the case is made available for public inspection in accordance with Executive Order 10386 and Executive Order 10906.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.013

SYSTEM NAME:

Trust Fund Recovery Cases/One Hundred Percent Penalty Cases-Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom Federal tax assessments have been made or are being considered as a result of their being deemed responsible for payment of unpaid corporation withholding taxes and social security contributions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar figures, waiver extending the period for asserting the 100-percent penalty/Trust Fund Recovery penalty (if any) and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system provides a record of all Trust Fund Recovery Penalty cases made under 26 U.S.C. 6672.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By individual, or corporation name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system: Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.014

SYSTEM NAME:

Record 21, Record of Seizure and Sale of Real Property-Treasury/IRS.

SYSTEM LOCATION:

Area Offices (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom tax assessments have been made and whose real property was seized and sold to satisfy their tax liability. Also name and address of purchaser.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, property description.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system provides a record of all sales under 26 U.S.C. 6335 of real property as required by 26 U.S.C. 6390. The contents of this system of records evidences chain of title to real property and is a matter of public record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number) and seizure number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB); Officials maintaining the system—Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to or individuals may appear in person at the Office of the Area Director for each Area whose records are to be searched. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records evidences chain of title to real property and is a matter of public record. (See ''Categories of records in the system'' above).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.016

SYSTEM NAME:

Returns Compliance Programs-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who may be delinquent in filing or paying Federal taxes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of name, address, taxpayer identification number (if known) and information concerning the potential tax liability. Returns Compliance Programs involve any type of Federal tax administered by the SB/SE, W&I, LMSB Division and are conducted in accordance with section 7601 of the Internal Revenue Code. RCP programs can be initiated by the National Office, Area offices, or by individual areas.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This program identifies individuals who may be delinquent in filing or paying Federal tax.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Assistant Commissioner (SB/SE, W&I, LMSB), Officials maintaining the system-Area Directors and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.019

SYSTEM NAME:

Taxpayer Delinquent Account (TDA) Files, including subsystems: (a) Adjustments and Payment Tracers Files, (b) Collateral Files, (c) Seized Property Records, (d) Tax SB/SE, W&I, LMSB Waiver, Forms 900, Files, and (e) Accounts on Child Support Obligations-Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax assessments have been made, and persons who owe child support obligations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, chronological investigative history, canceled checks, amended returns, claims, collateral submitted to stay SB/SE, W&I, LMSB, copies of notices of Federal tax liens, revenue officer reports, waivers to extend statutory period for SB/SE, W&I, LMSB, etc, and similar information about persons who owe child support obligations. This system includes Installment Agreement Files; Delinquent Account Inventory Profile (DAIP); Currently Not Collectible Register; Currently Not Collectible Register (over $25,000); Advance Dated Remittance Check Files; Currently Not Collectible Accounts Files; File of taxpayer names entered in the Treasury Enforcement Communications System and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The Taxpayer Delinquent Account (TDA) records provide a comprehensive inventory control of delinquent accounts. This system includes records for Adjustments and Payment Tracers files, collateral files, seized property records, Tax SB/SE, W&I, LMSB Waiver Form 900 files, Accounts on Child Support Obligations, Dyed Diesel Fuel Program, and Integrated SB/SE, W&I, LMSB System (ICS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, or name of person who owes child support obligations, and taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Assistant Regional Commissioners (SB/SE, W&I, LMSB), Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.020

SYSTEM NAME:

Taxpayer Delinquency Investigation (TDI) Files—Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers believed to be delinquent in filing Federal tax returns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information from previously filed returns, information about the potential delinquent return(s), including class of tax, chronological investigative history; Delinquency Investigation Inventory Profile (DIIP) and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

The purpose of this system is to establish a control on taxpayers on whom tax assessments have been made.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors and Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.021

SYSTEM NAME:

Transferee Files—Treasury/IRS.

SYSTEM LOCATION:

Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Includes taxpayers on whom tax assessments have been made but who have allegedly transferred their assets in order to place them beyond the reach of the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts. Also, the name, address, taxpayer identification number and related information about transferee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

To establish controls on records relating to taxpayers believed to be delinquent in filing Federal Tax returns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors, the Director of the Detroit Computing Center. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.022

SYSTEM NAME:

Delinquency Prevention Programs—Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers having a history of Federal tax delinquency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, taxpayer identification number, address, filing requirements, chronological investigative history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook,

IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (SB/SE, W&I, LMSB). Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors, the Detroit Computing Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 30.003

SYSTEM NAME:

Requests for Printed Tax Materials Including Lists—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices and Service Centers, 1111 Constitution Avenue, NW, Washington, DC 20224. (See appendix A for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Files include those individuals that request various IRS printed/electronic materials such as publication 1045, reproduction proofs, educational media, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of individual or company wanting to receive Area Manager or Area Director's newsletters, and/or ordering tax forms materials on certain distribution programs, (i.e. tax Practitioner Program; Bank, Post Office and Library Program; Reproducible Forms Program, etc.). A cross reference index may be developed to identify and control requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used to: (1) Disclose information to mailing or distribution services contractors for the purpose of executing mailouts, order fulfillment, or subscription fulfillment; (2) disclose information to mailing or distribution services contractors for the purpose of maintaining mailing lists.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosure of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(e)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, paper records or mailing plates.

RETRIEVABILITY:

Alphabetically or numerically, by zip code.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Record Schedule 13, Printing, Binding, Duplication, and Distribution Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Publishing Services Branch, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, or head of the office maintaining the file.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in Record access procedures below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Chief, Publishing Services Branch, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See Record access procedures above.

RECORD SOURCE CATEGORIES:

The information is supplied by the individual and/or company making the request. The Service adds data pertaining to the fulfillment of the request.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 30.004

SYSTEM NAME:

Security Violations—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Violators of IRS Security Regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of violator, circumstances of violation (date, time, actions of violator, etc), supervisory action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used to: (1) The Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes. (2) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder (notices of violation), 3×5 inch card file, and electronic storage.

RETRIEVABILITY:

3×5 inch card file—by name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. Access to lateral file cabinets by security officer and staff only.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property, Security, and Records Unit, National Office, Regional Office, Area Offices, Internal Revenue Service Center. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in Record access procedure below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See Record access procedures above.

RECORD SOURCE CATEGORIES:

Contract Guard Force and Security Inspections.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.003

SYSTEM NAME:

Assignment and Accountability of Personal Property Files—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, Internal Revenue Service Centers, Detroit Computing Center, and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals receiving Government property for temporary use and repair.

CATEGORIES OF RECORDS IN THE SYSTEM:

Descriptions of property, receipts, reasons for removal, and property passes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information contained in these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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:

Information is stored on various forms and ledgers maintained in locked filing cabinets.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 18, Security and Protective Services Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Space and Property Branch and Chief, National Office Facilities Management Branch, National Office; Regional Commissioners, Area Directors, Internal Revenue Service Center Directors, and Computing Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Individuals who receive property or request property passes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.007

SYSTEM NAME:

Record of Government Books of Transportation Requests—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, Internal Revenue Service Centers, Detroit Computing Center, and Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees issued Transportation Requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form 496, alphabetical card record by name or the serial numbers of Transportation Requests issued to the employee; and Form 4678, numerical list by serial number listing the name of the employee to whom issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or

seeking legal advice. Disclosure may be made during judicial processes; (2) disclose information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (3) disclose information to another Federal agency to effect inter-agency salary offset; to furnish a consumer reporting agency information to obtain commercial credit reports; to furnish a debt collection agency information for debt collection services; to furnish a consumer reporting agency with delinquency and default data available to private sector credit grantors.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name or serial number.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 9, Travel and Transportation Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officers, National Office; Area Directors, Internal Revenue Service Center Directors, and Computing Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Government Books of Transportation Requests and employees to whom books were issued.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.009

SYSTEM NAME:

Safety Program Files-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, Internal Revenue Service Centers, Detroit Computing Center, and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees and others involved in an IRS motor vehicle accident, an accident or injury on IRS property, or a tort or personal property claim against the Service. All individuals issued an IRS driver's license are covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual driving records and license applications, motor vehicle accident reports, lost time and no-lost time personal injury reports, tort and personal property claims case files, informal and formal investigative report files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 12196.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to the Department of Labor in connection with investigations of accidents occurring in the work place; (3) provide information to other federal agencies for the purpose of effecting interagency salary offset or interagency administrative offset; (4) provide information to consumer reporting agencies in accordance with 31 U.S.C. 3711(f); (5) provide information to a debt collection agency for debt collection services; (6) disclose pertinent information to 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, when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (7) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (8) provide information to Officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Access controls will not be less than those required by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. Generally, access is restricted to official use by IRS employees.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 1, 10, and 18; Records Control Schedule 114 for Facilities Management Division—National Office, IRM 1.15.2.1 (14); and Records Control Schedule 212 for Regional Commissioner, Assistant Regional Commissioner (Resource Management) and Area Director, IRM 1(15)59.2(12).

SYSTEM MANAGER(S) AND ADDRESS:

Safety Management Officer, Office of Research, Planning and Development, Director, Facilities and Information Management Systems, National Office; Director, Human Resources, Headquarters, appropriate Area Office; Computing Center Directors; and the Austin Service Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records or seeking to contest its content, may inquire in accordance with instructions appearing in 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information originates from IRS employees, private individuals and private parties.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.012

SYSTEM NAME:

Emergency Preparedness Cadre Assignments and Alerting Rosters Files-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, and Internal Revenue Service Centers/Campuses. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Key IRS and Treasury personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cadre assignments—personal information on employees; i.e., name, address, phone number, family data, security clearance, relocation assignment, etc. Alerting rosters—current listing of individuals by name and title stating their work and home address and phone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

The records are collected and maintained to identify emergency preparedness team members and their responsibilities; and to provide a means of contacting cadre members in the event of a national emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual forms, correspondence kept in file folders, and electronic storage.

RETRIEVABILITY:

Cadre assignments are filed by relocation site and alerting rosters by title of list.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 18, Security and Protective Services Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Physical Security Section, Facilities Standards Branch, Facilities and Information Management Support Division, National Office. Regional Office, Area Office, Internal Revenue Service Center Security Officers. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the records are located.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Provided by individuals themselves.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.013

SYSTEM NAME:

Identification Media Files System for Employees and Others Issued IRS ID-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers, Detroit Computing Center, and Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees having one or more items of identification and federal and non-federal personnel working in or visiting IRS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, home address, and other personal information and reports on loss, theft, or destruction of pocket commissions, enforcement badges and other forms of identification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

The records are collected and maintained to provide required information on the issuance of identification media by the IRS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence file folders, 3 x 7 inch card files, and magnetic media.

RETRIEVABILITY:

Indexed separately by name and Identification Media serial number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. Access to the records is restricted to official use of Internal Revenue.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedule 11, Space and Maintenance Records, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Physical Security Section, Facilities Standards Branch, Facilities and Information Management Support Division, and Chief, Property, Security and Records unit, National Office; Area offices, Area Offices, Internal Revenue Service Center Security Officers.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below. Individual's name, SSN, address and type of ID media, plus the approximate date that he/she was issued and/or returned the particular item of identification, would have to be furnished to the Service office that issued the item for the Service to be able to ascertain whether or not the system contains a record about the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at CFR Part 1, subpart C, appendix B. Inquires should be addressed to the system manager in the offices where the record is located.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information is generated by specific personnel action and is initially gathered on an application for employment. The information is confirmed by the newly hired employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.014

SYSTEM NAME:

Motor Vehicle Registration and Entry Pass Files-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requiring continued access to the facility and parking area violators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, registered owner of vehicle, branch, telephone number, description of car, license number, employee's signature, name and expiration date of insurance, parking violations, decal number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

The records are collected and maintained to provide information on the issuance of parking permits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security Function at Internal Revenue Service Centers. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURES:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager in the office where the record is located.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information is supplied by individual, except for parking violations information which is supplied by Security guard personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.016

SYSTEM NAME:

Security Clearance Files-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Personnel Security Office, 1111 Constitution Avenue, NW., Room 4244, Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Internal Revenue Service requiring a security clearance, having their security clearance canceled or transferred and individuals who have violated IRS security regulations regarding classified national security information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, employing office, date of security clearance, level of clearance, reason for the need for the national security clearance, and any changes in such clearance. Security violations records

contain name of violator, circumstance of violation and supervisory action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

This system of records documents issuances, transfers, and cancellations of security clearances issued to Internal Revenue Service employees in critical sensitive and noncritical sensitive positions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (3) provide information to agencies and on a need-to-know basis to determine the current status of an individual's security clearance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence file folders.

RETRIEVABILITY:

Indexed by name or social security number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. Records are stored in locked file cabinets and computerized records are password protected.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Chief, Agencywide Shared Services, 1111 Constitution Avenue, NW, Room 1408, Washington, DC 20224. Official maintaining the system and records—Personnel Security Officer, A:S:PSO, 1111 Constitution Avenue, NW, Room 4244, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to this system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the IRS Personnel Security Officer, A:S:PSO, 1111 Constitution Avenue, NW, Room 4244, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information is provided by the employee, his/her supervisor or employee's personnel record. Security violation information is obtained from a variety of sources, such as guard reports, security inspections, supervisor's reports, Internal Audit Reports, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.020

SYSTEM NAME:

IRS Audit Trail Lead Analysis System (ATLAS)—Treasury/IRS.

SYSTEM LOCATION:

The ATLAS is located in an IRS facility in West Virginia. The users of the system are located in a facility in Ohio.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) IRS employees and contractors who have accessed, by any means, tax return or other IRS information contained within an IRS information system (i.e., its operating system, network, or data base) which processes taxpayer information. (2) Individual taxpayers upon whom the IRS maintains paper or electronic records and whose records have been accessed. (3) Individuals who have illegally accessed, by any means, tax return or other IRS information contained within an IRS information system (i.e., its operating system, network, or data base) which processes taxpayer information.

CATEGORIES OF RECORDS IN THE SYSTEM:

The IRS information systems create audit logs of IRS employees or contractors who have accessed or other individuals who have illegally accessed taxpayer records. The audit logs are then processed by ATLAS to determine whether the accesses are consistent with the IRS policy, standards and practices regarding tax administration, and the confidentiality statutes within the U.S. Code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6103, 7213, 7213A, 7214, 7608, 7801, 7802, and 18 U.S.C. 1030(a)(2)(B).

PURPOSE(S):

To enable the IRS to enhance protection of sensitive tax return information by assuring the public that its tax information is being protected in an ethical and legal manner, thereby promoting voluntary taxpayer compliance. The system is to detect and counter unauthorized access, use, fraud and abuse of tax return information. The system provides protection by monitoring and tracking, through analysis of audit logs, accesses to and use of IRS electronic records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of tax returns and tax return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (4) Provide information to third parties

during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (5) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of Federal labor actions or grievances or conducting administrative hearings or appeals or if needed in the performance of other authorized duties; (6) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; and (7) Disclose information to the defendant in a criminal prosecution, the Department of Justice, or a court of competent jurisdiction where required in criminal discovery or by the Due Process Clause of the Constitution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage, either by magnetic or optical media, and paper copy.

RETRIEVABILITY:

(1) Indexed by name, social security number (SSN) or other unique identifier assigned to an IRS employee or contractor who has been granted access to an IRS computer system, or other individuals who have illegally accessed an application which processes taxpayer information. (2) Indexed by name, SSN, or other unique identifier assigned to an IRS employee or contractor who has been granted access to paper records. (3) Retrieved by the Taxpayer Identification Number (SSN, EIN, or ITIN).

SAFEGUARDS:

Access controls will not be less than those described in TD P 71–10, Department of Treasury Security Manual, IRM 2.1.10 Internal Revenue Manual—Information Systems Security, and IRM 1(16)12 Internal Revenue Manual—Managers Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with record disposition handbooks, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security Program Section, Telecommunication and Operations Division, Information Systems, Internal Revenue Service, Department of the Treasury, 1111 Constitution Ave., NW, Washington, DC 20220.

NOTIFICATION PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system of records is exempt from certain provisions of the Privacy Act and may not be accessed for the purpose of determining if the system contains a record pertaining to a particular individual.

CONTESTING RECORD PROCEDURES:

This system of records is exempt and may not be accessed for purposes of inspection or contest of record contents. Also, 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records is exempt from the Privacy Act provision which requires that record source categories be reported. (See ''Exemptions Claimed for the System,'' below.)

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (see 31 CFR 1.36)

Treasury/IRS 34.021

SYSTEM NAME:

Personnel Security Investigations, National Background Investigations Center—Treasury/IRS.

SYSTEM LOCATION:

National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former and prospective employees of: Internal Revenue Service, Office of the Secretary of the Treasury, Office of the General Counsel, Office of the Treasurer of the United States, Office of the Comptroller of the Currency, Office of International Finance, Financial Management Service, Bureau of Engraving and Printing, Bureau of the Mint, Bureau of the Public Debt, Federal Law Enforcement Training Center, and Private Contractors at IRS Facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Federal Employment Application Forms; (2) Results of National Agency Checks (prior reports and records from FBI Investigative Files, Fingerprint Files, Office of Personnel Management, Defense Central Index of Investigations, House Committee on Internal Security, and Coast Guard Intelligence); (3) Employees' Tax Account Histories; (4) Results of Employees' Tax Examinations; (5) Employees' Financial Statements; (6) A summary report, a narrative report, notes and/or written replies resulting from the investigator's inquiries into the subject's scholastic record, prior employment, military service, references, neighbors, acquaintances or other knowledgeable sources, police records and past credit record; (7) Report of action taken by management personnel adjudicating any derogatory information developed by the investigation; (8) Report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801 and 7802; Executive Order 10450; Executive Order 11222.

PURPOSE(S):

This system documents personnel security investigations conducted for the purpose of furnishing to proper authorities sufficient information concerning a person's character, reputation and loyalty to the United States. They also serve as a basis for determining a person's suitability for employment or retention in employment and the issuance of security clearances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement

negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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) provide information to 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 records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00. Records will be accessible to National Background Investigations Center personnel on a need-to-know basis, all of whom have been the subject of background investigations. Computerized records are password protected.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, National Background Investigations Center, Exhibit (10)110–2.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner, (Support Services). Official maintaining the system: Director, National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the IRS National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248, Attn: Disclosure Specialist.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Employment Application Forms submitted by subjects of investigation. Financial information from subjects. Federal, State and Local Government Agencies (Police, Court and Vital Statistics records). Credit Reporting Agencies. Neighbors (former and present). References. Former and present employers and co-workers. Other third party sources. Schools. Tax Returns and Examination Results. Information provided by the individual under investigation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5).

Treasury/IRS 34.022

SYSTEM NAME:

National Background Investigations Center Management Information System (NBICMIS)—Treasury/IRS.

SYSTEM LOCATION:

National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Internal Revenue Service within the Department of the Treasury, and private contractors at IRS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) NBICMIS personnel system records contain National Background Investigations Center (NBIC) employee name, office, start of employment, series/grade, title, separation date; (2) NBICMIS tracking records contain status information on investigations from point of initiation through conclusion; (3) NBICMIS timekeeping records contain assigned cases and distribution of time; (4) NBICMIS case tracking records contain background investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801 and 7802; Executive Order 11222.

PURPOSE(S):

The purpose of NBICMIS is to: (1) Effectively manage NBIC resources and assess the effectiveness of current NBIC programs as well as assist in determining budget and staff requirements. (2) Provide the technical ability for other components of the Service to analyze trends in integrity matters on an organizational, geographic and violation basis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority, responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (3) Disclose information to a Federal, State, or local, or other public authority, 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, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (5) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) Provide information to 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) Provide information to third parties during the course of an investigation to the extent

necessary to obtain information pertinent to the investigation; (8) Disclose information to a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, social security number, or case number.

SAFEGUARDS:

Access is limited to authorized Support Services personnel who have a direct need to know. Hard copy of data is stored in rooms of limited accessibility except to employees. These rooms are locked after business hours. Access to magnetic media is controlled by computer passwords. Access to specific NBICMIS records is further limited by computer security programs limiting access to select personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and are retained and archived as long as deemed necessary.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices: Assistant Commissioner, (Support Services). Official maintaining the system: Director, National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to them may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the IRS National Background Investigations Center, P.O. Box 248, Florence, KY 41022–0248, Attn: Disclosure Specialist.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Current and former employees of the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2).

Treasury/IRS 34.037

SYSTEM NAME:

IRS Audit Trail and Security Records System-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Regional Offices, Service Centers, Computing Centers. (See IRS Appendix A for addresses of IRS offices).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have accessed, by any means, information contained within IRS electronic or paper records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Electronic and paper records concerning IRS employees or contractors or other individuals who have accessed IRS records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301: 26 U.S.C. 6103, 7213, 7213A , 7214, 7608, 7803, and 18 U.S.C. 1030(a)(2)(B).

PURPOSE(S):

To enable the IRS to enhance protection of sensitive information by assuring the public and employees that their information is being protected in an ethical and legal manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of IRS tax return and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations, or foreign government under a tax treaty; (2) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the information pertains; (4) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (5) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of Federal labor actions or grievances or conducting administrative hearings or appeals or if needed in the performance of other authorized duties; (6) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; and, (7) Disclose information to the defendant in a criminal prosecution, the Department of Justice, or a court of competent jurisdiction where required in criminal discovery or by the Due Process Clause of the Constitution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and paper.

RETRIEVABILITY:

(1) Indexed or retrieved by name, social security number (SSN) or other unique identifier assigned to an IRS employee or contractor or other individual who has been granted access to IRS records. (2) Retrieved or indexed by a Taxpayer Identification Number.

SAFEGUARDS:

Access controls will not be less than those described in TD P 71–10, Department of Treasury Security Manual, IRM 2.1.10 Automated

Information Systems Security, and IRM 1(16)12 Managers Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with record disposition handbooks, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security Program Section, Telecommunication and Operations Division, Information Systems, Internal Revenue Service, Department of the Treasury, 1111 Constitution Ave., NW, Washington, D.C. 20224 or head of the office maintaining the file.

NOTIFICATION PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system of records is exempt from certain provisions of the Privacy Act and may not be accessed for the purpose of determining if the system contains a record pertaining to a particular individual.

CONTESTING RECORD PROCEDURES:

This system of records is exempt and may not be accessed for purposes of inspection or contest of record contents. Also, 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Records contained in the IRS Audit Trail and Security Records System are obtained from three sources: (1) Information provided by authorized users to managers used for establishing access control; (2) information automatically recorded by information security audit functions of the operating systems and various IRS applications which process IRS information; and (3) information derived from IRS records in paper and electronic format.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (see 31 CFR 1.36).

Treasury/IRS 36.001

SYSTEM NAME:

Appeals, Grievances and Complaints Records-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers/Campuses, Detroit Computing Center, and the Martinsburg Computing Center. (see IRS appendix A for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Federal employment, current and former Federal employees (including annuitants) who submit appeals, grievances, or complaints for resolution.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by an agency or other appropriate action organization (e.g., Office of Personnel Management, Equal Employment Opportunity Commission, Merit Systems Protection Board) affecting an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, instructions to an agency about action to be taken to comply with decisions, and related correspondence, opinions and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 4308, 5115, 5338, 5351, 5388, 7105, 7151, 7154, 7301, 7512, 7701 and 8347, Executive Order 9830, 10577, 10987, 11222, 11478 and 11491; and Pub. L. 92–261 (EEO Act of 1972), and Pub. L. 93–259.

PURPOSE(S):

This system consists of records compiled for administrative purposes, for appeals, grievances and complaints. Automated Labor and Employee Relations Tracking System (ALERTS) records are included to provide administrative tracking for personnel administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be only made as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Provide information to a Member of Congress regarding the status of an appeal, complaint or grievance; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) provide information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (5) provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies; (6) provide records and information to the Office of Personnel Management, Merit Systems Protection Board or Equal Employment Opportunity Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations; (7) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (8) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (10) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card files, flat paper, lists, forms, folders, binder, microfilm and microfiche, punch card, and magnetic media.

RETRIEVABILITY:

Indexed by the names and case number of the individuals on whom they are maintained.

SAFEGUARDS:

Access controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This

is also in conformance with existing EEOC regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

(a) EEO Discrimination Complaint Records—Regional Complaints Center Directors; (b) all other records—Director, Human Resources Division, or Chief, Personnel Branch, appropriate office. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for computing center employees only); Director, Detroit Computing Center (for computing center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner Human Resources, National Office; Regional Counsel for each region whose records are to be searched; Assistant Chief Counsel (Disclosure Litigation) for records in the National Office of Chief Counsel. (See IRS appendix A for addresses.) Individuals should provide their name, date of birth, agency in which employed, and the approximate date, and the kind of action taken by the agency when making inquiries about records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official listed above. Individuals should provide their name, date of birth, POD, approximate date, and the kind of action taken by the agency when requesting access to, or contest of, records.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

(1) Individual to whom the record pertains; (2) Agency and/or other authorized Federal officials; (3) Affidavits or statements from employee; (4) Testimony of witnesses; (5) Official documents relating to the appeal, grievance, or complaints; (6) Correspondence from specific organization or persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 36.002

SYSTEM NAME:

Employee Activity Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers/Campuses, Detroit Computing Center, and Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records and information relating to employee activities and functions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (3) provide information to officials of labor organization recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (5) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Indexed by the name of the individuals on whom they are maintained.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This is in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisor of the organizational segment participating in the activity. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below. Inquiring individuals need only provide their name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager or the individual designated to maintain the record. Inquiring individuals need only provide their name.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information is derived only from the individual to whom the record pertains.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 36.003

SYSTEM NAME:

General Personnel and Payroll Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers, Detroit Computing Center, Martinsburg Computing Center, and the Tennessee Computing Center. Payroll records are maintained at the Detroit Computing Center. (See IRS appendix A for addresses.) Transaction Processing Center, U.S. Department of Agriculture, National Finance Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, current and former employees of the IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service. These records contain data on individuals required by the Office of Personnel Management (OPM) and maintained in the Official Personnel Folder (OPF). The OPF may also contain letters of commendation; awards from non-Federal organizations; recommendations for Federal awards; awards; reprimands; adverse or disciplinary charges; records relating to life insurance, health insurance, designation of beneficiary; training; and other records which OPM and IRS require or permit to be maintained in the OPF. This system also includes records which are maintained in support of a personnel action such as a position management or position classification action, a reduction-in-force action (including such documents as retention registers and notices), and priority placement actions. Other records maintained about an individual in this system are evaluation records, including appraisal, expectation and payout records; employee performance file (EPF) records (includes performance ratings); suggestion files; award files; financial and tax matters; back pay files; jury duty records; special emphasis programs records, such as Upward Mobility and Handicapped; outside employment statements; clearance upon separation; Unemployment Compensation Records; adverse and disciplinary action files; supervisory drop files; records relating to personnel actions correcting a pay problem; employment of relatives; furlough/recall records; work measurement records; emergency notification, employee locator and current address records; other records relating to the status of an individual; Executive Resources records and Senior Executive Service records; Management Careers Program records; and correspondence files pertaining to any personnel information contained in this notice. Payroll records included in this system are data storage and file records system for processing payroll and personnel actions, consisting of records of time and attendance, leave, tax withholding, bond purchases and issuances, emergency salaries, overtime and holiday pay, optional payroll deductions, and minority group designator codes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1302, 2951, 4118, 4308 and 4506; and Executive Order 10561.

PURPOSE(S):

This system consists of records compiled for personnel administrative purposes. Automated Labor and Employee Relations tracking system (ALERTS) records are collected and maintained in the system to provide a management information database. This system also includes automated records such as the Totally Automated Personnel System (TAPS). Information that supports evaluations of IRS personnel may also be in this system. Listing of employee pseudonyms may be included in this system of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Provide information to a prospective employer of an IRS employee or former IRS employee; (2) provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and security investigations index on new hires, adverse actions, and terminations; (3) provide information to a Federal, state, or local agency, other organizations or individuals in order to obtain relevant and pertinent information about an individual which is necessary for the hiring or retention of an individual; letting of a contract; or the issuance of a license, grant or other benefit; (4) request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent agencies; (5) provide information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial process; (6) provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violation of law to appropriate law enforcement agencies; (7) provide information or records, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to any other appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto or upon request of such agency when the agency is investigating the possible violation of their rules or regulations; (8) provide records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and General Accounting Office for the purpose of properly administering Federal Personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and applicable regulations; (9) provide information to hospitals and similar institutions or organizations involved in voluntary blood donation activities; (10) provide information to educational institutions for recruitment and cooperative education purposes; (11) provide information to a Federal, state, or local agency so that the agency may adjudicate an individual's eligibility for a benefit, such as a state unemployment compensation board, housing administration agency and Social Security Administration; (12) provide information to financial institutions for payroll purposes; (13) provide information to another agency such as the Department of Labor or Social Security Administration and state and local taxing authorities as required by law for payroll purposes; (14) provide information to Federal agencies to effect inter-agency salary offset; to effect inter-agency administrative offset to the consumer reporting agency for obtaining commercial credit reports; and to a debt collection agency for debt collection services; (15) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (16) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (17) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (18) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (19) provide

information to 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; (20) disclosure of information about particular Treasury employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts, limited to only those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Department of the Treasury or any constituent unit of the Department, to improve program integrity, and to collect debts and other monies owed under those programs; (21) respond to state and local authorities for support garnishment interrogatories; and (22) provide information to private creditors for the purpose of garnishment of wages of an employee if a debt has been reduced to a judgement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, discs, forms, punched cards, flat paper, lists, card files, forms, folders, binders, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by any combination of name, birth date, social security number, or employee identification number.

SAFEGUARDS:

Access controls will be not less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This is also in conformance with existing OPM and GAO regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

AWSS manager or Director, Human Resources Branch, and Chief, Personnel Branch, appropriate office; Executive Secretary, Executive Resources Board (for executive resource records); Director of Labor Relations; Chiefs, Transactional Processing Centers; Director, Tennessee Computing Center; Director of Support Services, Midstates Region, 4050 alpha Road, 12th Floor, Mail code 1100 MSRO, Dallas, TX 75244–4203; Director of Support Services, Northeast Region, PO Box 2815, Church Street Station, New York, NY 10008; Director of Support Services, Southeast Region, PO Box 926, Stop 160–R, Atlanta, GA 30370; Director of Support Services, Western Region, 1650 Mission Street, Room 511, San Francisco, CA 94103.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for computing center employees only); Director, Detroit Computing Center (for computing center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Human Resources Division, National Office; for each appropriate Division in the National Office; Counsel for each area whose records are to be searched; Assistant Chief Counsel (Disclosure and Privacy Law) for records in the National Office of Chief Counsel; (See IRS appendix A for addresses.) Inquiries should include name, date of birth, social security number and post-of-duty.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official listed above. Former IRS employees who wish to gain access to their records should direct such a request in writing, including their name, date of birth, and social security number, to: National Personnel Records Center, National Archives and Records Administration, 9700 Page Boulevard, St. Louis, Missouri 63132.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information supplied by that individual, except information provided by agency officials. Payroll information is compiled from existing master records, i.e., employees' official personnel folders, or the employee. Information is also obtained directly from an employee, payroll coordinator, or administrative officer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 36.005

SYSTEM NAME:

Medical Records-Treasury/IRS.

SYSTEM LOCATION:

(1) Applicants and current IRS employees: National Office, Area offices, Internal Revenue Service Centers/Campuses, Detroit Computing Center, and the Martinsburg Computing Center. (See IRS appendix A for addresses.); (2) Former IRS employees: National Personnel Records Center, 9700 Page Blvd., St. Louis, Missouri 63132. Records may also be maintained in the offices listed under (1) above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicants for IRS employment; (2) Applicants rejected on medical grounds; (3) Applicants for disability retirement under the Civil Service Retirement Law; (4) IRS employees; (5) Former IRS employees; (6) Visitors of IRS offices who require medical attention while on the premises.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Applications for IRS employment containing information relating to an individual's medical qualifications to hold a position in the IRS; (2) Applications rejected on medical grounds. Information relating to an applicant's rejection for a position because of medical reasons; (3) Disability retirement records. Information relating to an individual's capability (physical or mental) to satisfactorily perform the duties of the position he or she holds or held; (4) Health unit medical records (Federal civilian employees); (5) Information relating to an employee's participation in an occupational health services program; (6) Qualification examinations (Federal employees). Information relates

to pre-employment, or periodic re-qualification medical examinations to assure that the incumbents are qualified (physically and mentally) to satisfactorily perform the duties of the position; (7) Fitness-for-duty examinations. Information relating to a medical examination to determine an individual's physical or mental condition with respect to ability to satisfactorily perform the duties of the position held; (8) Alcohol/drug employee assistance records. Information relating to employee participation in the Federal Civilian Alcoholism and Drug Abuse Program; (9) Injury Compensation Records. Information relating to on-the-job injuries of employees and former employees; (10) Records relating to the Blood Donor Program; (11) Records relating to drug testing program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Medical Information relating to the Retirement, Life Insurance and Health Benefits Programs—5 U.S.C. Chapters 81, 87, and 89. Information for Federal employment—5 U.S.C. 3301. Information relating to the Alcoholism, Drug Abuse and Employee Assistance Programs—Pub. L. 91–616 and 92–255 as amended by Pub. L. 93–282 in regard to confidentiality of patient records. Information relating to the Occupational Health Program—5 U.S.C. 7901. Information relating to workman's compensation—5 U.S.C. 8101. Information relating to drug testing—5 U.S.C. 7301.

PURPOSE(S):

Injury compensation records and records relating to drug testing are collected and maintained to effectively administer the Worker's Compensation Program and the Drug-Free Workplace Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information contained in these records may be used to: (1) Provide information to other Federal agencies responsible for other Federal benefits programs administered by the Office of Workers' Compensation Programs; Retired Military Pay Centers; Veterans Administration; Social Security Administration; Office of Personnel Management; Private contractors engaged in providing benefits under Federal contracts; (2) disclose information to the Department of Justice for the purpose of litigating an action or seeking advice. Disclosure may be made during judicial processes; (3) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) disclose information to other agencies to the extent provided by law or regulation; (5) disclosure may be made to the appropriate Federal, state or local agency where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature; (6) Federal, state, or local agencies in order to obtain or release relevant and pertinent information to an agency decision concerning the hiring or retention of an individual, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit; (7) disclose information to the Public Health Service; (8) disclose information to an individual's private physician where medical considerations or the content of medical records indicate that such release is appropriate; (9) disclose information to an agency designated employee representative where such representative is required by the Office of Personnel Management; (10) disclose information to hospitals and similar institutions or organizations participating in blood donor activities; (11) disclosure of Alcoholism, Drug Abuse, and Employee Assistance records are limited under Public Laws 91–616, 92–255, and 93–282; (12) disclose information to the Equal Employment Opportunity Commission when needed to resolve a complaint; (13) disclose relevant, non-privileged information to 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 subpoena, or in connection with criminal law proceedings; (14) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (15) provide information to 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 media, discs, flat paper, lists, forms, folders, card files, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by name, social security number, date of birth and/or claim number.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Branch, or Chief, Personnel Branch, appropriate office; Associate Chief Counsel (Finance and Management), Regional and Area Counsels. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for Computing Center employees only); Director, Detroit Computing Center (for Computing Center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Human Resources Branch, National Office; Chief, Management and Administration, National Office; Counsel for each region whose records are to be searched; Assistant Chief Counsel (Enforcement Litigation-Disclosure and Privacy Law) for records in the National Office of Chief Counsel. (See IRS appendix A for addresses.) Former employees should direct inquiries to: The National Personnel Records Center, 9700 Page Blvd., St. Louis, Missouri 63132. Individuals requesting information about this system of records should provide their full name, date of birth, social security number, name and address of office in which currently or formerly employed in the Federal service, and annuity account number, if any has been assigned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with

instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official listed above.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

(1) The individual to whom the record pertains; (2) private physicians; (3) Medical institutions; (4) Office of Workers' Compensation Programs; (5) Military Retired Pay Systems Records; (6) Federal civilian retirement systems other than Civil Service Retirement System; (7) General Accounting office pay, leave allowance cards; (8) OPM Retirement, Life Insurance and Health Benefits Records System; (9) OPM Personnel Management Records System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 36.008

SYSTEM NAME:

Recruiting, Examining and Placement Records-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, PODs, Internal Revenue Service Centers/Campuses, Detroit Computing Center, and Martinsburg Computing Center, (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for IRS employment, current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education, training, employment history and earnings, tests, results of written tests, test scores, qualification determinations, evaluations, appraisals of potential, interview records, responses to test items and questionnaires, honors, and awards or fellowships. Other information maintained in the records includes military service, date of birth, birthplace, SSN, home address. Records may also be maintained on suitability determinations, employee participation in special emphasis, placement and recruiting programs, and employee turnover records. This system also includes correspondence files relating to the above mentioned records. Personnel research and test validation records are included in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3109, 3301, 3302, 3304, 3306, 3307, 3309, 3313, 3317, 3318, 3319, 3326, 3349, 4103, 5532, 5533 and 5723; Executive Order 10577 and 11103.

PURPOSE(S):

This system is to determine eligibility for employment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) disclose information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies; (3) disclose information and records to the Office of Personnel Management, Merit Systems Protection Board, or the Equal Employment Opportunity Commission, for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations; (4) refer applicants to officials of Federal government agencies for purposes of consideration for placement in positions for which an applicant has applied and is qualified; to state and local governments with permission of an applicant for the purpose of employment consideration; and to refer current IRS employees to Federal agencies for consideration for transfer, reassignment, and promotion; (5) disclose information to educational institutions in connection with recruiting efforts; (6) disclose information or records where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to any other appropriate agency, whether Federal, state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule; (7) request information from a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (8) provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter; (9) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (10) provide information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation; (11) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (12) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, punched cards, discs, card files, lists, flat paper, microfilm, microfiche, forms and folders.

RETRIEVABILITY:

Records are indexed by name, combination of birth date, social security account number, and an identification number that is applicable.

SAFEGUARDS:

Access Controls will not be less than those provided for by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This is in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Branch (or equivalent), or Chief, Personnel Branch (or equivalent), appropriate office. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for Computing Center employees only);

Director, Detroit Computing Center (for Computing Center employees only); Commissioner for each Office whose records are to be searched; Director, Personnel Branch, National Office; Chief, Management and Administration, National Office; or other appropriate official. (See appendix A.) Individuals should provide name, date of birth, social security number, identification number (if known), approximate date of record, and title of examination or announcement with which concerned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official as listed above. This system of records may not be accessed for purposes of inspection or for contest of content of Treasury Forms 4825 (Evaluation of Candidates for Initial Executive Placement) and Treasury Form 4245 (Report of Managerial Potential) prepared prior to September 27, 1975.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplied, except reports from medical personnel on physical qualification; results of examination which are made known to applicants and vouchers supplied by references the applicant lists.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 36.009

SYSTEM NAME:

Retirement, Life Insurance and Health Benefits Records System—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Internal Revenue Service Centers/Campuses, the Detroit Computing Center, and the Martinsburg Computing Center, (See IRS appendix A for addresses.) For former employees: Records Division, Bureau of Retirement, Insurance and Occupational Health, Office of Personnel Management, Boyers, Pennsylvania.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) IRS employees who are covered by the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS); (2) IRS employees who have either declined or are covered by the Federal Employees' Group Life Insurance Program or the Federal Employees' Health Benefits Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Documentation of Federal service creditable under CSRS/FERS; (2) Documentation of coverage or declination of coverage under the Federal Employees' Group Life Insurance Program, and the Federal Employees' Health Benefits Program; (3) Documentation of claim for refund or for annuity benefits under CSRS/FERS; (4) Documentation of claim for survivor annuity or death benefits under CSRS/FERS; (5) Medical records supporting claims for disability retirement under CSRS/FERS; (6) Designations of beneficiary for benefits payable under CSRS/FERS or the Federal Employees' Group Life Insurance Program; (7) All other information necessary to enable offices to recruit annuitants for short term assignments and to send them requested publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 83, 87, and 89.

PURPOSE(S):

Retirement, life insurance, and health insurance benefit records are collected and maintained to effectively administer the Federal Employee's Retirement System (FERS); Civil Service Retirement System (CSRS); Federal Employee's Group Life Insurance Plan, and the Federal Employees' Health Benefit Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Provide information to the Office of Workers' Compensation Programs, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, and Federal civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system; (2) provide information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance Program to the Office of Federal Employees' Group Life Insurance, 4 East 24th Street, New York, N.Y. 10010; (3) provide information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program; (4) disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (5) provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies; (6) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (7) provide information and records to the Office of Personnel Management for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations; (8) provide information to an agency designated employee representative when such representative is required under Office of Personnel Management regulations; (9) provide information to hospitals and similar institutions to verify an employee's coverage in the Federal Employees' Health Benefits Program; (10) provide information to the Equal Employment Opportunity Commission when needed to resolve a complaint; (11) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (12) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (13) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (14) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, punched cards, discs, forms, flat paper, card files, lists, folders, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by name, social security number, birth date, and by annuity or death claim number.

SAFEGUARDS:

Access Controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00, and the Manager's Security Handbook, IRM 1(16)12. This is also in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Branch, and Chief, Personnel Branch, appropriate office. Associate Chief Counsel (Finance and Management), Regional and Area Counsels. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

(1) Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR, part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director for each Area whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, Martinsburg Computing Center (for Computing Center employees only); Director, Detroit Computing Center (for Computing Center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Human Resources Branch, National Office; Chief, Management and Administration, National Office; Regional Counsel for each region whose records are to be searched; Assistant Chief Counsel (Enforcement Litigation-Disclosure Litigation) for records in the National Office of the Chief Counsel. (see IRS appendix A for addresses); (2) If the individual is retired from Federal service he should direct inquiries to: Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415; (3) if the individual is not retired, but has been separated from Federal service, he should direct inquiries to: National Personnel Records Center, 9700 Page Blvd., St. Louis, Missouri 63132.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the appropriate official listed above. Individuals requesting information in this system of records should provide their full name, date of birth, social security number, claim number, if assigned, and the POD in which currently or formerly employed.

CONTESTING RECORDS PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources: (1) The individual whom the information is about; (2) GAO Pay, Leave and Allowance Records System; (3) OPM Personnel Management Records System; (4) NARA National Personnel Records Center; (5) OPM Medical Records System; (6) Federal civilian retirement systems other than Civil Service Retirement System and Federal Employees' Retirement System; (7) Military retired pay system records; (8) Office of Workers' Compensation Programs; (9) Veterans Administration Pension Benefits Programs; (10) Social Security, Old Age, Survivor and Disability Insurance and Medicare Programs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.001

SYSTEM NAME:

Abandoned Enrollment Applications—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street, SW., Washington, DC, and the Detroit Computing Center, 985 Michigan Ave., Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who applied for enrollment to practice before the Internal Revenue Service but subsequently abandoned their applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for enrollment to practice before the Internal Revenue Service and, in some cases, information regarding individuals' fitness for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purpose of this system is to retain enrollment applications, for the benefit of applicants, until the time limits for pursuing such applications have expired.

ROUTINE USES OF RECORD MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Indexed by name of applicant;

SAFEGUARDS:

Those safeguards in effect at Federal Records Center.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, 1111 Constitution Ave., NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Internal Revenue Service Office of the Director of Practice, C:AP:P, 1111 Constitution Ave, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) The applicant; (2) individuals; (3) the Internal Revenue Service; (4) other government agencies, and (5) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.002

SYSTEM NAME:

Files Containing Derogatory Information about Individuals Whose Applications for Enrollment to Practice Before the IRS Have Been Denied and Applicant Appeal Files—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 901 D Street, SW., Washington, DC; and (2) Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose applications for enrollment to practice before the Internal Revenue Service have been denied, including those who have appealed such denial.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' applications and eligibility for enrollment to practice before the Internal Revenue Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to inform the Director of Practice personnel that certain individuals have been denied enrollment based on derogatory information and that certain individuals have appealed denial of enrollment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5 year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals; (2) the Internal Revenue Service; (3) other Government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.003

SYSTEM NAME:

Closed Files Containing Derogatory Information About Individuals' Practice Before the Internal Revenue Service and Files of Attorneys and Certified Public Accountants Formerly Enrolled to Practice—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 901 D Street SW., Washington; and (2) Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals eligible to practice before the Internal Revenue Service (attorneys, certified public accountants and enrolled agents).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollments to practice before the Internal Revenue Service and derogatory and other information regarding such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to permit Director of Practice personnel to evaluate new derogatory information about an individual's practice before the Internal Revenue Service in light of past evidence of misconduct, and to retain information on formerly enrolled attorneys and certified public accountants whom the Director of Practice might need to contact with regard to their eligibility to practice before the Internal Revenue Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.004

SYSTEM NAME:

Derogatory Information (No Action)—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street SW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants, enrolled agents and others.

CATEGORIES OF RECORDS IN THE SYSTEM:

Such files contain derogatory information concerning attorneys, certified public accountants, and enrolled agents and others over whom there is no current jurisdiction, where such information is subject to future development, or where such information is not sufficiently serious to be currently considered a case file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purpose of this system of records is to permit Director of Practice personnel to evaluate new derogatory information about an individual's practice before the Internal Revenue Service in light of past evidence of misconduct.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose after 5 years by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) Individuals, (2) the Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.005

SYSTEM NAME:

Present Suspensions and Disbarments Resulting from Administrative Proceeding-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street, SW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals formerly eligible to practice before the Internal Revenue Service but now either suspended or disbarred from such practice after being accorded due notice and opportunity for hearing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment to practice before the Internal Revenue Service, derogatory and other information regarding such practice, and record of proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to retain derogatory information about an individual's practice before the Internal Revenue Service, to retain a record of how such information was evaluated by Director of Practice personnel, to retain a record of how an individual responded to allegations of misconduct, to retain a record of proceeding before an administrative law judge, to inform Director of Practice personnel that certain individuals have been suspended or disbarred, and to permit Director of Practice personnel to assemble and consider new information bearing on an individual's eligibility for reinstatement to practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Transfer information regarding suspension or disbarment of attorneys, certified public accountants and enrolled agents to professional organizations; (2) disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a state, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged

information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (7) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.006

SYSTEM NAME:

General Correspondence File-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 901 D Street SW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

General public.

CATEGORIES OF RECORDS IN THE SYSTEM:

General inquiries and comments from the general public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purpose of this system is to permit Director of Practice personnel to retrieve selected correspondence from the general public by the correspondent's last name.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a state, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to any agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Correspondence is indexed alphabetically by writer.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system has been provided by the general public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.007

SYSTEM NAME:

Inventory-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street, SW. Washington, DC; Internal Revenue Service, Long Island Appeals, 50 Clinton Street, Hempstead, NY 11550; and Internal Revenue Service, Appeals Office, 701 Market Street, Suite 2200, Philadelphia, PA 19106.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Attorneys, certified public accountants and enrolled agents about which alleged misconduct in their practice before the Internal Revenue Service is being reviewed and evaluated; (2) Appraisers who have been referred to the Director of Practice for review and evaluation of conduct which resulted in assessment of a penalty under 26 U.S.C. 6701(s); and (3) Applicants for enrollment to practice before the Internal Revenue Service whose applications are being reviewed and evaluated.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, and information relating to their conduct in such practice; and information relating to appraisers and applicants for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to inform Director of Practice personnel of current derogatory information about an individual's practice before the Internal Revenue Service, to permit Director of Practice personnel to evaluate such information and an individual's response to allegations of misconduct, and to permit Director of Practice personnel to make recommendations as to the disposition of cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case is closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.008

SYSTEM NAME:

Register of Docketed Cases and Applicant Appeals -Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street SW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom complaints have been filed with the Office of Director of Practice pursuant to Title 31, CFR, subpart C, § 10.54, for alleged violation of the regulations governing practice before the Internal Revenue Service and individuals who have appealed to the Secretary of the Treasury, the denials of their application for enrollment to practice before the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of actions taken in cases docketed for hearings and record of actions taken on appeals from denials of applications for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to permit Director of Practice personnel to assign sequential numbers to cases in which complaints will be issued and to inform Director of Practice personnel of which cases are on appeal with the Secretary of the Treasury.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by complaint number and by name of the individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) This office, (2) administrative law judges and (3) the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.009

SYSTEM NAME:

Enrolled Agents and Resigned Enrolled Agents (Action pursuant to 31 CFR 10.55(b))—Treasury/IRS.

SYSTEM LOCATION:

Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those individuals who are currently enrolled to practice before the Internal Revenue Service and those who were formerly enrolled to practice before the Internal Revenue Service and who resigned from such enrollment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' applications for enrollment to practice before the Internal Revenue Service and derogatory and other information regarding such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to retain derogatory information about an individual's practice before the Internal Revenue Service, to retain a record of how such information was evaluated, to retain a record of how an individual responded to allegations of misconduct, to inform Director of Practice personnel that certain individuals, pursuant to 31 CFR, section 10.55(b), have offered their consent to suspension or offered to resign as enrolled agents and that such offers have been accepted by the Director of Practice, and to permit Director of Practice personnel to assemble and consider new information bearing on an individual's eligibility for reinstatement to practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return

information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed 60 years after enrollment.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) Individuals, (2) Internal Revenue Service; (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 37.010

SYSTEM NAME:

Roster of Former Enrollees—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street SW, Washington, DC; and Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and certified public accountants who were enrolled to practice before the Internal Revenue Service prior to enactment of the Agency Practice Act, Title 5 U.S. Code, section 500 and former enrolled agents who do not renew their enrollment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains individuals' names, addresses, professions, the dates of their enrollments and the expiration dates of such enrollments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to inform Director of Practice personnel that certain individuals were enrolled to practice before the Internal Revenue Service prior to enactment of the Agency Practice Act, 5 U.S.C., section 500, and to inform Director of Practice personnel that certain individuals have not renewed their enrollment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by profession (i.e., attorney or certified public accountant) and by the individual's name.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW, Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in records in this system has been provided by: (1) Individuals and (2) the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.011

SYSTEM NAME:

Present Suspensions from Practice before the Internal Revenue Service—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 901 D Street, SW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants and enrolled agents who have offered their consent to voluntary suspension from practice before the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, derogatory and other information relating to their conduct in such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

PURPOSE(S):

The purposes of this system of records are to retain derogatory information about an individual's practice before the Internal Revenue Service, to retain a record of how such information was evaluated by Director of Practice personnel, to retain a record of how an individual responded to allegations of misconduct, to inform Director of Practice personnel that certain individuals, pursuant to 31 CFR 10.55(b), have offered their consent to suspension and that such offers have been accepted by the Director of Practice, and to permit Director of Practice personnel to assemble and consider new information bearing on an individual's eligibility for reinstatement to practice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, state, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide information to 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders; electronic media.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance

with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Internal Revenue Service, Office of Director of Practice, C:AP:P, 1111 Constitution Avenue NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) the Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/IRS 38.001

SYSTEM NAME:

General Training Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Internal Revenue Service Centers, Detroit Computing Center and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees who have participated in or who may be scheduled for training activities (students, instructors, program managers, etc.). Other Federal or non-Government individuals who have participated in or assisted with training programs (students, instructors, course developers, interpreters, etc.).

CATEGORIES OF RECORDS IN THE SYSTEM:

Variety of records containing information about an individual related to training, such as: course rosters, student registrations, nomination forms, course evaluations, instructor lists, individual development plans, counseling records, examination materials, payment records, and other recordations of training necessary for reporting and evaluative purposes. Some records within this system may also be contained in TR/IRS 36.003, General Personnel Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 41; Executive Order 11348.

PURPOSE(S):

These records are collected and maintained to provide documentation of individual training development plans, training requirements, nominations, student training registration, instructor lists, course rosters, course evaluations, counseling records, examination materials, and accounting and financial information, with regard to training reporting and evaluation purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information from these records may be used to: (1) Disclosure of information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (3) provide input data for the automated Training CPDF at the Office of Personnel Management.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, index cards, forms, or flat paper.

RETRIEVABILITY:

Computer records are indexed by social security account numbers, course titles, dates of training, location of training and by specific employee information (i.e., name, title, grade, etc.); other records are indexed by name and course title.

SAFEGUARDS:

Access Controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00. Individual computer records are available to those persons at OPM, Treasury or IRS who are directly involved with the training function.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 301—General Records Schedules, IRM 1(15)59.31.

SYSTEM MANAGER(S) AND ADDRESS:

All Education Branch Chiefs, Support Services Division, at the National Office; Office of the Assistant Commissioner (International); National Director of Education; Managers in Corporate Education; Chief, Headquarters Operations and Training; Managers at the Detroit and Martinsburg Computing Centers; Regional Directors, and Host Site Support Chiefs. (see appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR, part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager(s) in the office(s) where records to be searched are located. (See appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information is extracted from participant registration forms, individual development plans, skill surveys, personnel records, and other forms as may be developed and prescribed by OPM, Treasury, and IRS Training Personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 42.001

SYSTEM NAME:

Examination Administrative File—Treasury/IRS.

SYSTEM LOCATION:

National Office; Area offices, and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any taxpayer who is being considered for examination or is being or has been examined for tax determination purposes, i.e., income, estate and gift, excise, or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing investigatory materials required in making a tax determination or other verification in the administration of tax laws and all other related sub-files directly related to the processing of the tax case. These records may concern any compliance determinations, including for section 527 organizations. This system also includes other management material related to a case and used for tax administrative purposes, including the appeals process and systems formerly published as 42.018, 42.023, and 42.025.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

Numerous tax returns are examined each year. The system provides a complete record of the examinations of tax returns. It also allows IRS access to investigatory materials and management materials relating to examinations for purposes of tax administration and analysis of taxpayer compliance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, microfilm.

RETRIEVABILITY:

By taxpayer's name, taxpayer identification number (social security number or employer identification number) and document locator number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 202 for Examination—Regional and Area Offices, IRM 1(15)59.22.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices '' Head of the Office that maintains the file-Wage and Investment, Small Business/Self employed, Tax Exempt Government Entities, Large and Mid Size Business, Area Directors, and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the access and contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Taxpayers' returns; (2) taxpayer's books and records; (3) informants and third party information; (4) city and state governments; (5) other Federal agencies; (6) examinations of related taxpayers; (7) examinations of other taxpayers, and (8) taxpayer's representative.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.008

SYSTEM NAME:

Audit Information Management System (AIMS)-Treasury/IRS.

SYSTEM LOCATION:

This system is composed of (1) computer files located at each jurisdictional IRS Service Center (where tax return is under examination control); (2) video terminals located at each jurisdictional area (served by an IRS Service Center), National Office; and (3) group control card forms 5345 and 5354 (including temporary and interim processing files for management and control purposes), located at each jurisdictional area office. Items described under (3) above are subfiles of the AIMS System. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose tax returns are under the jurisdiction of the Examination Division. Examiners assigned to taxpayer cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax return information from the Master File, Tax return status and location changes, Examination Closing information on examined and non-examined tax returns, examiner's name, including related internal management information and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

AIMS is a computer system designed to give Examination Division information about returns in inventory and closed returns. This allows IRS to identify the status and location of tax returns in Examination and prepare analyses of the examination process. It includes Exam Returns Control System (ERCS) records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer, microfiche, paper.

RETRIEVABILITY:

By taxpayer identification number (social security number or employer identification number).

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Computer Record: Examined closings, surveyed claims and some types of non-examined closings are dropped from the data base 60 days after closing or when assessment verification is completed, whichever is later. The balance of non-examined closings are dropped at the end of the month following the month of closing. Paper Records: Generally, AIMS forms are destroyed within 90 days of the closing. Exceptions include: (1) The charge-out which becomes part of the case file and is sent to the Federal Records Center with the case; (2) Examination request forms which become the Examination group's control card; and (3) The Examination group's control card which is retained in a closed file for 3 years (in the case of field examinations) and 90 days (in the case of office examinations). Authority: Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices '' Management Official(SB/SE, TE/GE. W&I). Officials maintaining the system -, Area Directors, and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the access and contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax Returns and Examination files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.013

SYSTEM NAME:

Project Files for the Uniform Application of Laws as a Result of Technical Determinations and Court Decisions-Treasury/IRS.

SYSTEM LOCATION:

Area offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals grouped as to project, i.e., individual shareholders of a corporation where a determination having a tax effect has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individuals and their income tax information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

In some instances, a technical determination either from an examination or from a Chief Counsel ruling or court decision will result in tax effect to shareholders of a corporation. This system allows the IRS to monitor and control the shareholder returns that are included in the project.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 102 for Examination Division—National Office, IRM 1.15.2.16.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Assistant Commissioner (W&I, SB/SE,TE/GE, LMSB) and Director(International). Officials maintaining the system—Director of appropriate area where the taxpayer resides. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director in the Area where the records are located. (See IRS appendix A for addresses.) Contesting record procedures: 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Shareholder records, (2) individual's tax return, and (3) examination of related taxpayer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 42.014

SYSTEM NAME:

Internal Revenue Service Employees' Returns Control Files-Treasury/IRS.

SYSTEM LOCATION:

Area Offices (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who is employed by the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical listing of employee, income tax return information including prior examination results and other tax related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system provides administrative controls for tax returns of Internal Revenue Service employees considered for examination, being examined, or previously examined.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, microfilm.

RETRIEVABILITY:

By employee's name and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and retained as long as the individual is employed.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of Area where individual resides. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director in the Area where the records are located. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Employee's tax return.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 42.016

SYSTEM NAME:

Classification/Centralized Files and Scheduling Files-Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose returns or claims are classified for examination.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals' tax returns/claims and other information, including information reports considered in screening/classifying of an individual's return or claim for refund.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This is a system for storage and control of returns identified for potential examination. It provides for the centralized storage of returns prior to scheduling for examination and a means to control and access these returns as needed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, computer printouts, magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Returns/claims accepted as filed are returned to System of Records 22.034. Returns/claims selected for examination become part of System of Records 42.001. Other information is retained until associated with returns/claims or two years, whichever occurs first. Authority: Records Disposition Handbook IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the access and contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Tax returns, (2) requests from taxpayer, and (3) requests from SB/SE, W&I, LMSB Division for prompt examination.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.017

SYSTEM NAME:

International Enforcement Program Files-Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Commissioner (International), National Office; Area Offices, and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual having foreign business/financial activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individuals, identification numbers (if known), summary of income expenses, financial information as to foreign operations or financial transactions, acquisition of foreign stock, controlling interest of a foreign corporation, organization or reorganization of foreign corporation examination results, information concerning potential tax liability, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

The purpose is to monitor the International Enforcement Program. It provides data for the preparation of periodic reports, the analysis of which is the basis to determine the effectiveness of the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, microfilm, machine sensible magnetic media.

RETRIEVABILITY:

By individual's name and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and retained as long as the individual has substantial foreign business/financial activities.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Director (International). Officials maintaining the system—Director (International), Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the access and contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) European treaty countries, (2) individual's tax returns, (3) examination of related taxpayers, and (4) public sources of information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.021

SYSTEM NAME:

Compliance Programs and Projects Files-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who may be involved in tax evasion schemes or noncompliance schemes, including withholding noncompliance or other areas of noncompliance grouped by industry, occupation, or financial transactions, and other; e.g., return preparers, political contributions, corporate kickbacks, questionable Forms W–4.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to individuals in projects and programs, and records used to consider individuals for selection in projects and programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system provides a means to monitor and control information related to special programs and projects to identify areas of non-compliance. Using this information, available efforts can be focused on the more significant non-compliance issues. This system includes Midwest Automated Compliance System (MACS) records and records concerning tax preparers. Certain records in this system (for example, MACS) may be used to select individuals for compliance actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, machine-sensible data media, microfilm, and magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number, document locator number or other unique identifier.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

W–4 paper case files and National Computer Center (NCC) magnetic tape records are destroyed two years after the cases have been inactive. Records associated with the examination of returns are disposed of in accordance with the established Retention Schedule 1(15)59.22, Records Control Schedule. Records not associated with the examination of returns will be destroyed at the completion of the program or project, or in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Head of the Office where the file resides. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Taxpayer's return, (2) taxpayer's books and records, (3) informants and third party information, (4) city, state government, (5) other Federal agencies, (6) examinations of related taxpayers, and (7) taxpayer's employer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.027

SYSTEM NAME:

Data on Taxpayers Filing on Foreign Holdings-Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Commissioner (International), National Office, Area Offices, Philadelphia Internal Revenue Service Center, and the Detroit Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals required to file Form 5471, Information Return with respect to a Foreign Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals filing on foreign holdings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

The purpose is to monitor the International Enforcement Program. It provides data for the preparation of periodic reports, the analysis of which is the basis to determine the effectiveness of the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape in Detroit Computing Center and Philadelphia Service Center; Paper at other listed locations, machine-sensible data media and microfilm.

RETRIEVABILITY:

By taxpayer's name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of within three years.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Director(International), National Office. Officials maintaining the system—AreaAREA Directors Director (International), National Office; Director, Detroit Computing Center; Assistant Commissioner (Wage and Investment and Small Business Self Employeds), National Office. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in

accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director for each area whose records are to be accessed or contested, or to the directors, or Assistant Commissioner (International) in the case of records in the National Office. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Form 5471 only.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 42.030

SYSTEM NAME:

Discriminant Function File (DIF)-Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose income tax returns have a DIF Score higher than a cutoff score determined by Examination and International, indicating high audit potential, based on formulae prescribed by Examination.

CATEGORIES OF RECORDS IN THE SYSTEM:

Document Locator Number of the return, the Regional and Area Offices of the taxpayer, the taxpayer's DIF Score and data from the individual's Income Tax Return needed to conduct an audit of his/her return.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

These records provide the means to identify returns with the highest potential for examination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and computer printout.

RETRIEVABILITY:

By individual's social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Record Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Generally, records are disposed of after three years.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (W&I, SB/SE, TE/GE, L, MSB) and Director (International). Officials maintaining the system—Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purpose of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This System of records may not be accessed for the purpose of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual's tax return information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.001

SYSTEM NAME:

Appeals Case Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the National Director of Appeals, National Office; Regional Directors of Appeals (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who disagree with examiner's findings and proposed adjustments and seek administrative review.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax returns, Revenue Agents' Reports, Appeals Supporting Statements, case correspondence, appeals papers and documents relating to arbitration, legal opinions, work papers, and Appeals closing actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By name of taxpayer.

SAFEGUARDS:

Locked file cabinets, locked doors, IRS employees access data only on a need to know basis.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Record Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Records are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024; Regional Directors of Appeals (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.003

SYSTEM NAME:

Appeals Centralized Data System-Treasury/IRS.

SYSTEM LOCATION:

Office of the National Director of Appeals, National Office; Regional Directors of Appeals (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who disagree with examiner's findings and proposed adjustments and seek administrative review.

CATEGORIES OF RECORDS IN THE SYSTEM:

Databases which produce management information on case inventory by taxpayer name, tax year, amount of tax in dispute, settlement amount, and professional time required to arrive at settlement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, diskette, hard disk.

RETRIEVABILITY:

By taxpayer's name and/or taxpayer identification number (social security number or employer identification number) and by work unit number.

SAFEGUARDS:

IRS personnel access data only on a need-to-know basis and use passwords to access system information.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Record Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024; Regional Directors of Appeals (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the system manager(s) in the office where records to be searched are located.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account. Also, time reports prepared by Appeals Officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 44.004

SYSTEM NAME:

Art Case File—Treasury/IRS.

SYSTEM LOCATION:

Office of the National Director of Appeals, National Office; Area Directors of Appeal (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Famous or noted artists whose works have been evaluated by the Art Panel or its staff for use in a taxpayer case.

CATEGORIES OF RECORDS IN THE SYSTEM:

Commissioner's Art Panel or its staff decisions on values of works of art by named artists and appraisal documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, 7802, and 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigation an action or seeking legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to 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 records and magnetic media.

RETRIEVABILITY:

Indexed by taxpayer, artist, and appraiser name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. The system has been retained since 1968.

SYSTEM MANAGER(S) AND ADDRESS:

National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024; Regional Directors of Appeals (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Art panel and staff decisions and appraisal documentation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 44.005

SYSTEM NAME:

Expert Witness and Fee Appraiser Files-Treasury/IRS.

SYSTEM LOCATION:

Office of the Director of Appeals, National Office; Area Directors of Appeals (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Actual and potential expert witnesses for litigation and fee appraisers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical sketches, application letters, or list of expert/appraiser names by specialty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, 7802, and 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating and action and seeking legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to 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 individual or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to 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 records.

RETRIEVABILITY:

Indexed by taxpayer and expert witness/appraiser name.

SAFEGUARDS:

Access Controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Records are periodically updated to reflect changes and maintained as needed.

SYSTEM MANAGER(S) AND ADDRESS:

National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024; Regional Directors of Appeals. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Varied, generally from the named individual, often unsolicited.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 46.002

SYSTEM NAME:

Criminal Investigation Management Information System (CIMIS)-Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Internal Revenue Service Centers, and Detroit Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of Criminal Investigation Division investigations, Special Agents, U.S. Area Court Judges and U.S. Attorneys.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and financial information developed in criminal tax

investigations, potential tax investigations and in projects including information from other Federal, state and local agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To maintain and process sensitive investigative data that identifies patterns of criminal and/or civil noncompliance with federal income tax laws and to maintain and process sensitive information on agent personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided in 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in binders, magnetic media, computer discs, computer printouts.

RETRIEVABILITY:

By taxpayer's name, case number and social security number, or other unique identifier.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief (Criminal Investigation), National Office. Officials maintaining the system—Assistant Commissioner (Criminal Investigation);, Area Directors, Internal Revenue Service Center/Campus Directors, and the Detroit Computing Center Director. (see IRS appendix A for addresses).

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.003

SYSTEM NAME:

Confidential Informants, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

Area Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Confidential Informants; Subjects of Confidential Informant's Reports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memorandums, Index Cards, Related Data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To maintain a file of the true identities of confidential informants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By confidential informant's name and number or name in informant's report.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief (Criminal Investigation), National Office. Officials maintaining the system—Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.004

SYSTEM NAME:

Controlled Accounts (Open and Closed)—Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers, and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of criminal tax investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal Investigation Information and Control Notices; Lists of names and related data; Lists of action taken: Transcripts of account.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To maintain and process any activity pertaining to the taxpayer account that identifies patterns of criminal and/or civil noncompliance with federal tax and moneylaundering laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By name or social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Paper records are destroyed one year after the close of the investigation. Magnetic tape is erased three months after the close of the investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief(Criminal Investigation), National Office. Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors, and the Martinsburg Computing Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking to access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director for each Area where records are to be searched (see IRS appendix A for addresses).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Area Office Personnel; Service Center Personnel, Form 4135, Criminal Investigation Control Notice.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 46.005

SYSTEM NAME:

Electronic Surveillance File, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office, 1111 Constitution Avenue, NW., Washington, DC 20224

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of electronic surveillance. Individuals who have been subjects of queries by other agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to conduct of electronic surveillance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To monitor and track all electronic surveillances that are conducted by area field offices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By names, addresses, and telephone numbers.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief(Criminal Investigation) National Office. Officials maintaining the system—Director, Office of Investigations (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.009

SYSTEM NAME:

Centralized Evaluation and Processing of Information Items (CEPIIs), Evaluation and Processing of Information (EOI), Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

Area Offices, Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers about whom the Internal Revenue Service has received information alleging a violation of laws within IRS jurisdiction, potential subjects of investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of income tax returns, special agent's reports, revenue agent's reports, reports from police and other investigative agencies, memoranda of interview, question-and-answer statements, affidavits, collateral requests and replies, information items, newspaper and magazine articles and other published data, financial information from public records, court records, confidential reports, case initiating documents and other similar and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

To maintain and process sensitive investigative data that possibly identifies potential criminal and/or civil noncompliance with federal law and money laundering laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Paper records are disposed of after use.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief (Criminal Investigation) National Office. Officials maintaining the system—Area Directors, Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.011

SYSTEM NAME:

Illinois Land Trust Files, Criminal Investigation Division-Treasury/IRS.

SYSTEM LOCATION:

Chicago Area Office, Springfield Area Office, and the Kansas City Internal Revenue Service Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries of Land Trusts, Related individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notices of Fiduciary Relationships. Related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic tape.

RETRIEVABILITY:

By taxpayer and beneficiary name; trust and social security number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Chicago Area Director, Springfield Area Director, and the Kansas City Internal Revenue Service Center Director. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Area Director, Chicago Area, Internal Revenue Service, 230 South Dearborn Street, Room 2890, Chicago, Illinois 60604.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Financial institutions, Fiduciary reports and Notices of Fiduciary Relationships.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 46.015

SYSTEM NAME:

Relocated Witnesses, Criminal Investigation Division-Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Commissioner (Criminal Investigation), National Office, 1111 Constitution Avenue, NW., Washington, DC. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Relocated Witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation and Relocation Information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By Name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 though IRM 1.15.2.31. Generally, records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief (Criminal Investigation), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.016

SYSTEM NAME:

Secret Service Details, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices and Area Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

List of Criminal Investigation participants and correspondence between Criminal Investigation and Secret Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records and information contained in these records may be disclosed to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices— Chief (Criminal Investigation), National Office. Officials maintaining the system—Chief (Criminal Investigation), Area Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act Amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.022

SYSTEM NAME:

Treasury Enforcement Communications System (TECS), Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area offices, Area Offices, and Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Fugitives, subjects of open and closed criminal investigations, subjects of potential criminal investigations, subjects with Taxpayer Delinquent Accounts against whom Federal Tax Liens have been filed and other subjects of potential interest to criminal investigation such as witnesses and associates of subjects of criminal investigations or related to a matter under Criminal Investigation jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, social security number, address, identifying details, aliases, associates, physical descriptions, various identification numbers, details and circumstances surrounding the actual or suspected violator.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disc.

RETRIEVABILITY:

By name, social security number or other unique identifier.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM1.15.2.1 though IRM 1.15.2.31. Fugitives until apprehended. Other records are deleted when no longer of potential use for criminal investigation case or informational purposes. Cancellation after 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Criminal Investigation), National Office. Officials maintaining the system—Assistant Commissioner (Criminal Investigation), Regional Commissioners, Area Directors, and Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.050

SYSTEM NAME:

Automated Information Analysis System—Treasury/IRS.

SYSTEM LOCATION:

Detroit Computing Center, 1300 John C. Lodge Drive, Detroit, Michigan 48226, and Automated Criminal Investigation Office, 7940 Kentucky Drive, Boone County, Kentucky 41042.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers and other individuals involved in financial transactions which require the filing of information reflected in the Categories of Records below.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information included in the Automated Information Analysis System is from reported income and tax information on the Individual Master File (IMF—Treasury/IRS 24.030; Individual Returns Files, Adjustments and Miscellaneous Documents File—Treasury/IRS 22.034. The Automated Information Analysis System also includes information from such sources as: Currency Transaction Reports (CTRs), Currency and Monetary Instrument Reports (CMIR's), Bank Secrecy Reports File, Foreign Bank Account Reports (FBARs), Forms 8300 (Currency Received in Trade or Business)-Treasury/CS .067; the Taxpayer Delinquent Account Files (TDA)—Treasury/IRS 26.019, which includes adjustments and payment tracer files and collateral files; Taxpayer Delinquency Investigation Files (TDI)—Treasury/IRS 26.020, which includes taxpayer information on delinquent returns; the Examination Administrative File—Treasury/IRS 42.001, and Casino Transaction Reports from the Detroit Computing Center.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

The purpose is to maintain records which identify transaction patterns that are indicative of criminal and/or civil noncompliance with Federal income tax and money laundering laws and to simultaneously evaluate diverse data sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and Magnetic Media.

RETRIEVABILITY:

Records are retrievable by name, address, and social security number.

SAFEGUARDS:

All Criminal Investigation personnel accessing the system will have successfully passed a background investigation. Criminal Investigation will furnish information from the system of records to approved personnel only on a ''need to know'' basis using passwords and access controls. Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. Procedural and physical safeguards to be utilized include the logging of all queries and periodic review of the query logs; compartmentalization of information to restrict access to authorized personnel; encryption of electronic communications; intruder alarms; and 24-hour building guards.

RETENTION AND DISPOSAL:

All records are disposed of after 4 years. Records will be disposed of by erasure of magnetic media.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Chief (Criminal Investigation), National Office. Officials maintaining the system—Detroit Computing Center, CI Representative, and the Automated Criminal Investigation Office Manager, 7940 Kentucky Drive, Boone County, Kentucky 41042.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORDS PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records may not be accessed for purposes of determining the source of the records. Records to be included all come from existing Treasury and Internal Revenue Service databases. The databases are comprised of records submitted by taxpayers, financial institutions, casinos and businesses pursuant to federal law.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4),(e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), and (k)(2).

Treasury/IRS 46.051

SYSTEM NAME:

Criminal Investigation Audit Trail Records System—Treasury/IRS.

SYSTEM LOCATION:

Records are located at the Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224 . Other locations of these records are: Automated Criminal Investigation Project Office, located in Florence, Kentucky; Internal Revenue Service Areas of Investigation, Criminal Investigation District Offices, and Internal Revenue Service Posts of Duty. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who use or attempt to use the IRS Criminal Investigation computer systems; log onto the Criminal Investigation system; use the Criminal Investigation applications; use the Criminal Investigation operating system, or log off the Criminal Investigation computer are covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

This is an electronic data base which captures system use information such as: Date and time a user initiated or attempted to initiate a session on the system; date and time of all unsuccessful system accesses; date and time of data or system file accesses; date and time of privileged security actions on the system, and date and time of system logoff by a user. Criminal Investigation application audit trail

records may contain information regarding system or application access for any of the following Criminal Investigation files: CIMIS, 46.002; Confidential Informants, Criminal Investigation Division, 46.003; Electronic Surveillance File, 46.005; and Centralized Evaluation and Processing of Information Items, 46.009.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 6103, 7213, 7213A, 7214, 7602, 7608, 7801, and 7803; 18 U.S.C. 1030(a)(2)(B).

PURPOSE:

The Criminal Investigation Division of the Internal Revenue Service established this system to enable the division to monitor and analyze usage of its computer system. The system will provide information showing: (1) The system users; (2) the times of use for each user; (3) the areas of the system being accessed by each user; (4) unauthorized access by Criminal Investigation employees; and (5) access, or attempted access, by persons other than Criminal Investigation employees. System uses include reading, adding, deleting, and/or modifying data and system records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Disclosure of records and information from this system may be disclosed only as provided by 26 U.S.C. 6103 and 18 U.S.C. 1030(a)(2)(B). Records other than returns and return information may be used: (1) To disclose pertinent information to appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violation or potential violation of civil or criminal law or regulations; (2) to disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged; (3) to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (4) to provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (5) to provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of federal labor actions or grievances or conducting administrative hearings or appeals or if needed in the performance of other authorized duties; (6) to disclose to the Department of Justice for the purpose of litigating an action or seeking legal advice; (7) to disclose to a defendant in a criminal prosecution, the Department of Justice, or a court of competent jurisdiction where required in criminal discovery or by the Due Process Clause of the Constitution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and magnetic media and paper.

RETRIEVABILITY:

Records are retrievable by user name.

SAFEGUARDS:

Protection and control of any sensitive but unclassified information or records are in accordance with Department of the Treasury Security Manual, TD P 71–10 and Internal Revenue Manual, IRM 2.1.10, Automated Information System Security, and Internal Revenue Manual, IRM 1(16)00, Physical Security Handbook, as well as internal CI Policy. The Criminal Investigation Audit Trail Records System is contained in an operating system, which has been rated as C2 compliant. All system access is controlled with the use of passwords and only Criminal Investigation personnel who have been assigned a ''need-to-know'' can access system data. The computers that operate the System are in secure space, housed in a Federal Building with 24-hour security.

RETENTION AND DISPOSAL:

Records are maintained, administered and disposed of in accordance with Internal Revenue Manual (IRM) 1.15; 1.15.1 Records Administration Handbook, 1.15.2 Records Disposition Handbook, 1.15.3 General Records Handbook, and 1.15.4 Files Management Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

The official prescribing policies and practices is the Assistant Commissioner, Criminal Investigation, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 20224. The organization responsible for maintaining the system is Systems Development and Support, Criminal Investigation Representative.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection by an individual to determine if there exists a record pertaining to him or her, and/or to view the contents of the records. Contesting Record Procedures: 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), and (k)(2).

Treasury/IRS 48.001

SYSTEM NAME:

Disclosure Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, Area Offices, Internal Revenue Service Centers, Detroit Computing Center, and the Martinsburg Computing Center. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Subjects of requests for disclosure initiated by the Department of Justice, including suspects or persons related to the violation of Federal laws; persons who have initiated legal actions against the Federal Government, persons identified as strike force targets or related to organized crime activities, persons under investigation for national security reasons, persons believed by the Internal Revenue Service to be related to violations of Federal laws other than the Internal Revenue Code. (2) Persons under investigation by other executive departments or congressional

committees for whom tax information has been requested pursuant to 26 U.S.C. 6103. (3) Persons who are parties to criminal or civil non-tax litigation in which the testimony of IRS employees has been requested. (4) Persons who have applied for Federal employment or presidential appointments for which preemployment tax checks have been requested and applicants for Department of Commerce ''E'' Awards. (5) Requesters for access to records pursuant to 26 U.S.C. 6103, the Freedom of Information Act, 5 U.S.C. 552, and initiators of requests for access, amendment or other action pursuant to the Privacy Act of 1974, 5 U.S.C. 552a. (6) Individuals identified by or initiating correspondence or inquiries processed or controlled by the Disclosure function or relating to the foregoing subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for records, information or testimony, responses to such requests, supporting documentation, processing records, copies of items provided or withheld, control records and related files. Department of Justice, and IRS replies to such requests. (1) Copies of related authorizations to IRS officials permitting such disclosures and, in some instances, their responses. (2) Copies of individuals' tax information, memoranda for file, notations of telephone calls, file search requests, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 552 and 552a; 26 U.S.C. 6103, 7801 and 7802.

PURPOSE(S):

This is a system for maintaining records to administer applicable laws and regulations concerning disclosure. It includes Disclosure Information Management System (DIMS) records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) report apparent violations of law to appropriate law enforcement agencies; (3) disclose debtor information to a Federal payor agency for purposes of salary and administrative offsets, to a consumer reporting agency to obtain commercial credit reports, and to a debt collection agency for debt collection services; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12):

Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records in alphabetical or chronological order within subject categories and/or such automated or electronic record-keeping equipment as may be locally available. Accountings of disclosure of tax related records pursuant to 5 U.S.C. 552a(c) or 26 U.S.C. 6103(p)(3) are posted to the Individual Master File and retrievable by Social Security Number, or to the Business Master File and retrievable by Employer Identification Number.

RETRIEVABILITY:

Records are generally retrievable by name of individual, although category of record and chronological period may be necessary to retrieve some records. The social security number is necessary to access accountings of disclosure posted to the Individual Master File. The employer identification number is necessary for access to the Business Master File.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Director, Office of Disclosure, National Office. Officials maintaining the system—Director, Office of Disclosure, National Office;, Area Directors, and Internal Revenue Service Center/Campus Directors, or other official receiving or servicing requests for records. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Requesters seeking to determine if accountable disclosures about them have been made should request an accounting of disclosure pursuant to 5 U.S.C. 552a(c) and 26 U.S.C. 6103(p)(3) of the Area Director for the area in which they reside. Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Area Director for the area of residence or to the official believed to be maintaining the record of interest (See IRS appendix A for addresses.) This system contains some records of law enforcement activities which may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Requests for disclosure, records being evaluated and processed for disclosure and related information from other systems of records. This system may contain investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 48.008

SYSTEM NAME:

Defunct Special Service Staff File Being Retained Because of Congressional Directive—Treasury/IRS.

SYSTEM LOCATION:

National Office, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suspected of violating the Internal Revenue laws by the Special Service Staff before its discontinuation on August 23, 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Revenue Service Master File printouts; returns and field reports; information from other law enforcement government investigative agencies; Congressional Reports, and news media articles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system of records was gathered and maintained by Congressional Directive to document violations of the Internal Revenue Laws by the Special Services Staff before its discontinuation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. This file is no longer being used by the Internal Revenue Service. The Special Service Staff was abolished August 13, 1973. Records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose information to Congressional Committees and individuals making Freedom of Information requests pertaining to themselves.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained alphabetically by individual and organization contained in vault at IRS National Office.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. No IRS official has access to these records except for retrieval purposes in connection with Congressional or Freedom of Information inquiries and litigation cases.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbook, IRM 1.15.2.1 through IRM 1.15.2.31. Initially retained solely for congressional committees' inquiries, these records are currently being retained because of their possible historical significance under Archival statutes. Consideration of their historical significance is in abeyance pending resolution of the Archivist right to access tax information under the Internal Revenue Code.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Disclosure, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the National Director, Office of Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. In addition, this System may contain some records provided by other agencies which are exempt from the access and contest provisions of the Privacy Act as published in the Notices of the Systems of Records for those agencies.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

News media articles, taxpayers' returns and records, informant and third party information, other Federal agencies and examinations of related or other taxpayers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information from another agency's exempt system of records duplicated in this system of records retains the exempt status.

Treasury/IRS 49.001

SYSTEM NAME:

Collateral and Information Requests System—Treasury/IRS.

SYSTEM LOCATION:

The central files for this system are maintained at the Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) London, England; (4) Mexico City, Mexico; (5) Ottawa, Canada; (6) Paris, France; (7) Rome, Italy; (8) Singapore and (9) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Assistant Commissioner (International).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Citizens, Resident Aliens, Nonresident Aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of interviewing witnesses regarding financial transactions of taxpayers; employment data; bank and brokerage house records; probate records; property valuations; public documents; payments of foreign taxes; inventories of assets; business books and records. These records relate to tax investigations conducted by the Internal Revenue Service where some aspects on an investigation must be pursued in foreign countries pursuant to the various tax treaties between the United States and foreign governments. The records also include individual case files of taxpayers on whom information (as is pertinent to carrying out the provisions of the convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this convention) is exchanged with foreign tax officials of treaty countries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

The purpose is to maintain a historical record of correspondence and background work regarding the subjects for future references within the stated retention time frames.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

Generally, records are disposed of after three years.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Records of examinations of taxpayers, interviews of witnesses, etc. where some aspects of an investigation must be pursued in foreign countries pursuant to various tax treaties between the United States and foreign governments.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.002

SYSTEM NAME:

Tax Treaty Information Management System-Treasury/IRS.

SYSTEM LOCATION:

Office of the DirectorCommissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens, resident aliens, nonresident aliens whose tax matters come under the jurisdiction of the U.S. competent authority in accordance with pertinent provisions of tax treaties with foreign countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual case files of taxpayers who request relief from double taxation or any other assistance that is pertinent to carrying out the provisions of income tax treaties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802; applicable treaties.

PURPOSE(S):

To maintain records to monitor an inventory of individual case files of taxpayers who request competent authority assistance pursuant to the provisions of income tax treaties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microfilm and electronic records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records may be disposed of after six years.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of the records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Requests for relief from double taxation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.003

SYSTEM NAME:

Financial Statements File-Treasury/IRS.

SYSTEM LOCATION:

Compliance Area Director, Area 15, SBSE, 950 L'Enfant Plaza, SW., PROM level, Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who submitted financial statements when interviewed overseas by Examination Branch employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Financial Statements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

To verify income reported on individual tax returns during the course of an examination of that return.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer's name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Compliance Area Director, Area 15, SBSE, 950 L'Enfant Plaza, SW, Prom Level, Washington, DC 20024.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Overseas Examination branch employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 49.007

SYSTEM NAME:

Overseas Compliance Projects System-Treasury/IRS.

SYSTEM LOCATION:

The central files for this system are maintained at the Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) London, England; (4) Mexico City, Mexico;(5)Santiago, Chile; (6) Paris, France; (7) Rome, Italy;(8) Singapore and (9) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Compliance Area Director Appeals, SBSE.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Citizens, Resident Aliens, Nonresident Aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents and factual data relating to: (1) Personal expenditures or investments not commensurate with known income and assets; (2) receipt of significant unreported income; (3) improper deduction of significant capital or personal living expenses; (4) failure to file required returns or pay tax due; (5) omission of assets or improper deduction or exclusion of items from state and gift tax returns.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

The purpose is to maintain documents and records of individuals residing abroad that contain information pertaining to the individual to determine proper tax liability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name, social security number, or other identification number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Compliance Area Director, Area 15, SBSE, 950 L'Enfant Plaza, SW., prom level, Washington, DC 20024.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Documents and data relating to income and expense items concerning income, Estate and Gift tax returns.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.008

SYSTEM NAME:

International Correspondence System-Treasury/IRS.

SYSTEM LOCATION:

This system is separately maintained by each one of the 13 overseas posts of the Office of the Assistant Commissioner (International) located in: (1) Berlin, Germany; (2) London, England; (3) Mexico City, Mexico; (4) Paris, France; (5) Rome, Italy; (6) Singapore and (9) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Office of the Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Citizens, Resident Aliens, Nonresident Aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence from taxpayers, foreign post personnel and the Office of the Director (International) headquarters offices in Washington, DC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

The purpose of this of records is to control correspondence received from taxpayers concerning tax law and account related inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Generally, records are disposed of after three years.

SYSTEM MANAGER(S) AND ADDRESS:

Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of

records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and the Office of the Assistant Commissioner (International) foreign posts and headquarter's offices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 50.001

SYSTEM NAME:

Employee Plans/Exempt Organizations Correspondence Control Records—Treasury/IRS.

SYSTEM LOCATION:

National Office, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Requesters of letter rulings, and subjects of field office requests for technical advice and assistance and other correspondence, including correspondence associated with section 527 organization programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, date, nature and subject of an assignment, and work history. Sub-systems include case files and section 527 records that contain the correspondence, internal memoranda, and related material. They also include digests of issues involved in proposed revenue rulings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, and 7805.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and 26 U.S.C. 6104 where applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, microfiche and magnetic media.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 104 for Employee Plans/Exempt Organizations—National Office, IRM 1.15.2.17

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Tax Exempt/Government Entity), 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Commissioner (Employee Plans/Exempt Organizations), 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individuals requesting rulings or information and field offices requesting technical advice or assistance.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 50.003

SYSTEM NAME:

Employee Plans/Exempt Organizations, Report of Significant Matters in Technical-Treasury/IRS.

SYSTEM LOCATION:

National Office, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual subjects of letter ruling requests, technical advice requests etc., where a ''Report of Significant Matter in Technical,'' has been prepared because of the presence of a matter significant to tax administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of ''Reports of Significant Matter in Technical.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, and 7805.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and 26 U.S.C. 6104 where applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Control Schedule 104 for Employee Plans/Exempt Organizations—National Office, IRM 1.15.2.17

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, (Tax Exempt/Government Entities), 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Commissioner, (Employee Plans/Exempt Organizations), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual subjects of letter ruling requests, technical advice requests, etc., where a ''Report of Significant Matter in EP/EO'' has been prepared.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 60.001

SYSTEM NAME:

Assault and Threat Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office; Regional Inspectors' Offices; as well as offices of the Area Directors. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals attempting to interfere with the administration of internal revenue laws through assaults, threats, or forcible interference of any officer or employee while discharging the official duties of his/her position, including individuals designated as potentially dangerous taxpayers (PDTs), based on verifiable evidence or information that fit any of the following five criteria: (1) Individuals who assault employees or members of their immediate families; (2) Individuals who attempt to intimidate or threaten employees or members of their immediate families through specific threats of bodily harm, a show of weapons, the use of animals, or through other specific threatening or intimidating behavior; (3) Individuals who are active members of groups that advocate violence against Internal Revenue Service employees specifically, or against Federal employees generally where advocating such violence could reasonably be understood to threaten the safety of Service employees and impede the performance of their official duties; (4) Individuals who have committed the acts set forth in any of the above criteria, but whose acts have been directed against employees of other governmental agencies at Federal, state, county, or local levels; and (5) Individuals who are not designated as potentially dangerous taxpayers through application of the above criteria, but who have demonstrated a clear propensity toward violence through act(s) of violent behavior within the five-year period immediately preceding the time of designation as potentially dangerous.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing the complaint; (2) Documentary evidence (i.e., threatening letter); (3) Report of investigation, with possible statements, or affidavits as exhibits, and related tax information; (4) Report of legal action, if case is prosecuted; (5) Local police record of individual named in case; (6) FBI record of individual named in the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7608, 7801, and 7802.

PURPOSE(S):

This system of records documents the investigation into any attempt to obstruct or impede (or endeavor to obstruct or impede) Internal Revenue Service employees in the performance of their official duties. It includes records relevant to the use of force or threats of force against IRS employees or their immediate family (including any threatening letter or communication).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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) provide information to 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 records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided by the Manager's Security Handbook, IRM 1(16)12. The records are accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of a background investigation. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols which are periodically changed; these terminals are accessible only to authorized persons.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.002

SYSTEM NAME:

Bribery Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices.

(See IRS appendix A for addresses.)
Categories of individuals covered by the system:

Employees and/or former employees of the Treasury Department; taxpayers and non-IRS persons whose alleged criminal actions may affect the integrity of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Report of investigation including exhibits, affidavits, transcripts, and documentation concerning requests and approval for consensual telephone and consensual non-telephone monitoring; (2) Report of legal action concerning the results of prosecution; (3) Prior criminal record of subject.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, and 7802; Executive Order 11222.

PURPOSE(S):

This system of records contains information relevant to Internal Security's specific and exclusive jurisdiction within the Service to investigate violation of 18 U.S.C. 201, Bribery. This is described as an offer to give something of value with the intent that the recipients will do something improper or will fail to do something they should do within the authority of their position.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for enforcing or investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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) provide information to 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 records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.003

SYSTEM NAME:

Conduct Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of Internal Revenue Service, and other Bureaus and Services within the Department of the Treasury.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing complaint of alleged misconduct or violation of statute; (2) Report of investigation to resolve allegation of misconduct or violation of statute, with related exhibits of statements, affidavits or records obtained during investigation; (3) Report of action taken by management personnel adjudicating any misconduct substantiated by the investigation; (4) Report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, and 7802; Executive Order 11222.

PURPOSE(S):

Records in this system include information gathered by Inspection in order to identify and report all pertinent facts to management relative to the investigation of complaints and allegations against employees of the Internal Revenue Service

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (7) disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, taxpayers (complainants, witnesses, confidential informants), other Federal agencies, State and local agencies, tax returns and related documents, personal observations of the investigator and subjects of the investigation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.004

SYSTEM NAME:

Disclosure Investigation Files, Inspection-Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Internal Revenue Service employees and/or Government contract employees at IRS Facilities, who have allegedly disclosed confidential tax information; (2) Federal, state and local Government employees who have allegedly disclosed confidential Federal tax information. (3) Tax return preparers who have allegedly disclosed confidential Federal tax information.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing the complaint of the alleged criminal or administrative violation; (2) Investigative report, including statements, affidavits and any other pertinent documents supporting the investigative report, which will be attached as an exhibit; (3) Report of legal action if case is accepted by U.S. Attorney for prosecution; (4) Report of action by management personnel if case is referred for administrative adjudication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, and 7802; Executive Order 11222.

PURPOSE(S):

This system of records documents investigations into allegations of unauthorized disclosures of Internal Revenue Service Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to 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 subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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) provide information to 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 records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the

Automated Information System Security Handbook, IRM 2(10)00. Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.005

SYSTEM NAME:

Enrollee Applicant Investigation Files, Inspection-Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former employees and non-IRS persons who apply for enrollment to practice before IRS under the provisions of Circular 230.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports on non-IRS employees covering derogatory results of checks of: FBI files; Inspection files; local police; Examination, Criminal Investigation and SB/SE, W&I, LMSB Division files; and verification of Federal tax filing status. Also, appropriate documents attached as exhibits showing results of above file checks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801 and 7802.

PURPOSE(S):

This system of records documents investigations of enrollee applicants conducted at the request of the Director of Practice, to determine their eligibility to practice before the Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for or investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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) provide information to 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 records, in folders, maintained in file cabinets and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

The Internal Revenue Service, the Federal Bureau of Investigation, and local police departments.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 60.006

SYSTEM NAME:

Enrollee Charge Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees or former employees, tax practitioners, attorneys, certified public accountants or enrolled persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

A documented complaint or request for investigation alleging criminal or administrative misconduct affecting IRS integrity. A report of investigation, including exhibits such as affidavits, statements or documents which have been reviewed. A report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7608, 7801, and 7802.

PURPOSE(S):

This system documents investigations of complaints of unethical practices by unenrolled tax practitioners and persons enrolled to practice before the Internal Revenue Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to 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 subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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) provide information to 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 records, in folders, maintained in file cabinets or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20024.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury, personnel and records, other Federal agencies, taxpayers/complainants, state and local agencies, tax returns, newspapers, person acquainted with the individual under investigation, subjects of the investigation, and personal observations of the investigator.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.007

SYSTEM NAME:

Miscellaneous Information File, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the Internal Revenue Service; Tax Practitioners (Attorneys, Certified Public Accountants, Enrolled Persons, Return Preparers); alleged tax violators; persons whose actions or alleged actions indicated a threat to IRS employees, facilities, or the integrity of the tax system; confidential informants; and reputed members of the organized criminal element.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Complaint type information regarding IRS employees which is not, in itself, specific or significant enough to initiate an investigation when received. (2) Allegations of bribery and gratuities by taxpayers and/or their representatives which are not by themselves specific or significant enough to initiate an investigation when received. (3) Allegations of misconduct by tax practitioners, enrolled persons, or tax preparers which are not by themselves specific or significant enough to initiate an investigation when received. (4) Any information received or developed by Inspection that has a bearing on IRS, but is not of itself specific or significant enough to initiate an investigation when received. (5) Information received by Inspection pertaining to alleged violations enforced by other agencies or divisions of IRS, copies of which are referred to those respective agencies or divisions. (6) Photographs and descriptive data of some IRS employees and of persons arrested by Inspection. (7) Information concerning lost or stolen Government documents, property, credentials, or IRS employee personal property lost or stolen on Government premises. (8) List of persons in state or local government agencies working under state agreements and having access to federal tax information. (9) Newspaper or periodical items about IRS. (10) Newspaper items regarding attorneys, CPA's, Tax Practitioners, or Return Preparers arrested, indicted, convicted or under investigation by other agencies. (11) Allegations of threats, assaults, forcible interference, or other violence type activity aimed at employees or facilities of IRS which are not by

themselves specific or significant enough to initiate an investigation when received. Information regarding Inspection's mission which does not fall into any of the above categories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801 and 7802; Executive Order 11222.

PURPOSE(S):

The purpose of this system of records is to document information related to Inspection's mission and/or allegations which are not specific or significant enough to warrant initiation of an investigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records and other than returns and return information may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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) provide information to 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 records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual, subject, or incident involved, by name of cross-referenced third parties, and/or information item number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system is exempt and may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, newspapers and periodicals, taxpayers (complainants, witnesses, and informants), state and local government agency personnel and records, and anonymous complainants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.010

SYSTEM NAME:

Tort Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

Office of the Chief Inspector, National Office and Regional Inspectors' Offices. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of the Treasury and non-Federal persons involved in accidents on property under Department of the Treasury jurisdiction or with Department of the Treasury employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of investigation including exhibits such as SF–91, Operator's Report of Motor Vehicle Accident; SF–91A, Investigation Report of Motor Vehicle Accident; SF–92A, Report of Accident Other Than Motor Vehicle; SF–94, Statement of Witness; Optional Form 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator. In addition, attached as exhibits might be a Police Report of the accident; copies of insurance policies of the involved drivers; photographs of the scene or vehicles after the accident; Treasury Department vehicle maintenance record, medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801 and 7802; Executive Order 11222.

PURPOSE(S):

This system of records documents formal Federal Tort Claims investigations conducted to obtain factual data required to defend the Government against claims for property loss or damages, personal injury or death caused by the negligence of wrongful act or omission of a government employee acting within the scope of his/her employment, or aid in the prosecution of Government claims arising from accidents involving Service employees or activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used: (1) Disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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) provide information to 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 records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00. Accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM Part X, Inspection, Exhibit (10)100–2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, Federal, State and local police agencies, witnesses, subjects involved in the investigation, hospitals (medical records), doctors (medical records and personal observations), personal observations of the investigator, automobile repair facilities, insurance companies, attorneys, Federal, State and local driver license records, and Federal and State vehicle registration records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 70.001

SYSTEM NAME:

Individual Income Tax Returns, Statistics of Income—Treasury/IRS.

SYSTEM LOCATION:

Primary—Detroit Computing Center; Secondary—(a) Internal Revenue Service, Statistics of Income Branch, National Office; (b) Treasury Department, Office of Tax Analysis; (c) Treasury Department, Office of Economic Modeling and Computer Applications; (d) Federal Records Centers; (e) Congress of the United States, Joint Committee on Taxation. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers selected for an annual statistical sample.

CATEGORIES OF RECORDS IN THE SYSTEM:

Sources of income, exemptions, deductions, income tax, and tax credits, as reported on Forms 1040, 1040A and 1040EZ U.S. Individual income tax return. The records are used to prepare and publish annual statistics, with respect to the operations of the tax laws and for special statistical studies and compilations. The statistics, studies, and compilations are designed so as to prevent disclosure of any particular taxpayer's identity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 6108.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Each magnetic tape record is identified by social security number and a unique document locator number assigned by the Internal Revenue Service. Those with sole proprietorship income, in addition, contain employer identification number, if reported by the taxpayer.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbook, IRM 1.15.2.1 through IRM 1.15.2.31. Input records are disposed of after publication of the statistics, except for input records for high income taxpayers for tax years prior to 1967 which are disposed of after 40 years. Output records are retained as long as they are needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Research and Analysis, Statistics of Income, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Primary: Forms 1040, 1040A, and 1040EZ, U.S. Individual Income Tax Returns. Secondary: Form SS–5, Application for a social security number.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.001

SYSTEM NAME:

Chief Counsel Criminal Tax Case Files. Each Regional Counsel Office and Area Counsel Office maintains one of these systems. The Office of the Assistant Chief Counsel (Criminal Tax) maintains one of these systems. The information in this notice applies to all 62 offices—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Regional Counsel Office and each Area Counsel Office are listed in the Appendix. (See IRS Appendix A.) Categories of individuals covered by the system:

(1) Taxpayers and related parties against whom tax-related criminal recommendations have been made. (2) Taxpayers and related parties on whom advice has been requested concerning investigation for tax-related offenses. (3) Persons who have filed petitions for the remission or mitigation of forfeitures or who are otherwise directly involved as parties in forfeiture matters, judicial or administrative.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Internal Control Records. (2) Legal and administrative files including investigative reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than return and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to 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 records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Records are locked up during nonworking hours and during periods when the work area is vacant. Access is strictly controlled and limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain ''significant case'' files an additional 19 years and dispose of them 20 years after they are closed. Other legal files are retained in the FRC 4 years after they are transferred to the FRC and disposed of 5 years after they are closed. Duplicate National Office monitoring files are destroyed immediately upon notification that the field has closed its file. National Office unjacketed case files (e.g., appeals for which no monitoring files exist: FOIA requests, search warrants, formal technical advice and miscellaneous legal opinions) are retained for ten years after closing. National Office original centralized grand jury files and administrative case files are maintained indefinitely. Files transferred from other functions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Assistant Chief Counsel (Criminal Tax) is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for the purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.002

SYSTEM NAME:

Chief Counsel Disclosure Litigation Case Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Chief Counsel (Disclosure and Privacy Law), Internal

Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who communicate with the Service regarding disclosure matters or who are involved with a disclosure issue involving the Service, or who are the subjects of investigations made by the Internal Security Division if their cases are referred to Disclosure Litigation for criminal violations of disclosure laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Case Files; (2) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to 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:

Legal case and administrative case files: Paper records. Internal control records: Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply, cross-referenced third parties, issues, attorneys assigned, and by case number.

SAFEGUARDS:

A background investigation is made on personnel. Offices are located in a security area. Access to keys to these offices is restricted. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) 1 year after they are closed. ''significant case'' files are retained an additional 29 years and disposed of 30 years after they are closed. Other legal files are retained in the FRC 5 years after they are transferred to the FRC and disposed of 6 years after they are closed. Other records are retained in the Division for the same time periods as described above.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel (Disclosure Litigation), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purpose of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Persons who communicate with the agency regarding disclosure matters; Department of Treasury employees; State, local, and foreign governments; other Federal agencies; witnesses; informants; parties to disputed matters of fact or law.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.003

SYSTEM NAME:

Chief Counsel General Administrative Systems. Each of the 7 Regional Counsel Offices and 54 Area Counsel Offices, each of the 10 functions in the National Office, the Office of the Chief Counsel, and the Office of the Deputy Chief Counsel, the Offices of the Associate Chief Counsels (Enforcement Litigation), (International), (Domestic), (Finance and Management), and (Employee Benefits and Exempt Organizations) maintain a General Administrative System. This notice applies to all 78 of these offices-Treasury/IRS.

SYSTEM LOCATION:

The location of these systems are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Past, present and prospective employees of the Office of Chief Counsel. (2) Tax Court Witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Employee Performance Folders and employee records other than Official Personnel Files of the Office of Personnel Management and the Merit Systems Protection Board. (2) Time cards and attendance rosters. (3) Financial records such as travel expenses, Notary Public expenses, moving expenses, expenses of Tax Court witnesses and miscellaneous expenses. (4) Employee recruiting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose information to the Office of Personnel Management and the Merit Systems Protection Board for appropriate Personnel actions; (3) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (4) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (5) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (6) disclose information to foreign governments in accordance with formal or informal international agreements; (7) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (8) provide information to 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; (9) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (10) provide information to 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 records and magnetic media.

RETRIEVABILITY:

Records are generally retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Records are updated periodically to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. Each Assistant Chief Counsel is the system manager of the system in his or her function. The Chief Counsel, the Deputy Chief Counsel and the Associate Chief Counsels (Enforcement Litigation), (Domestic), (International), (Finance and Management), and (Employee Benefits and Exempt Organizations) are the system managers of the system in each of their Offices. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Assistant Chief Counsel (Disclosure Litigation) in the case of records in the National Office. The addresses are listed in the Appendix. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Employees, Department of Treasury personnel; Tax Court witnesses; Office of Personnel Management and Merit Systems Protection Board; other Federal agencies; State, local, and foreign governments; references; former employers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.004

SYSTEM NAME:

Chief Counsel General Legal Services Case Files. Each of the seven Regional Counsel Offices and the National Office maintain a General Legal Services Case File System. The information in this notice applies to all eight of the offices-Treasury/IRS.

SYSTEM LOCATION:

The addresses of Counsel offices are listed in the appendix. (See IRS appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons involved in litigation, actions, investigations or cases falling within the jurisdiction of the General Legal Services function including persons (1) who are parties in personnel matters, as well as discrimination and labor management relations matters, of the Internal Revenue Service, Chief Counsel's Office or, in some instances, other agencies in the Treasury Department; (2) who are parties in practitioner actions under the jurisdiction of the Director of Practice or the Joint Board of Actuaries; (3) who are parties in procurement matters and under the Federal Claims Collection Act (as amended by the Debt collection Act); (4) who are parties in litigation or administrative claims involving alleged violations of the United States Constitution, the Federal Tort Claims Act, the Military Personnel and Civilian Employee Compensation Act, relief of accountable officers for loss of Government funds, claims or suits for rewards, acts of officers or employees acting within the scope of their employment, or official acts of officers or employees not directly relating to Federal tax issues but relating to the Internal Revenue Service; (5) who are

parties in miscellaneous matters referred to the General Legal Service; (6) who are the subjects of investigations made by the Internal Security Division if the case is referred to General Legal Services (7) who are officials of the Internal Revenue Service and Chief Counsel's Office required to file a Financial Disclosure Statement under the Ethics in Government Act of 1978; (8) who have corresponded regarding a matter under consideration within General Legal Services .

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal case and administrative case files. (2) Internal control cards. (3) Correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purposes of litigating an action or seeking legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to 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 subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (10) provide information to the Director of Practice and Joint Board of Actuaries in practitioner disciplinary matters; (11) provide information to the Office of Personnel Management in personnel, discrimination and labor management matters; (12) provide information to arbitrators, the Federal Labor Relations Authority, including the Office of the General Counsel of that authority, the Federal Service Impasses Board and the Federal Mediation and Conciliation Service in labor management matters; (13) provide information to the Merit Systems Protection Board, including its Special Counsel, in Personnel, Discrimination, and Labor Management matters; (14) provide information to the Equal Employment Opportunity Commission in Personnel, Discrimination, and Labor Management matters; (15) provide information to the General Services Administration in property management matters; (16) provide information to the Administrative Assistant of the Executive Resources Board as to Financial Disclosure Statements, who makes the statements available to the public as required by law; (17) provide information to other federal agencies for the purpose of effectuating inter-agency salary offset or inter-agency administrative offset; (18) provide information to the Office of Government Ethics in conflict of interest, conduct, financial statement reporting, and other ethical matters.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply. If more than one person is involved in a given case then it is generally retrievable only by the first named person.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) 1 year after the cases are closed. The FRC will retain ''significant case'' files an additional 19 years and dispose of them 20 years after they are closed. Other legal files are retained in the FRC 4 years after they are transferred to the center and disposed of 5 years after they are closed. Other records are retained for the same time periods described above.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the system in his or her Region. The Assistant Chief Counsel (General Legal Services) is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.005

SYSTEM NAME:

Chief Counsel General Litigation Case Files. Each Regional Counsel Office and each Area Counsel Office maintains one of these systems. The National Office maintains one of these systems. The information in this notice applies to all 62 offices—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the Counsel offices are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers or other individuals involved in matters referred to the General Litigation function including: (a) Taxpayers with outstanding tax liabilities or with potential outstanding tax liabilities; (b) persons from whom information is being sought (summons); (c) persons requesting information (disclosure); (d) present or former Internal Revenue Service employees who are being or may be sued in connection with their duties or who have been called upon to testify in private litigation; (e) persons who are or may be liable to the United States on non-tax claims; (f) persons who have submitted offers in compromise of federal taxes. (2) Persons who have corresponded regarding a matter under consideration within the General Litigation function.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal and Administrative Files. (2) Internal Control Records. (3) Offer in Compromise Files. (4) Correspondence Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Provide information to other Federal agencies holding funds of taxpayer for the purpose of collecting a liability owed by the taxpayer; (2) disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (3) provide information to State and local taxing authorities for the purpose of enforcing Federal tax laws; (4) provide information to Federal, state and local regulatory authorities for purposes of SB/SE, W&I, LMSB of Federal taxes; (5) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (6) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (7) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (8) disclose information to foreign governments in accordance with formal or informal international agreements; (9) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (10) provide information to 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; (11) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (12) provide information to 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 records and magnetic media.

RETRIEVABILITY:

All records are retrievable by the name of the persons to whom they apply. Some internal control records are retrievable by names of taxpayers and related taxpayers, attorneys assigned, subject matter, and certain key administrative dates.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

National Office, Regional, and Area counsel legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain ''significant case'' files an additional 24 years and dispose of them 25 years after the cases are closed. Other legal files are retained in the FRC 9 years after they are transferred to the Center and disposed of 10 years after they are closed. Other records are retained in the Division for the same time periods described above. Files transferred from other functions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Assistant Chief Counsel (General Litigation) is the system manager of the National Office system. The addresses are in the Appendix. (See IRS appendix A.)

NOTIFICATION PROCEDURE:

Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.007

SYSTEM NAME:

Chief Counsel Legislation and Regulations Division, Employee Plans and Exempt Organizations Division, and Associate Chief Counsel (Technical and International) Correspondence and Private Bill Files-Treasury/IRS.

SYSTEM LOCATION:

Legislation and Regulations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, Washington DC 20224; Employee Plans and Exempt Organizations Division and Associate Chief Counsel (Technical and International), same address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who have corresponded to the Service, the Department of the Treasury, the White House or Members of Congress regarding a matter in which the Legislation and Regulations Division or the Employee Plans and Exempt Organizations Division was asked to draft a reply. (2) Persons on whose behalf private relief bills were introduced in Congress involving tax related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Correspondence Files; (2) Private Relief Bill Legal Files; (3) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to 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 subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (10) provide information to the agency or individual who directed correspondence to the Legislation and Regulations Division for the Division to draft a response.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Correspondence files are retrievable by the name of the individual who initiated the correspondence. Private Relief Bill files are retrievable by the H.R. or S. number for each Congress.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Correspondence files are generally disposed of after 3 years. Private Relief Bill files are periodically updated to reflect changes and are maintained as long as needed. Internal control records are generally disposed of after 2 years or when no longer useful. Auth: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel, TE/GE, and Associate Chief Counsel International Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS appendix A.)

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Persons who initiate correspondence referred to the Legislation and Regulations Division; Congressional documents; taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; state, local, and foreign governments; witnesses; informants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 90.009

SYSTEM NAME:

Chief Counsel Field Services Case Files. Each Regional Counsel Office and each Area Counsel Office maintains one of these systems. The National Office maintains one of these systems. The information in this notice applies to all 62 offices-Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Area Counsel Office, Area. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who have filed petitions with the Tax Court or suits for refunds

of Federal taxes. (2) Taxpayers upon whom the issuance of a statutory notice is or was contemplated whose case has been referred to the Tax Litigation function. (3) Taxpayers who are the subject of formal or informal advisory opinions during the investigative stage of the case or while under administrative processing. (4) Persons who have corresponded regarding a matter under consideration within the Tax Litigation function.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Case Files. (2) Internal Control Records. (3) Correspondence Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements. (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to 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 records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain ''significant case'' files an additional 29 years and dispose of them 30 years after they are closed. Other legal files are retained in the FRC 9 years after they are transferred to the Center and disposed of 10 years after they are closed. Other records are periodically updated to reflect changes and maintained as long as needed. Files transferred from other functions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Area Counsel is the system manager of the systems in his or her Region. The Assistant Chief Counsel (Field Services) is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.010

SYSTEM NAME:

Digest Room Files Containing Briefs, Legal Opinions, and Digests of Documents Generated Internally or by the Department of Justice Relating to the Administration of the Revenue Laws-Treasury/IRS.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have sought Internal Revenue Service rulings and/or legal opinions on tax problems and those whose cases are being or have been adjudicated.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Internal Control Records; (2) Briefs; (3) Legal Opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to Justice Department personnel for research purposes; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to 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 records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Records are kept in a secured area. Access is limited to authorized personnel. Users of the system must show IRS identification and sign a register each time the room is used. Background checks are made on employees. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Briefs, legal opinions, and digests are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel, (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel; Department of Justice personnel; taxpayers and their representatives; other Federal agencies; witnesses; informants; State, local, and foreign governments; parties to disputed matters of fact and law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.011

SYSTEM NAME:

Attorney Recruiting Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for attorney positions with the Office of Chief Counsel, both National Office and field.

CATEGORIES OF RECORDS IN THE SYSTEM:

Attorney Files and lists of eligible applicants; Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (10) provide information to the Office of Personnel Management and Merit System Protection Board for appropriate personnel actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Applicant files and internal control records: paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

The attorney applicant files and other records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Chief Counsel (Disclosure Litigation), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Applicants, Department of Treasury Personnel; Office of Personnel Management; other Federal agencies; State, local, and foreign governments; references, former employers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.013

SYSTEM NAME:

Legal Case Files of the Chief Counsel, Deputy Chief Counsel and Associate Chief Counsels-Treasury/IRS.

SYSTEM LOCATION:

Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose cases at one time involved important issues or unusual circumstances which were brought to the attention of the above persons (or their predecessors).

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal case files which include internal control records of such case files of both the persons currently holding the above positions and those who previously held such positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to 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 records and magnetic media.

RETRIEVABILITY:

Records pertaining to individuals are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, Deputy Chief Counsel, or the Associate Chief Counsels, respectively, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.015

SYSTEM NAME:

Reference Records of the Library in the Office of Chief Counsel—Treasury/IRS.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who have sought Congressional tax relief by means of a Private Bill. (2) IRS employees who charge out books.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Numerical and alphabetical listing of Private Relief Bill and files related to the Bill. (2) Charge cards and inter-library loan forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used to: (1) Disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (3) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (4) provide information to 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; (5) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (6) provide information to 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 records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the individual to whom they pertain and Private Bill material can also be retrieved by H.R. or S. number.

SAFEGUARDS:

Although access is limited to authorized individuals, this material would be available to any person through a Freedom of Information Act request. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Records are regularly updated. If the library materials to which the references pertain are no longer in the library SB/SE, W&I, LMSB, the reference cards are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance and Management), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C. Appendix B. Inquiries should be addressed to Assistant Chief Counsel (Disclosure and Privacy Law), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Material to which reference information pertains.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 90.016

SYSTEM NAME:

Counsel Automated Tracking System (CATS) Records—Treasury/IRS.

SYSTEM LOCATION:

Computer Records: Detroit Computing Center, 1300 John C. Lodge Drive, Detroit, Michigan 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who initiated suits for refund in area courts or the Claims Court.(2) Taxpayers who have filed petitions with the United States Tax Court. (3) Taxpayers who have requested rulings from the Service in those cases in which the request has been referred to the Office of Chief Counsel for a legal opinion. (4) Taxpayers who have been involved in litigation concerning the SB/SE, W&I, LMSB of taxes. (5) Taxpayers whose cases were the subject of technical advice.

CATEGORIES OF RECORDS IN THE SYSTEM:

Skeletal legal files and Indexes (including taxpayer name; uniform issue list number; key dates; subject matter; name of attorney and office handling the case; and miscellaneous remarks.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose

information to the Department of Justice for the purpose of litigating an action, seeking legal advice, or for research purposes; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation; (9) provide information to 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:

Skeletal legal files and indexes are stored on magnetic media. Input documents are on paper. The CATS system also allows access by interactive terminal.

RETRIEVABILITY:

Records are retrievable by legal jacket number, the name of the person to whom they apply, and by name of the attorney to whom the cases are assigned.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Passwords are required in the Counsel Automated Tracking System to access system information. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31. Magnetic media will be periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance and Management), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2). An individual who wishes to determine whether the system contains any records pertaining to himself which are not exempt may address inquiries to the Assistant Chief Counsel (Disclosure Litigation), 1111 Constitution Avenue, NW., Washington, DC 20224.

RECORD ACCESS PROCEDURES:

Most of the records in this system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2). Individuals seeking access to any record which is not exempt, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Chief Counsel (Disclosure Litigation) whose address is listed above. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies, State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.017

SYSTEM NAME:

Correspondence Control and Records, Associate Chief Counsel (Technical and International)—Treasury/IRS.

SYSTEM LOCATION:

National Office (See IRS appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual subjects of letter rulings, technical advice, memorandum and other correspondence from the Office of the Associate Chief Counsel (Technical and International).

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards, disks and tapes containing taxpayer names, date of correspondence, issue, and related information, including in some cases the conclusions reached, and related letter ruling, technical advice, memorandum and other correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 7802, 7602, 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used to: (1) Disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice; (2) disclose pertinent information to 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, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to 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 individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) disclose information to foreign governments in accordance with formal or informal international agreements; (6) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to 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) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (9) provide information to 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 records, magnetic media, and tapes.

RETRIEVABILITY:

Indexed by name and control number.

SAFEGUARDS:

Safeguards will not be less than those provided by the Physical and Document Security Handbook, IRM 1(16)41, and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Cards, disks and tapes are periodically updated and maintained as long as needed. Related files are destroyed or retired over varying numbers of years as specified in the Records Control Schedule, IRM 1.15.2.1 (10).

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Technical and International), National Office. (See IRS appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical and International), National Office. (See IRS appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical and International), National Office. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual subjects of letter rulings, technical advice memorandums, and other correspondence, field office personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 90.018

SYSTEM NAME:

Expert Witness Library—Treasury/IRS.

SYSTEM LOCATION:

Office of the Assistant Chief Counsel (Field Services) Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential expert witnesses for tax litigation in a variety of areas of expertise.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, and phone numbers of expert witnesses who have been used either by IRS or taxpayers in litigation. The library also contains evaluations of the performance of each expert, copies of transcripts where experts have testified and copies of the experts' reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, 7802, and 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to: (1) Disclose information to the Department of Justice in connection with requests for legal advice; (2) disclose information to 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 individual, or issuance of or retention of a security clearance, license, contract, grant, or other benefit; (3) disclose relevant, non-privileged information to a court, magistrate, or administrative tribunal, including the presentation of evidence, disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena where relevant or potentially relevant to the proceeding; (4) provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to 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 records and magnetic media.

RETRIEVABILITY:

Indexed by name and subject matter expertise.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Furthermore, access to the paper files is controlled by a designated attorney in the Tax Shelter Branch. Access to the expert witness library indices on magnetic media are controlled by the Tax Shelter Branch. The Tax Shelter Branch is locked during nonworking hours. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Background checks are made on employees. Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

The records will be periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel (Field Services), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW, Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Chief Counsel (Disclosure Litigation), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Attorneys working for the IRS and expert witnesses themselves.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

IRS Appendix A—Addresses of System Locations

This appendix contains the addresses of Treasury/IRS system locations along with the title of the principal system manager(s) at each location. Other system managers at these locations are individually noted in the text of the system notices. Generally, inquiries under Treasury/IRS systems should be addressed to the office where the records in question are located. For Area Office records, this would be the office with jurisdiction over the area where the individual resides. For Internal Revenue Service Center/Campus records, this would be the service center/campus where the individual files Federal income tax returns.

The Internal Revenue Service has been reorganized and the following divisions serve their respective customers:

Wage and Investment—individual taxpayers;
Large and Mid Size Business-taxpayers who are large and mid-size businesses;
Tax Exempt/Government Entities—taxpayers who are tax-exempt/government entities;
Small Business/ Self Employed—small business taxpayers and self-employed taxpayers.

National Office Internal Revenue Service

Chief, Equal Employment Opportunity and Diversity
Chief, Communications and Liaison
Chief Information Officer
Assistant Commissioner (Employee Plans and Exempt Organizations)
Director, Tax Administration Modernization
Commissioner, Large and Mid Size Business Division
Commissioner, Small Business/Self Employed Division
Commissioner, Tax Exempt and Government Entities Division
Commissioner, Wage and Investment Division
Director, Commissioner's Complaint and Processing Group
Director of Practice
National Taxpayer Advocate
National Director, Strategic Planning and Research
National Director, Compliance and Research
Chief Financial Officer
Chief, Appeals
Director, National Headquarters Management and Finance
Director, Research and Analysis and SOI
Chief Agency Wide Shared Services
Chief (Criminal Investigation)
Director, Strategic Human Resources
Director (International)
Assistant Commissioner (Procurement)
Chief Appeals
Director, Office of Disclosure

The address for all of the above systems managers with the exception of the Assistant Commissioner (International), noted below, is as follows:

1111 Constitution Avenue, NW., Washington, DC 20224.
Director (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

Addresses of the Detroit Computing Center, Martinsburg Computing Center, and the Austin Service Center/Campus

Director, Detroit Computing Center, 1300 John C. Lodge Drive, Detroit, Michigan 48226.

Director, Martinsburg Computing Center, PO Box 1208, Martinsburg, West Virginia 25401.

Director, Austin Service Center/Campus, Stop 7000 AUSC, 3651 Interregional Hwy 35, Austin, Texas 78741.

Addresses of Area Offices and Internal Revenue Service Centers

Area Offices

Midstates (Dallas)

Internal Revenue Service, 4050 Alpha Road, Dallas, Texas 75244–4203.
Northeast (Manhattan), Internal Revenue Service, 90 Church Street, New York, New York, 10007.
Southeast (Atlanta), Internal Revenue Service, PO Box 926, Stop 100–R, Atlanta, Georgia 30370.
Western (San Francisco), Internal Revenue Service, Room 511, 1650 Mission Street, San Francisco, California 95113.

Area Directors

Area Director, Internal Revenue Service, PO Box 1818, Cincinnati, Ohio 45201.
Area Director, Internal Revenue Service, PO Box 99181, Cleveland, Ohio 44199.
Area Director, Internal Revenue Service, PO Box 330500, Stop #1, Detroit, Michigan 48232–6500.
Area Director, Internal Revenue Service, PO Box 44687, Stop 10, Indianapolis, Indiana 46244.
Area Director, Internal Revenue Service, PO Box 1735, Stop 100, Louisville, Kentucky 40201.
Area Director, Internal Revenue Service, 425 Juliana Street, Parkersburg, West Virginia 26101.
Director, Internal Revenue Service Center/Campus, 201 W. Second Street., Covington, Kentucky 41019.
Area Director, Internal Revenue Service, George Fallon Building, 31 Hopkins Plaza, Baltimore, Maryland 21201.
Area Director, Internal Revenue Service, P.O. Box 939, Newark, New Jersey 07101.
Area Director, Internal Revenue Service, W. J. Green Federal Building, 600 Arch Street, Philadelphia, Pennsylvania 19106.
Area Director, Internal Revenue Service, 1000 Liberty Avenue, Room 1139, Pittsburgh, Pennsylvania 15222.
Area Director, Internal Revenue Service, 400 North Eighth Street, Richmond, Virginia 23240.
Area Director, Internal Revenue Service, 409 Silverside Road, Wilmington, Delaware 19809.
Director, Internal Revenue Service Center/Campus, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19154.
Area Director, Internal Revenue Service, Federal Building, 115 Fourth Avenue, SE., Aberdeen, South Dakota 57401.
Area Director, Internal Revenue Service, 230 South Dearborn Street, Room 2890, Chicago, Illinois 60604.
Area Director, Internal Revenue Service, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
Area Director, Internal Revenue Service, Federal Building and Post Office, 657 Second Avenue, North Fargo, North Dakota 58102.
Area Director, Internal Revenue Service, Federal Building, Second Floor, 301 South Park Avenue, Helena, Montana 59626–0016.
Area Director, Internal Revenue Service, Federal Building and Court House, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.
Area Director, Internal Revenue Service, Federal Office Building, 106 South Fifteenth Street, Omaha, Nebraska 68102.
Area Director, Internal Revenue Service, 1222 Spruce Street, St. Louis, Missouri 63101.
Area Director, Internal Revenue Service, Federal Building and Court House, 316 North Robert Street, St. Paul, Minnesota 55101.
Area Director, Internal Revenue Service, 320 West Washington Street, Springfield, Illinois 62701.
Director, Internal Revenue Service Center/Campus, P.O. Box 24551, Kansas City, Missouri 64131.
Area Director, Internal Revenue Service, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.
Area Director, Internal Revenue Service, 68 Sewall Street, Augusta, Maine 04330.
Area Director, Internal Revenue Service, Leo W. O'Brien Federal Building, Clinton Avenue and North Pearl Street, Albany, New York 12207.

Area Director, Internal Revenue Service, 120 Church Street, New York, New York 10007.
Area Director, Internal Revenue Service, 35 Tillary Street, Brooklyn, New York 11201.
Area Director, Internal Revenue Service, 111 West Huron Street, Buffalo, New York 14202.
Area Director, Internal Revenue Service, Courthouse Plaza, 119 Main Street, Burlington, Vermont 05401.
Area Director, Internal Revenue Service, William R. Cotter Federal Building, Stop 204, 135 High Street, Hartford, Connecticut 06103.
Area Director, Internal Revenue Service, Federal Building, 80 Daniel Street, Portsmouth, New Hampshire 03801.
Area Director, Internal Revenue Service, 380 Westminster Mall, Providence, Rhode Island 02903.
Andover IRS Internal Revenue Service, Stop 100, 310 Lowell Street, Andover, Massachusetts 05501.
Director, Internal Revenue Service Center/ Campus, Stop 100, 1040 Waverly Avenue, Holtsville, New York 11799.
Area Director, Internal Revenue Service, 401 West Peachtree Street, NW. Atlanta, Georgia 30365.
Area Director, Internal Revenue Service, 500 Twenty-second Street South, Birmingham, Alabama, 35233.
Area Director, Internal Revenue Service, 1835 Assembly Street, Columbia, South Carolina 29201.
Area Director, Internal Revenue Service, 320 Federal Place, Greensboro, North Carolina 27401.
Area Director, Internal Revenue Service, Suite 504, 100 W. Capitol Street, Suite 504, Jackson, Mississippi 39269.
Area Director, Internal Revenue Service, Federal Office Building, 400 West Bay Street, Jacksonville, Florida 32202.
Area Director, Internal Revenue Service, 801 Broadway, Nashville, Tennessee 37203.
Area Director, Internal Revenue Service, (Stop 6) 700 West Capitol, Little Rock, Arkansas 72201.
Area Director, Internal Revenue Service, (Stop 6) 501 Magazine Street, New Orleans, Louisiana 70130.
Area Director, Internal Revenue Service, One University Drive, Building B, Ft. Lauderdale, Florida 33324.
Director, Internal Revenue Service Center/ Campus, 4800 Buford Highway, Chamblee, Georgia 30341.
Director, Internal Revenue Service Center/ campus, P.O. Box 30309, Airport Mail Facility, Memphis, Tennessee 38130.
Area Director, Internal Revenue Service, 5338 Montgomery NE, 3rd Floor, Albuquerque, New Mexico 87109.
Area Director, Internal Revenue Service, Stop 100D AUS, 300 East Eighth Street, Austin, Texas 78701.
Area Director, Internal Revenue Service, 1919 Smith Street, Houston, Texas 77002.
Area Director, Internal Revenue Service, 308 West Twenty-first Street, Cheyenne, Wyoming 82001.
Area Director, Internal Revenue Service, Stop 1000 DAL, 1100 Commerce Street, Dallas, Texas 75242.
Area Director, Internal Revenue Service, 600 Seventeenth Street, Stop 1000 DEN, Denver, Colorado 80202–2490.
Area Director, Internal Revenue Service, 210 East Earll Drive, Sixth Floor, Room 600, Phoenix, Arizona 85012.
Area Director, Internal Revenue Service, 465 South 400 East, Salt Lake City, Utah 84111.
Area Director, Internal Revenue Service, 200 NW. Fourth Street, Oklahoma City, Oklahoma 73102.
Area Director, Internal Revenue Service, 412 South Main Street, Wichita, Kansas 76202.
Director, Internal Revenue Service Center/ Campus, 3651 South Interregional Highway, Austin, Texas 73301.
Director, Internal Revenue Service Center/ Campus, 1160 West 1200 South Street, Ogden Utah 84201.
Area Director, Internal Revenue Service, 949 East Thirty-sixth Avenue, Anchorage, Alaska 99508.
Area Director, Internal Revenue Service, Box 041, 550 West Fort Street, Boise, Idaho 83724.
Area Director, Internal Revenue Service, PJKK Federal Building, 300 Ala Moana, Honolulu, Hawaii 96850.
Area Director, Internal Revenue Service, 24000 Avila Road, Laguna Niguel, California 92677.
Area Director, Internal Revenue Service, 300 North Los Angeles Street, Los Angeles, California 90012.
Area Director, Internal Revenue Service, 1220 SW. Third Avenue, Portland, Oregon 97204.
Area Director, Internal Revenue Service, 4750 West Oakey Boulevard, Las Vegas, Nevada 89102.
Area Director, Internal Revenue Service, 4330 Watt Avenue, North Highland, California 95660.
Area Director, Internal Revenue Service, 1301 Clay Street, South Tower, San Francisco, California 94612.
Area Director, Internal Revenue Service, 55 South Market Street, San Jose, California 95113.
Area Director, Internal Revenue Service, 915 Second Avenue, Seattle, Washington, 98174.
Director, Internal Revenue Service Center, 5045 East Butler Avenue, Fresno, California 93888.

Addresses of Chief Counsel, Area Counsel, and Regional Director of Appeals Offices

National Office

Office of the National Director of Appeals, Internal Revenue Service, 901 D Street, SW., Box 68, Washington, DC 20024.
Office of the Assistant Chief Counsel (Criminal Tax), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Disclosure and Privacy Law), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (General Legal Services), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (General Litigation), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Income Tax and Accounting), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Counsel (Field Services), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Financial Institutions and Products), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Office of the Assistant Chief Counsel (Passthroughs and Special Industries), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.
Chief Counsel, Deputy Chief Counsel, Associate Chief Counsels (Litigation), (Domestic), (International), Finance and Management) and (Employee Benefits and Exempt Organizations), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

Counsel Offices

Southeast Counsel's Office, IRS, 401 West Peachtree Street, Suite 2110–Stop 180–R, Atlanta, Georgia 30365
Midstates Counsel's Office, IRS, 4050 Alpha Road, 14th Floor, Dallas, Texas 75244–4203.
Western Counsel's Office, IRS, Room 514, 1650 Mission Street, San Francisco, California 94103.

Director of Appeals

Northeast Director of Appeals, IRS, 90 Church Street, Room 1003, New York, NY 10007.
Southeast Director of Appeals, IRS, 625 Federal Office Building, Suite 2118, 401 West Peachtree Street, NW., Atlanta, Georgia 30365.
Midstates Director of Appeals, IRS, 4050 Alpha Road, Fourteenth Floor, Dallas, Texas 75244–4203,

Western

Director of Appeals, IRS, Room 515, 1650 Mission Street, San Francisco, California 94103.

Area Counsel Offices

Area Counsel's Office, IRS, Leo W. O'Brien Federal Building, Clinton Avenue and N. Pearl Street, Albany, New York 12207.
Area Counsel's Office, IRS, 10 Causeway Street, Room 401, Boston, Massachusetts 02222–1061.
Area Counsel's Office, IRS Brooklyn Office, 1600 Stewart Avenue, Suite 601, Uniondale, New York 11590.
Area Counsel's Office, IRS, 28 Church Street, Guaranty Building, Suite 500, Buffalo, New York 14202.
Area Counsel's Office, IRS, 333 East River Drive, Suite 200, Commerce Center One, Hartford, Connecticut 06108.
Area Counsel's Office, IRS, Room 10424, 600 Arch Street, Philadelphia, Pennsylvania 19106.
Area Counsel's Office, IRS, Room 4100, 101 West Lombard Street, Baltimore, Maryland 21201.
Area Counsel's Office, IRS, Room 904, 970 Broad Street, Newark, New Jersey 07102.
Area Counsel's Office, IRS, 1001 Liberty Center, Room 601 C, Pittsburgh, Pennsylvania 15222.
Area Counsel's Office, IRS, 2727 Enterprise Parkway, First Floor, Richmond, Virginia 23240.
Area Counsel's Office, IRS, 4620 Wisconsin Avenue, NW., Fourth Floor, Washington, DC 20016.
Area Counsel's Office, IRS, Suite 1400, 401 West Peachtree Street, NW., Atlanta, Georgia 30365.
Area Counsel's Office, IRS, Room 340, 500 Twenty-second Street, South, Birmingham, Alabama 35233.
Area Counsel's Office, IRS, Room 509, 320 Federal Place, Greensboro, North Carolina 27401.
Area Counsel's Office, IRS, Box 35027, Federal Office Building, 400 West Bay Street, Room 564, Jacksonville, Florida 32202.
Area Counsel's Office, IRS, Room 1114, Federal Office Building, 51 SW First Avenue, Miami, Florida 33130.
Area Counsel's Office, IRS, Room 703, U.S. Courthouse, 801 Broadway, Nashville, Tennessee 37203–3814.
Area Counsel's Office, IRS, 917 Hale Boggs Building, 501 Magazine Street, New Orleans, Louisiana 70130.
Area Counsel's Office, IRS, Room 7525, John Weld Peck Federal Building 550 Main Street, Cincinnati, Ohio 45202.
Area Counsel's Office, IRS, Suite 810, One Cleveland Center, 1375 East, Ninth Street, Cleveland, Ohio 44114.
Area Counsel's Office, IRS, 1870 McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226.
Area Counsel's Office, IRS, 513 Minton-Capehart Federal Building, 575 N. Pennsylvania Street, Indianapolis, Indiana 46204.
Area Counsel's Office, IRS, Suite 1100 Heyburn Building, 332 West Broadway, Louisville, Kentucky 40202.
Area Counsel's Office, IRS, 219 South Dearborn Street, Room 1342, Chicago, Illinois 60604.
Area Counsel's Office, IRS, 439 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
Area Counsel's Office, IRS, Room 242, Federal Building, 301 South Park Avenue, Helena, Montana 59626.
Area Counsel's Office, IRS, 2700 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.
Area Counsel's Office, IRS, 760 Henry Reuss Federal Plaza, Suite 760, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.
Area Counsel's Office, IRS, 3101 Federal Building, 215 North Seventeenth Street, Omaha, Nebraska 68101.
Area Counsel's Office, IRS, Room 720, 320 West Washington Street, Springfield, Illinois 62701.
Area Counsel's Office, IRS, Third Floor, Chouteau Center, 133 S. Eleventh Street, St. Louis, Missouri 63102.
Area Counsel's Office, IRS, Galtier Plaza, Suite 650, 175 East Fifth Street, St. Paul, Minnesota 55101.
Area Counsel's Office, IRS, 5338 Montgomery NE Suite 400, Albuquerque, New Mexico 87109.
Area Counsel's Office, IRS, Room 601, 300 East Eighth Street, Austin, Texas 78701.
Area Counsel's Office, IRS, Room 12A24, Stop 2000 DAL, 1100 Commerce Street, Dallas, Texas 75242.
Area Counsel's Office, IRS, Suite 500, 1244 Speer Boulevard, Denver, Colorado 80204.
Area Counsel's Office, IRS, Suite 350, 10850 Richmond Avenue, Houston, Texas 77042–4775.
Area Counsel's Office, IRS, Suite 320, 500 West Main, Oklahoma City, Oklahoma 73102.
Area Counsel's Office, IRS, Suite 1500, 3225 N. Central Avenue, Phoenix, Arizona 85012.
Area Counsel, IRS, Room 131, Wallace F. Bennett Federal Building, 125 South State Street, Salt Lake City, Utah 84138.
Area Counsel's Office, IRS, Room 607, 949 East Thirty-sixth Avenue, Anchorage, Alaska 99508.
Area Counsel's Office, IRS, Box 024, 550 West Fort Street, Boise, Idaho 83724.
Area Counsel's Office, IRS, 7119 PJKK Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.
Area Counsel's Office, IRS, Fourth Floor, Chet Holifield Building, 24000 Avila Road, Laguna Niguel, California 92656.
Area Counsel's Office, IRS, 4750 Oakey, Suite 403, Las Vegas, Nevada 89102.
Area Counsel's Office, IRS, 3018 Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012.
Area Counsel's Office, IRS, 222 SW. Columbia, Suite 450, Portland, Oregon 97201.
Area Counsel's Office, IRS, 4330 Watt Avenue, Suite 470, North Highlands, California 95660.
Area Counsel's Office, IRS, Suite 901, 701 B Street, San Diego, California 92101.
Area Counsel's Office, IRS, Room 504, 160 Spear Street, San Francisco, California 94105.
Area Counsel's Office, IRS, Suite 505, 55 South Market Street, San Jose, California 95113.
Area Counsel's Office, IRS, 2710 Federal Building, 915 Second Avenue, Seattle, Washington 98174.
Area Counsel's Office, IRS, 950 Hampshire Road, East Pavilion, Thousand Oaks, California 91361.

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Federal Register

Monday,
December 10, 2001

Part IV

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Special Research Grants Program, Potato Research: Request for Applications and Request for Input; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Special Research Grants Program, Potato Research: Request for Applications and Request for Input

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of Request for Applications and Request for Input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) announces the availability of grant funds and requests applications for the Special Research Grants Program, Potato Research (Potato Research) for fiscal year (FY) 2002 to facilitate or expand ongoing State-Federal food and agricultural research programs. The amount available for support of this program in FY 2002 will be approximately between $1,447,000 and $1,600,000.

This notice identifies the objectives for Potato Research projects, the eligibility criteria for projects and applicants, and the application forms and associated instructions needed to apply for a Potato Research grant.

By this notice, CSREES additionally requests stakeholder input from any interested party for use in the development of the next Request for Applications (RFA) for this program.

DATES: Applications must be received by close of business (COB) on January 21, 2002 (5:00 p.m. Eastern Time). Applications received after this deadline will not be considered for funding. Comments regarding this RFA are requested within six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable.

ADDRESSES: The address for hand-delivered applications or applications submitted using an express mail or overnight courier service is: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024; Telephone: (202)401–5048.

Applications sent via the U.S. Postal Service must be sent to the following address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245.

Written stakeholder comments should be submitted by mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA-CSREES; STOP 2299; 1400 Independence Avenue, SW.; Washington, DC 20250–2299; or via e-mail to: *RFP-OEP@reeusda.gov.* (This e-mail address is intended only for receiving comments regarding this RFA and not requesting information or forms.) In your comments, please state that you are responding to the Special Research Grants Program, Potato Research RFA.

FOR FURTHER INFORMATION: Applicants and other interested parties are encouraged to contact Ann Marie Thro; telephone: 202–401–6702; fax: 202–401–4888; email: *athro@reeusda.gov.*

SUPPLEMENTARY INFORMATION:

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under number 10.200.

Stakeholder Input

CSREES is requesting comments regarding this RFA from any interested party. These comments will be considered in the development of the next RFA for the program. Such comments will be used to meet the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(c)(2)). This section requires the Secretary to solicit and consider input on a current RFA from persons who conduct or use agricultural research, education and extension for use in formulating future RFA's for competitive programs. Comments should be submitted as provided for in the **ADDRESSES** and **DATES** portions of this Notice.

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A. Legislative Authority and Background

The authority for this program is contained in subsection (c)(1)(B) of section 2 of the Competitive, Special, and Facilities Research Grant Act, of Pub. L. No. 89–106, as amended (7 U.S.C. 450i(c)(1)(B)). Only section 3400.1, Applicability of regulations, subpart C, Peer and Merit Review Arranged by Grantees, and subpart D, Annual Reports, of the administrative regulations at 7 CFR part 3400 for the Special Grants Programs awarded under the authority of section 2(c) of this Act (7 U.S.C. 450i(c)) apply to grants solicited and awarded under subsection (c)(1)(B).

In accordance with the statutory authority, grants awarded under this program will be for the purpose of facilitating or expanding ongoing State-Federal food and agricultural research programs that—

(i) Promote excellence in research on a regional and national level; (ii) promote the development of regional research centers; (iii) promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and (iv) facilitate coordination and cooperation of research among States through regional research grants.

B. Purpose, Priorities, and Fund Availability

The purpose of this grant program is to support potato research that focuses on varietal development/testing. As used herein, varietal development/testing is research using traditional and biotechnological genetics to develop improved potato variety(ies). Aspects of evaluation, screening and testing must support or complement the development of improved varieties.

There is no commitment by USDA to fund any particular application or to make a specific number of awards. Approximately between $1,447,000 and

$1,600,000 will be available to fund applications in FY 2002.

C. Definitions

For the purpose of this program, the following definitions are applicable:

Administrator means the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES) and any other officer or employee of the Department to whom the authority involved may be delegated.

Authorized departmental officer (ADO) means the Secretary or any employee of the Department with delegated authority to issue or modify grant instruments on behalf of the Secretary.

Authorized organizational representative (AOR) means the president, or chief executive officer of the applicant organization or the official, designated by the president or chief executive officer of the applicant organization, who has the authority to commit the resources of the organization.

Budget period means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

Department or *USDA* means the United States Department of Agriculture.

Grantee means the organizaton designated in the grant award document as the responsible legal entity to which a grant is awarded.

Peer review is an evaluation of a proposed project for scientific or technical quality and relevance performed by experts with the scientific knowledge and technical skills to conduct the proposed work or to give expert advice on the merits of a proposal.

Peer reviewers means experts or consultants qualified by training and experience to give expert advice on the scientific and technical merit of grant applications or the relevance of those applications to one or more of the proposal evaluation criteria. Peer reviewers may be ad hoc or convened as a panel.

Project Director means the single individual designated by the grantee in the grant application and approved by the Authorized Departmental Officer who is responsible for the direction and management of the project (also known as a principal investigator for research activities).

Prior approval means written approval evidencing prior consent by an authorized departmental officer.

Project means the particular activity within the scope of the program supported by a grant award.

Project period means the total length of time as stated in the award document and modifications thereto, if any, during which Federal sponsorship begins and ends.

Secretary means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved is delegated.

D. Eligibility

Applications may be submitted by State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962, as amended (16 U.S.C. 582a et seq.), and accredited schools or colleges of veterinary medicine. The proposals must be directly related to potato varietal development/testing. Although an applicant may be eligible based on its status as one of these entities, other factors may exclude an applicant from receiving Federal assistance under this program (*e.g.*, debarment or suspension, a determination of non-responsibility based on submitted organizational management information, etc.). Award recipients may subcontract to organizations not eligible to apply provided such organizations are necessary for the conduct of the project.

E. Indirect Costs

Pursuant to Section 1473 of the National Agriculture Research, Extension, and Teaching Policy Act of 1977, as amended, 7 U.S.C. 3319, indirect costs are not allowable costs under section 2(c)(1)(B) projects, and no funds will be approved for this purpose. Further, costs that are a part of an institution's indirect cost pool (e.g., administrative or clerical salaries) may not be reclassified as direct costs for the purpose of making them allowable.

F. Matching Requirements

Cost-sharing is not required nor will it be a factor in the awarding of any grant.

G. Funding Restrictions

CSREES has determined that grant funds awarded under this authority may not be used for renovation or refurbishment of research, education, or extension space; the purchase or installation of fixed equipment in such space; or the planning, repair, rehabilitation, acquisition, or construction of buildings or facilities.

H. Types of Applications

In FY 2002, applications may be submitted to the Potato Research Program as one of the following three types of requests:

(1) New application. This is a project application that has not been previously submitted to the Potato Research Program. All new applications will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

(2) Renewal application. This is a project application that requests additional funding for a project beyond the period that was approved in an original or amended award. Applications for renewed funding must contain the same information as required for new applications, and additionally must contain a Progress Report (see Project Description, Part III.B.6). Renewal applications must be received by the relevant due dates, will be evaluated in competition with other pending applications in appropriate area to which they are assigned, and will be reviewed according to the same evaluation criteria as new applications.

(3) Resubmitted application. This is an application that had previously been submitted to the Potato Research Program but not funded. Project Directors (PD's) must respond to the previous review panel summary (see Response to Previous Review, Part III.B.5). Resubmitted applications must be received by the relevant due dates, will be evaluated in competition with other pending applications in appropriate area to which they are assigned, and will be reviewed according to the same evaluation criteria as new applications.

Part II—Program Description

A. Project Types

Each proposal submitted in FY 2002 shall request funding for a period not to exceed one year. Funding for additional years will depend upon the availability of funds and progress toward objectives. FY 2002 awardees would need to recompete in future years for additional funding.

B. Applicant Peer Review Requirements

Subsection (c)(5)(A) of the Competitive, Special, and Facilities Research Grant Act, as amended (7 U.S.C. 450i(c)(5)(A)) requires applicants to conduct a scientific peer review of a proposed research project in accordance with regulations promulgated by the Secretary prior to the Secretary making a grant award under this authority. Regulations implementing this requirement are set forth in 7 CFR

3400.20 and 3400.21. The regulations impose the following requirements for scientific peer review by applicants of proposed research projects:

1. Credible and independent. Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA employees, but should not be conducted solely by USDA employees.

2. Notice of completion and retention of records. A notice of completion of the review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES (Part III. B. 15.). The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

3. Renewal and supplemental grants. Review by the grantee is not automatically required for renewal or supplemental grants as defined in 7 CFR 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

Part III—Preparation of an Application

A. Program Application Materials

Program application materials are available at the CSREES Funding Opportunities web site *(http://www.reeusda.gov/1700/funding/ourfund.htm)*. If you do not have access to the web page or have trouble downloading material and you would like a hardcopy, you may contact the Proposal Services Unit, Office of Extramural Programs, USDA/CSREES at (202) 401–5048. When calling the Proposal Services Unit, please indicate that you are requesting the RFA and associated application forms for the Special Research Grants Program, Potato Research. These materials also may be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to psb@reeusda.gov. State that you want a copy of the RFA and the associated application forms for Special Research Grants Program, Potato Research.

B. Content of Applications

1. General

Use the following guidelines to prepare an application. Proper preparation of applications will assist reviewers in evaluating the merits of each application in a systematic, consistent fashion:

(a) Prepare the application on only one side of the page using standard size ($8\frac{1}{2}'' \times 11''$) white paper, one-inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable font face (*e.g.*, Geneva, Helvetica, Times Roman).

(b) Number each page of the application sequentially, starting with the Project Description, including the budget pages, required forms, and any appendices.

(c) Staple the application in the upper left-hand corner. Do not bind. An original and 18 copies (19 total) must be submitted in one package, along with 2 additional copies of the ''Project Summary,'' Form CSREES–2003, as a separate attachment.

(d) Include original illustrations (photographs, color prints, etc.) in all copies of the application to prevent loss of meaning through poor quality reproduction.

(e) The contents of the application should be assembled in the following order:

(1) Proposal Cover Page (Form CSREES–2002)
(2) Table of Contents
(3) Project Summary (Form CSREES–2003)
(4) Response to Previous Review
(5) Project Description
(6) References
(7) Appendices to Project Description
(8) Key Personnel
(9) Collaborative Arrangements (including Letters of Support)
(10) Conflict-of-Interest List (Form CSREES–2007)
(11) Budget (Form CSREES–2004)
(12) Budget Narrative
(13) Matching
(14) Current and Pending Support (Form CSREES–2005)
(15) Assurance Statement(s) (Form CSREES–2008)
(16) Compliance with the National Environmental Policy Act (NEPA) (Form CSREES–2006)
(17) Page B, Proposal Cover Page (Form CSREES–2002), Personal Data on Project Director

2. Proposal Cover Page (Form CSREES–2002)

a. Page A

Each copy of each grant application must contain a ''Proposal Cover Page'', Form CSREES–2002. One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing PD's and the authorized organizational representative (AOR), the individual who possesses the necessary authority to commit the organization's time and other relevant resources to the project. If there are more than four co-PD's for an application, please list additional co-PD's on a separate sheet of paper (with appropriate information and signatures) and attach to the Proposal Cover Page (Form CSREES–2002). Any proposed PD or co-PD whose signature does not appear on Form CSREES–2002 or attached additional sheets will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the ''Proposal Cover Page'' form. Please note that Form CSREES–2002 is comprised of two parts—Page A which is the ''Proposal Cover Page'' and Page B which is the ''Personal Data on Project Director.''

Form CSREES–2002 serves as a source document for the CSREES grant database; it is therefore important that it be accurately completed in its entirety, especially the e-mail addresses requested in blocks 4.c. and 18.c. However, the following items are highlighted as having a high potential for errors or misinterpretations:

(a) *Type of Performing Organization (Block 6A and 6B).*

For block 6A, a check should be placed in the appropriate box to identify the type of organization which is the legal recipient named in block 1. Only one box should be checked. For block 6B, please check as many boxes that apply to the affiliation of the PD listed in block 16.

(b) *Title of Proposed Project (Block 7).* The title of the project must be brief (140-character maximum, including spaces), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as ''investigation of,'' ''research on,'' ''education for,'' or ''outreach that'' should not be used.

(c) *Program to Which You Are Applying (Block 8).* Enter Special Research Grants Program, Potato Research. The reference to Program Area (*i.e.*, name of the program component)

and Number should be ignored in this block.

(d) *Type of Request (Block 14).* Check the appropriate box.

(e) *Project Director (PD) (Blocks 16–19).* Blocks 16–18 are used to identify the PD and Block 19 to identify co-PD's. If needed, additional co-PD's may be listed on a separate sheet of paper and attached to Form CSREES–2002, the Proposal Cover Page, with the applicable co-PD information and signatures. Listing multiple co-PD's, beyond those required for genuine collaboration, is discouraged.

(f) *Other Possible Sponsors (Block 21).* List the names or acronyms of all other public or private sponsors including other agencies within USDA to which your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must inform the identified CSREES program contact as soon as practicable. Submitting your application to other potential sponsors will not prejudice its review by CSREES; however, submitting the same (*i.e.,* duplicate) application to another CSREES program is not permissible.

b. Page B

Page B should be submitted only with the original signature copy of the application and should be placed as the last page of the original copy of the application. This page contains personal data on the PD(s). CSREES requests this information in order to monitor the operation of its review and awards processes. This page will not be duplicated or used during the review process. Please note that failure to submit this information will in no way affect consideration of your application.

3. Table of Contents

For consistency and ease in locating information, each application must contain a detailed Table of Contents immediately following the proposal cover page. The Table of Contents should contain page numbers for each component of the application. Page numbering should begin with the first page of the Project Description.

4. Project Summary (Form CSREES–2003)

The application must contain a ''Project Summary,'' Form CSREES–2003. The summary should be approximately 250 words, contained within the box, placed immediately after the Table of Contents, and not numbered. The names and affiliated organizations of all PD's and co–PD's should be listed on this form, in addition to the title of the project. The summary should be a self-contained, specific description of the activity to be undertaken and should focus on: overall project goal(s) and supporting objectives; plans to accomplish project goal(s); and relevance of the project to the goals of the Potato Research Program. The importance of a concise, informative Project Summary cannot be overemphasized. If there are more than four co-PD's for an application, please list additional co-PD's on a separate sheet of paper (with appropriate information) and attach to the Project Summary (Form CSREES–2003).

5. Response to Previous Review

This requirement only applies to ''Resubmitted Applications'' as described under Part I, H, ''Types of Applications.'' Project Directors (PD's) must respond to the previous review panel summary on no more than one page, titled ''RESPONSE TO PREVIOUS REVIEW,'' which is to be placed directly after the ''Project Summary,'' Form CSREES–2003.

6. Project Description

Please Note: The Project Description shall not exceed 20 pages of written text and up to five additional pages for figures and tables. This maximum (25 pages) has been established to ensure fair and equitable competition. The Project Description must include all of the following:

a. Introduction: A clear statement of the long-term goal(s) and supporting objectives of the proposed activities should be included. Summarize the body of knowledge or other past activities which substantiate the need for the proposed project. Describe ongoing or recently completed significant activities related to the proposed project including the work of key project personnel. Preliminary data/information pertinent to the proposed project should be included. In addition, this section should include in-depth information on the following, when applicable:

(1) Estimates of the magnitude of the issues and their relevance to stakeholders and to ongoing State-Federal food and agricultural research.

(2) Role of the stakeholders in problem identification, planning, and implementation and evaluation as appropriate.

(3) Reasons for having the work performed at the proposing institution.

b. Objectives: Clear, concise, complete, and logically arranged statement(s) of specific aims of the proposed effort must be included in all proposals.

c. Methods: The procedures or methodology to be applied to the proposed effort should be explicitly stated. This section should include but not necessarily be limited to:

(1) A description of stakeholder involvement in problem identification, planning, implementation and evaluation;

(2) A description of the proposed project activities in the sequence in which it is planned to carry them out;

(3) Techniques to be employed, including their feasibility and rationale for their use in this project;

(4) Kinds of results expected;

(5) Means by which data will be analyzed or interpreted;

(6) Pitfalls that might be encountered; and

(7) Limitations to proposed procedures.

d. Cooperation and Institutional Units Involved: Cooperative, multi-institutional and multi-disciplinary applications are encouraged. Identify each institutional unit contributing to the project and designate the lead institution or institutional unit. When appropriate, the project should be coordinated with the efforts of other State and/or national programs. Clearly define the roles and responsibilities of each institutional partner of the project team.

e. Facilities and Equipment: All facilities which are available for use or assignment to the project during the requested period of support should be reported and described briefly. All items of major equipment or instrumentation available for use or assignment to the proposed project should be itemized. In addition, items of nonexpendable equipment needed to conduct and bring the project to a successful conclusion should be listed, including dollar amounts and, if funds are requested for their acquisition, justified.

f. Project Timetable: The proposal should outline all important phases as a function of time, year by year, for the entire project, including periods beyond the grant funding period.

g. Renewal Applications: If the proposal is a renewal of an existing project supported under the same program, include a clearly identified summary progress report describing the results to date. The progress report should contain the following information:

1. A comparison of actual accomplishments with the goals established for the active grant;

2. The reasons for slippage if established goals were not met; and

3. Other pertinent information, including, when appropriate, cost

analysis and explanation of cost overruns or unexpectedly high unit costs.

The progress report should be placed immediately after the ''Project Summary''.

7. References

All references to works cited should be complete, including titles and all co-authors, and should conform to an acceptable journal format. References are not considered in the page-limitation for the Project Description.

8. Appendices to Project Description

Appendices to the Project Description are allowed if they are directly germane to the proposed project. The addition of appendices should not be used to circumvent the text and/or figures and tables page limitations.

9. Key Personnel

The following should be included, as applicable:

(a) The roles and responsibilities of each PD and/or collaborator should be clearly described; and

(b) Vitae of the PD and each co-PD, senior associate, and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings. The vitae should include a presentation of academic and research credentials, as applicable, *e.g.,* earned degrees, teaching experience, employment history, professional activities, honors and awards, and grants received. A chronological list of *all* publications in *refereed journals* during the past *four (4) years,* including those in press, must be provided for each project member for whom a curriculum vitae is provided. Also list only those *non-refereed* technical publications that have *relevance* to the proposed project. All authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

10. Collaborative Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with others, such arrangements should be fully explained and justified. If the consultant(s) or collaborator(s) are known at the time of application, a vitae or resume should be provided. In addition, evidence (*e.g.,* letter of support) should be provided that the collaborators involved have agreed to render these services. The applicant also will be required to provide additional information on consultants and collaborators in the budget portion of the application. See instructions in the application forms for completing Form CSREES–2004, Budget.

11. Conflict-of-Interest List (Form CSREES–2007)

A ''Conflict-of-Interest List,'' Form CSREES–2007, must be provided for all individuals who have submitted a vitae in response to item 9.(b) of this part. Each Form CSREES–2007 should list alphabetically, by the last names, the full names of the individuals in the following categories: (a) All co-authors on publications within the past four years, including pending publications and submissions; (b) all collaborators on projects within the past four years, including current and planned collaborations; (c) all thesis or postdoctoral advisees/advisors within the past four years; and (d) all persons in your field with whom you have had a consulting or financial arrangement within the past four years, who stand to gain by seeing the project funded. This form is necessary to assist program staff in excluding from application review those individuals who have conflicts of interest with the personnel in the grant application. The program contact must be informed of any additional conflicts of interest that arise after the application is submitted.

12. Budget (Form CSREES–2004)

a. General

Prepare the Budget, Form CSREES–2004, in accordance with instructions provided with the application forms. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. The budget form may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable statutes, regulations, and Federal cost principles, and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project. Applicants also must include a budget narrative to justify their budget requests (see section b. below.)

b. Budget Narrative

All budget categories, with the exception of Indirect Costs, for which support is requested, must be individually listed (with costs) in the same order as the budget and justified on a separate sheet of paper and placed immediately behind the Budget form.

13. Current and Pending Support (Form CSREES–2005)

All applications must contain Form CSREES–2005 listing other current public or private support (including in-house support) to which personnel (*i.e.,* individuals submitting a vitae in response to item 9.(b) of this part) identified in the application have committed portions of their time, whether or not salary support for person(s) involved is included in the budget. Please follow the instructions provided on this form. Concurrent submission of identical or similar applications to the possible sponsors will not prejudice application review or evaluation by the CSREES. However, an application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. Please note that the project being proposed should be included in the pending section of the form.

14. Assurance Statement(s) (Form CSREES–2008)

A number of situations encountered in the conduct of projects require special assurances, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, applications involving any of the following elements must comply with the additional requirements as applicable.

a. Recombinant DNA or RNA Research

As stated in 7 CFR part 3015.205(b)(3), all key personnel identified in the application and all endorsing officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, ''Guidelines for Research Involving Recombinant DNA Molecules,'' as revised. If your project proposes to use recombinant DNA or RNA techniques, you must so indicate by checking the ''yes'' box in Block 20 of Form CSREES–2002 (the Proposal Cover Page) and by completing Section A of Form CSREES–2008. For applicable applications recommended for funding, Institutional Biosafety Committee approval is required before CSREES funds will be released. Please refer to the application forms for further instructions.

b. Animal Care

Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key personnel identified in an application and all endorsing officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 et seq., and the regulations promulgated thereunder by the Secretary in 9 CFR parts 1, 2, 3, and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals, you should check ''yes'' in block 20 of Form CSREES–2002 and complete Section B of Form CSREES–2008. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project. Please refer to the application forms for further instructions.

c. Protection of Human Subjects

Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES rests with the performing organization. Guidance on this issue is contained in the National Research Act, Pub. L. No. 93–348, as amended, and implementing regulations promulgated by the Department under 7 CFR Part 1c. If you propose to use human subjects in your project, you should check the ''yes'' box in Block 20 of Form CSREES–2002 and complete Section C of Form CSREES–2008. Please refer to the application forms for additional instructions.

15. Certifications

By signing Form CSREES–2002, the AOR of the applicant institution is providing the required certification that the full proposal has received a credible and independent peer review arranged by the institution (see Part II. A.).

Note that by signing Form CSREES–2002 the applicant is providing the certifications required by 7 CFR part 3017, regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR part 3018, regarding Lobbying. The certification forms are included in the application package for informational purposes only. These forms should not be submitted with the application since by signing Form CSREES–2002 your organization is providing the required certifications. If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions, to the grantee organization for retention in their records. This form should not be submitted to USDA.

16. Compliance With the National Environmental Policy Act (NEPA) (Form CSREES–2006)

As outlined in 7 CFR part 3407 (the Cooperative State Research, Education, and Extension Service regulations implementing NEPA), the environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. In some cases, however, the preparation of environmental data may not be required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSREES–2006, ''NEPA Exclusions Form,'' must be included in the application indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefore. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion(s) must be identified.

Even though a project may fall within the categorical exclusions, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity, if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

C. Submission To Applications

1. When To Submit (Deadline Date)

Applications must be received by COB on on January 21, 2002 (5:00 p.m. Eastern Time). Applications received after this deadline will not be considered for funding.

2. What To Submit

An original and 18 copies must be submitted. In addition submit two additional copies of the application's Project Summary. All copies of the application and the Project Summary must be submitted in one package.

3. Where To Submit

Applicants are strongly encouraged to submit completed applications via overnight mail or delivery service to ensure timely receipt by the USDA. The address for hand-delivered applications or applications submitted using an express mail or overnight courier service is: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024; Telephone: (202) 401–5048.

Applications sent via the U.S. Postal Service must be sent to the following address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245.

D. Acknowledgment of Applications

The receipt of all applications will be acknowledged by e-mail. Therefore, applicants are strongly encouraged to provide accurate e-mail addresses, where designated, on the Form CSREES–2002. If the applicant's e-mail address is not indicated, CSREES will acknowledge receipt of the application by letter.

If the applicant does not receive an acknowledgment within 60 days of the submission deadline, please contact the program contact. Once the application has been assigned an application number, please cite that number on all future correspondence.

Part IV—Review Process

A. General

Each application will be evaluated in a 2-part process. First, each application will be screened to ensure that it meets the administrative requirements as set forth in this RFA. Second, applications that meet these requirements will be technically evaluated by a review panel.

Reviewers will be selected based upon training and experience in relevant scientific, extension, or education fields, taking into account the following factors: (a) The level of relevant formal scientific, technical education, or extension experience of the individual, as well as the extent to which an individual is engaged in relevant research, education, or

extension activities; (b) the need to include as reviewers experts from various areas of specialization within relevant scientific, education, or extension fields; (c) the need to include as reviewers other experts (*e.g.,* producers, range or forest managers/operators, and consumers) who can assess relevance of the applications to targeted audiences and to program needs; (d) the need to include as reviewers experts from a variety of organizational types (*e.g.*, colleges, universities, industry, state and Federal agencies, private profit and non-profit organizations) and geographic locations; (e) the need to maintain a balanced composition of reviewers with regard to minority and female representation and an equitable age distribution; and (f) the need to include reviewers who can judge the effective usefulness to producers and the general public of each application.

B. Evaluation Criteria

The evaluation criteria below will be used in reviewing applications submitted in response to this RFA:

I. Relevance

Relevance and importance of proposed research to specific problems or opportunities; value of expected results for States beyond the State in which the project leader resides and will perform the work—20 points.

II. Quality

Overall scientific and technical quality of the proposal and the specific approach proposed—20 points.

III. Feasibility

Feasibility of attaining objectives; adequacy of training, experience, facilities, and equipment—20 points.

IV. Participation

Proposals that provide evidence of cooperation or involvement of multiple institutions or states—5 points.

Proposals that list more than one state as recipient of funds—10 points.

Evidence of stakeholder participation, including growers, in developing the project objectives—5 points.

Stakeholder participation in project implementation or monitoring—5 points.

V. Co-Funding

Proposals that provide evidence of funding from identified state, regional, or industry sources (*e.g.*, check-off programs)—15 points.

C. Conflicts of Interest and Confidentiality

During the peer evaluation process, extreme care will be taken to prevent any actual or perceived conflicts of interest that may impact review or evaluation. For the purpose of determining conflicts of interest, the academic and administrative autonomy of an institution shall be determined by reference to the 2002 Higher Education Directory, published by Higher Education Publications, Inc., 6400 Arlington Boulevard, Suite 648, Falls Church, Virginia 22042. Phone: (703) 532–2300. Web site: http://www.hepinc.com.

Names of submitting institutions and individuals, as well as application content and peer evaluations, will be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of peer reviewers will remain confidential throughout the entire review process. Therefore, the names of the reviewers will not be released to applicants. At the end of the fiscal year, names of panelists will be made available in such a way that the panelists cannot be identified with the review of any particular application.

Part V—Grant Awards

A. General

Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose applications are judged most meritorious under the procedures set forth in this RFA. The date specified by the awarding official of CSREES as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds granted by CSREES under this RFA shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (parts 3015 and 3019 of 7 CFR).

B. Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant identified under this RFA, if such information has not been provided previously under this or another CSREES program. CSREES will provide copies of forms recommended for use in fulfilling these requirements as part of the preaward process. Although an applicant may be eligible based on its status as one of these entities, there are factors which may exclude an applicant from receiving Federal financial and nonfinancial assistance and benefits under this program (e.g., debarment or suspension of an individual involved or a determination that an applicant is not responsible based on submitted organizational management information).

C. Grant Award Document and Notice of Grant Award

The grant award document shall include at a minimum the following:

(1) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this request for applications;

(2) Title of project;

(3) Name(s) and institution(s) of PD's chosen to direct and control approved activities;

(4) Identifying grant number assigned by the Department;

(5) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(6) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(7) Legal authority(ies) under which the grant is awarded;

(8) Appropriate Catalog of Federal Domestic Assistance (CFDA) number;

(9) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(10) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

Part VI—Additional Information

A. Access to Review Information

Copies of reviews, not including the identity of reviewers, and a summary of the panel comments will be sent to the applicant PD after the review process has been completed.

B. Use of Funds; Changes

1. Delegation of Fiscal Responsibility

Unless the terms and conditions of the grant state otherwise, the grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

2. Changes in Project Plans

a. The permissible changes by the grantee, PD(s), or other key project personnel in the approved project grant shall be limited to changes in methodology, techniques, or other similar aspects of the project to expedite achievement of the project's approved goals. If the grantee or the PD(s) is uncertain as to whether a change complies with this provision, the question must be referred to the Authorized Departmental Officer (ADO) for a final determination. The ADO is the signatory of the award document, not the program contact.

b. Changes in approved goals or objectives shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

c. Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes.

d. Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the ADO prior to effecting such transfers, unless prescribed otherwise in the terms and conditions of the grant.

e. Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s) as the ADO determines may be necessary to complete or fulfill the purposes of an approved project, but in no case shall the total project period exceed five years. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the ADO, unless prescribed otherwise in the terms and conditions of a grant.

f. Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or grant award.

C. Applicable Federal Statutes and Regulations

Several Federal statutes and regulations apply to grant applications considered for review and to project grants awarded under this program. These include, but are not limited to:

7 CFR Part 1.1—USDA implementation of the Freedom of Information Act.

7 CFR Part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR Part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., OMB Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR Part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Non-profit Organizations.

7 CFR Part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR Part 15b (USDA implementation of statute)— prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 et seq.—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

D. Confidential Aspects of Applications and Awards

When an application results in a grant, it becomes a part of the record of CSREES transactions, available to the public upon specific request. Information that the Secretary determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as confidential, privileged, or proprietary should be clearly marked within the application. The original copy of an application that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such an application will be released only with the consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to the final action thereon.

E. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29114, June 24, 1983), this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0039.

Done at Washington, DC, this 3rd day of December, 2001.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 01–30394 Filed 12–7–01; 8:45 am]

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Federal Register

Monday,

December 10, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Reduced Vertical Separation Minimum; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2000–8490; Amdt. No. 91–271]

RIN 2120–AH12

Reduced Vertical Separation Minimum (RVSM)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the list of airspace locations where Reduced Vertical Separation Minimum (RVSM) may be applied to include the New York Flight Information Region (FIR) portion of West Atlantic Route System (WATRS) airspace. RVSM is the reduction of vertical separation between aircraft at certain higher altitudes. RVSM is applied only between aircraft that meet stringent altimeter and auto-pilot performance requirements. The introduction of RVSM in WATRS airspace will save operators fuel and time and will enhance airspace capacity. This rule also requires any aircraft that is equipped with Traffic Alert and Collision Avoidance System version II (TCAS II) and that is flying in RVSM airspace to incorporate a version of TCAS II that is compatible with RVSM operations.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Dave Maloy, Flight Technologies and Procedures Division, Flight Standards Service, AFS–400, Federal Aviation Administration, 600 Independence Avenue, SW., Washington, DC 20591, telephone (860) 654–1006.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

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

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

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

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

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at *http://www.faa.gov/avr/armhome.htm* or the **Federal Register** Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the Internet at our site, *http://www.faa.gov/avr/arm/sbrefa.htm.* For more information on SBREFA, e-mail us at *9–AWA–SBREFA@faa.gov.*

Background

This final rule is based on Notice of Proposed Rulemaking (NPRM) No. 00–16 published in the **Federal Register** on December 18, 2000 (65 FR 79283). That NPRM proposed to amend Appendix G of 14 CFR part 91, Operations within Airspace designated as Reduced Vertical Separation Minimum (RVSM) Airspace. RVSM is the reduction of vertical separation between aircraft from 2,000 feet to 1,000 feet at flight levels (FLs) between FL 290 (29,000 feet) and FL 410 (41,000 feet).

Statement of the Problem

Air traffic in WATRS airspace has increased steadily in the past few years and is projected to continue to increase. Between 1997 and 1999, the annual traffic count in the WATRS airspace increased from 72,020 to 109,044 flights. This represents an increase of 51 percent. This is a result of a resurgence of activity after several years of economic downturn. The Office of International Operations for the FAA's New York Enroute Air Traffic Center estimates a similar increase over at least the next several years, assuming the economy stays healthy. A substantial portion of the increase is the Europe to Caribbean traffic that overflies the WATRS airspace.

Unless efficiency is improved, the FAA may not be able to accommodate these greater numbers of aircraft without altitude restrictions that can result in traffic delays and fuel penalties. RVSM alleviates the limitation on air traffic management at high altitudes imposed by the conventional 2,000-foot vertical separation standard. Increasing the number of flight levels available in the WATRS airspace is projected to provide operator benefits similar to those achieved in the North Atlantic (NAT) and Pacific (PAC). Operators will save fuel and time by using optimum altitudes and tracks.

In the WATRS airspace, the FAA plans to initially implement RVSM between FL 310 and FL 390 (inclusive). This is in line with the altitudes in the NAT.

Oversight for Implementation

The New York Oceanic Capacity Enhancements Task Force (NYOCETF) (the Task Force), provides oversight for plans and policy related to:

1. Changes to separation minima.
2. Issues relating to traffic management.
3. Airspace/ATS Routes.
4. Standardization of ATC and Operator procedures.
5. Contingency procedures.
6. Communication issues.
7. Status of oceanic ATC automation.

The NYOCETF is the body that is developing WATRS RVSM implementation plans. The New York Air Route Traffic Control Center (ARTCC) Plans and Procedures Manager chairs the Task Force. The Task Force is using the policy and criteria developed in International Civil Aviation Organization (ICAO) forums to build the RVSM program for the WATRS airspace.

History of RVSM

Rising traffic volume and fuel costs, which made flight at fuel-efficient altitudes a priority for operators, sparked an interest in the early 1970s in implementing RVSM above FL 290. In April 1973, the Air Transport Association of America (ATA) petitioned the FAA for a rule change to reduce the vertical separation minimum to 1,000 feet for aircraft operating above FL 290. The petition was denied in 1977 in part because (1) aircraft altimeters had not been improved sufficiently, (2) improved maintenance and operational standards had not been developed, and (3) altitude correction was not available in all aircraft. In addition, the cost of modifying nonconforming aircraft was prohibitive. The FAA concluded that granting the ATA petition at that time would have adversely affected safety. Nevertheless, the FAA recognized the

potential benefits of RVSM under certain circumstances and continued to review technological developments, committing extensive resources to studying aircraft altitude-keeping performance and necessary criteria for safely reducing vertical separation above FL 290. Data showing that RVSM implementation is technically and economically feasible has been published in studies conducted cooperatively in international forums, as well as separately by the FAA.

Because of the high standard of performance and equipment required for RVSM, the FAA advocated initial introduction of RVSM in oceanic airspace where special navigation performance standards were already required. Special navigation areas require high levels of long-range navigation precision due to the separation standard applied. RVSM implementation in such airspace requires an increased level of precision demanded of operators, aircraft, and vertical navigation systems.

On March 27, 1997, RVSM was implemented in one such special navigation area of operation established in the ICAO NAT Region, the NAT Minimum Navigation Performance Specification (MNPS) airspace. In designated NAT MNPS airspace, tracks are spaced 60 nautical miles (NM) apart. Between FLS 310 and 390 (inclusive), aircraft are separated vertically by 1000 feet. All aircraft operating in this airspace must be appropriately equipped and capable of meeting required lateral navigation performance standards of 14 CFR 91.705 and the vertical navigation performance standards of 91.706. Operators must follow procedures that ensure that the navigation standards are met. Flight crews must also be trained on RVSM policy and procedures. Each operator, aircraft, and navigation system combination must receive and maintain authorization to operate in the NAT MNPS. The North Atlantic Systems Planning Group (NATSPG) Central Monitoring Agency (CMA) monitors NAT aircraft fleet performance to ensure that a safe operating environment is maintained.

In addition, Pacific RVSM was implemented on February 24, 2000. The Asia/Pacific Approval Registry and Monitoring Agency performs the function of the CMA in the Pacific.

Current Aircraft Capabilities

FAA data indicate that the altitude-keeping performance of most aircraft flying in oceanic airspace meet the standards for RVSM operations. The FAA and ICAO research to determine the feasibility of implementing RVSM included the following four efforts:

1. *FAA Vertical Studies Program.* This program began in mid-1981, with the objectives of collecting and analyzing data on aircraft performance in maintaining assigned altitude, developing program requirements to reduce vertical separation, and providing technical and operational representation on the various working groups studying the issue outside the FAA.

2. *RTCA Special Committee (SC)–150. RTCA, Inc., (formerly Radio Technical Commission for Aeronautics).* This committee is an industry organization in Washington, DC, that addresses aviation technical requirements and concepts, and procedures, recommended standards. When the FAA hosted a public meeting in early 1982 on vertical separation, it was recommended that RTCA be the forum for development of minimum system performance standards for RVSM. RTCA SC–150 was formed in March 1982 to develop minimum system performance requirements, identify required improvements to aircraft equipment and changes to operational procedures, and assess the impact of the requirements on the aviation community. SC–150 served as the focal point for the study and development of RVSM criteria and programs in the United States from 1982 to 1987, including analysis of the results of the FAA Vertical Studies Program.

3. *ICAO Review of the General Concept of Separation Panel (RGCSP).* In 1987, the FAA concentrated its resources for the development of RVSM programs in the ICAO RGCSP. The U.S. delegation to the ICAO RGCSP used the material developed by SC–150 as the foundation for U.S. positions and plans on RVSM criteria and programs. The panel's major conclusions were:

- RVSM is technically feasible without imposing unreasonably demanding technical requirements on the equipment.
- RVSM provides significant benefits in terms of economy and en route airspace capacity.
- Implementation of RVSM on either a regional or global basis requires sound operational judgment supported by an assessment of system performance based on: aircraft altitude-keeping capability, operational considerations, system performance monitoring, and risk assessment.

4. *NATSPG and the NATSPG Vertical Separation Implementation Group (VSIG).* The NATSPG Task Force was established in 1988 to identify the requirements to be met by the future NAT Region air traffic services system; to design the framework for the NAT airspace system concept; and to prepare a general plan for the phased introduction of the elements of the concept. The objective of this effort was to permit significant increases in airspace capacity and improvements in flight economy. At the meeting of the NATSPG in June 1991, all of the NAT air traffic service provider States, as well as the International Air Transport Association (IATA) and International Federation of Airline Pilots Association (IFALPA), endorsed the Future NAT Air Traffic Services System Concept Description developed by the NATSPG Task Force. With regard to the implementation of RVSM, the Concept Description concludes that priority must be given to implementation of this measure as it is believed to be achievable within the early part of the concept timeframe. The NATSPG's initial goal was to implement RVSM between 1996 and 1997. To meet this goal, the NATSPG established the VSIG in June 1991 to take the necessary actions to implement RVSM in the NAT. These actions included:

- Programs, and supporting documents, to approve aircraft and operators for conducting flight in the RVSM environment and to address all issues related to aircraft airworthiness, maintenance, and operations. The group has produced guidance material for aircraft and operator approval that ICAO has distributed to civil aviation authorities and NAT users. Also, ICAO has planned that the guidance material be incorporated in the approal process established by the States.

- Developing the system for monitoring aircraft altitude-keeping performance. This system is used to observe aircraft performance in the vertical plane to determine that the approval process is uniformly effective and that the RVSM airspace system is safe.

- Evaluating and developing Air Traffic Control (ATC) procedures for RVSM, conducting simulation studies to assess the effect of RVSM on ATC, and developing documents to address ATC issues.

The ICAO Limited NAT Regional Air Navigation Meeting held in Portugal in November 1992 endorsed the NATSPG RVSM implementation program. At that meeting, it was concluded that RVSM implementation should be pursued. The FAA concurred with the conclusions of the NATSPG on RVSM implementation.

Discussion of Traffic Alert and Collision Avoidance System (TCAS) II, Version 7.0 for RVSM Operations

Traffic Alert and Collision Avoidance System (TCAS) is a general term for equipment that warns pilots of nearby aircraft and provides collision avoidance protection. It is designed to serve as a safety back-up to the air traffic control system.

TCAS I warns pilots of the potential for collision by providing traffic advisories (TAs). These TAs show where another aircraft is relative to the TCAS-equipped aircraft. TAs generally include the range, altitude, and bearing of the intruding aircraft.

TCAS II provides both TAs and recommended vertical escape maneuvers, known as resolution advisories (RAs) Resolution advisories provide pilots with information to change a flight path or prevent a maneuver that could cause insufficient separation between airplanes. TCAS II also coordinates RAs between two TCAS-equipped airplanes (i.e., each pilot would receive an RA that would not conflict with the other RA).

The regulations require under 14 CFR sections 121.356, 125.224, and 135.180, that certain aircraft must be operated with TCAS II, or an equivalent, and the appropriate class of Mode S transponder. Certain other aircraft may be operated with TCAS I or its equivalent. Airworthiness Directives issued to the avionics manufacturers in 1994 require that those aircraft that are required to be TACS II equipped be equipped with TCAS II, Version 6.04 Enhanced. Approximately 90% of the flights now conducted in RVSM airspace are equipped with TCAS II, version 6.04 Enhanced.

This rule will require that aircraft operated in RVSM airspace and equipped with TCAS II, must be modified to incorporate collision avoidance system logic software Version 7.0, or a later version. Version 7.0 is necessary because only Version 7.0 and later versions incorporate revised alert thresholds for traffic alerts (TA) and resolution advisories (RA) for flight levels (FL) 300 through FL 420 that are compatible with RVSM operations. The alert thresholds in Version 6.04 Enhanced are not totally compatible with RVSM operations. The logic for these alert thresholds does not consider the reduced separation in RVSM airspace and occasionally causes false alerts.

This rule will not require aircraft in RVSM airspace to be equipped with TCAS II. Other rules regulate which aircraft are required to be equipped with TCAS II. The rule will, however, require any aircraft that is equipped with TCAS II to use Version 7.0 to be approved to fly in RVSM airspace.

Status of TCAS I

TCAS I is compatible with RVSM operations and no modifications are necessary.

Background of TCAS II Operation in RVSM Airspace

RVSM was implemented in North Atlantic (NAT) Minimum Navigation Specifications Airspace (NAT MNPSA) in March 1997. In preparation for RVSM implementation, the North Atlantic System Planning Group (NATSPG) Operations/Airworthiness (Ops/Air) group reviewed the effect that RVSM would have on the operation of TCAS II, Version 6.04 Enhanced in NAT oceanic airspace. The group recognized that TCAS II, Version 6.04 Enhanced was designed with a TA alert threshold of 1,200 feet for FL 300 through FL 420 and would produce inappropriate TA's for aircraft that were separated in RVSM airspace by 1,000 feet vertically, especially in certain situations. For example, the group recognized that in situations where two aircraft were separated by 1,000 feet vertically and one nautical mile or less longitudinally, on the same track and proceeding in the same direction at approximately the same speed, TA's could be received in the cockpit repeatedly over an extended period of time. The group observed, however, that the traffic levels in oceanic airspace are low relative to continental operations and operations are relatively stable (i.e., aircraft generally climb or descend infrequently). For this reason, it concluded that TCAS II, Version 6.04 Enhanced was acceptable during the early stages of RVSM operations in oceanic airspace provided pilots were informed on the operating characteristics of TCAS II, Version 6.04 Enhanced operations in RVSM airspace. To inform pilots of the potential problem with Version 6.04, the group developed and distributed a document to educate pilots on these characteristics. The document also recommended that pilots limit their vertical speed to 1,000 feet per minute when close to other aircraft to reduce the number of unnecessary alerts.

RVSM has been implemented for over three years in North Atlantic airspace and since February 2000 in the Pacific oceanic Flight Information Regions. In that time, TCAS II, Version 6.04 Enhanced has proven generally acceptable for RVSM operations in oceanic airspace. Multiple TA events have, however, been found to occur in situations where aircraft are on the same track, speed and direction with one nautical mile or less longitudinal spacing.

How Unnecessary TA's May Affect Safety

TCAS provides an aural TA in the form of the announcement ''Traffic, Traffic'' in the cockpit. The ''Traffic, Traffic'' announcement repeated over a period of time distracts the pilot from the execution of his or her duties and produces the potential to cause a pilot error. As an example, during the flight, pilots program navigation computers with a series of numbers representing positions on the route of flight. A distraction while programming the navigation computer can cause the pilot to make an error that results in the aircraft straying from its assigned route and posing a hazard to itself and other aircraft.

Increase in RVSM Operations

As air traffic increases in areas where RVSM is currently implemented and as RVSM is implemented in new areas, there will be more aircraft conducting RVSM flights and increased exposure to distracting TA's. Air traffic in NAT and Pacific oceanic airspace where RVSM has already been implemented is projected to increase 4–6% each year. New RVSM implementations are planned in the near future in airspace over the Western and South Atlantic, the western Pacific, and the Caribbean. The number of RVSM flights will continue to increase and therefore, the probability of aircraft experiencing distracting multiple TA's will also increase.

TCAS II, Version 7.0 Compatibility With RVSM Operations

To avoid the potential for an increase in distracting TA's that can lead to pilot errors, those aircraft that are used in RVSM operations that are equipped with TCAS II systems must be modified to incorporate a version of TCAS that is compatible with RVSM operations. TCAS II, Version 7.0 was designed to be compatible with RVSM operations and mitigates the occurrence of unnecessary TA's in RVSM operations. In TCAD, Version 7.0, the TA alert threshold between flight levels 300 and 420 is reduced from 1,200 feet to 850 feet. This revision will eliminate unwarranted TA's between aircraft that are correctly separated by 1,000 feet vertically in RVSM airspace.

ICAO and Foreign Standards

ICAO Annexes and civil aviation authorities in foreign countries have already established standards and requirements for specified aircraft to be equipped with TCAS II, Version 7.0. ACAS II is the ICAO term that describes aircraft collision avoidance systems and related equipment. To comply with ICAO ACAS II Standards, Version 7.0 must be incorporated in TCAS II. The aircraft covered and compliance dates for ACAS II (TCAS II, Version 7.0) are discussed in the paragraph below.

Part 91, Section 91.703 Requirements Applicable to U.S. Operations

Various countries throughout the world have adopted the ICAO Annex 6 requirements discussed below for ACAS II equipage in their airspace. In some major areas, countries and regions have adopted accelerated equipage compliance dates. Because 14 CFR 91.703 requires United States operators to comply with the regulations of the countries in which they are operating, the ACAS II equipage requirements of foreign countries have already required United States operators to plan to equip with Version 7.0.

Section 91.703 is entitled ''Operations of civil aircraft of U.S. registry outside of the United States''. Paragraph 91.703(a)(2) states that each person operating a civil aircraft of U.S. registry outside the United States shall ''when within a foreign country, comply with the regulations relating to the flight and maneuver of aircraft there in force''.

ICAO Annex 6 Standards for ACAS II Equipage.

ICAO Annex 6 (Operation of Aircraft), part 1 (International Commercial Air Transport—Aeroplanes), paragraph 6.18 contains standards calling for TCAS II, Version 7.0 (ACAS II) equipage for specified aircraft by January 1, 2003. Specifically, it states that all turbine-engined aircraft with a maximum certified take-off mass (gross weight) that exceeds 15,000 kg (33,000 pounds) or authorized to carry more than 30 passengers shall be equipped with ACAS II by January 1, 2003. Annex 6 also calls for all aircraft to be equipped with a pressure altitude reporting transponder that operates in accordance with the relevant provisions of ICAO Annex 10.

Asia/Pacific Regional Standards for ACAS II

The ICAO Regional Supplements for the Middle East/Asia and the Pacific are published in the ICAO document entitled ''Regional Supplementary Procedures'' (ICAO Doc 7030). Those regional Supplements call for TCAS II, Version 7.0 equipage for the aircraft specified in Annex 6 by January 1, 2000. Since Version 7.0 was not widely available from avionics manufacturers, most aircraft were not able to meet that date. In response, the Asia/Pacific Air Navigation Planning and Implementation Regional Group (APAN/PIRG) has adopted a regional policy that calls for the specified aircraft to be equipped by January 1, 2002.

North Atlantic Regional Standards for ACAS II

The ICAO Doc 7030 Regional Supplement for the NAT Regional calls for TCAS II, Version 7.0 equipage for the aircraft specified in Annex 6 by March 31, 2001. (The ICAO NAT Region encompasses most of WATRS airspace).

European Country Requirements for ACAS II

The requirements for ACAS II equipage in European countries have been published in the European Regional Supplements contained in ICAO DOC 7030. European Supplement paragraph 16.1 (Carriage and operation of ACAS II) calls for the aircraft specified in Annex 6, Part 1 to be ACAS II equipped by January 1, 2000. In response to the lack of availability of Version 7.0, the European Civil Aviation Conference (ECAC) member States have granted exemptions to allow aircraft to continue to operate until March 31, 2001 with TCAS, Version 6.04 Enhanced.

Requirements for TCAS II, Version 7.0 in Countries in the Pacific and Asian Regions

The ICAO Bangkok office has conducted a survey of countries in Asia and the Pacific to determine those countries that have established or plan to establish requirements for ACAS II equipage in their airspace. To date, 28 countries have established or are developing requirements for operators to equip by the ICAO Annex 6 compliance date of January 1, 2003 or sooner. This list includes: Australia, China, Japan, Korea, New Zealand and Singapore.

Effect of Linking TCAS, II, Version 7.0 Equipage to RVSM Operations

The rule requires aircraft that are used in RVSM operations and equipped with TCAS II to be equipped with Version 7.0 because it is compatible with RVSM operations. Because other countries and ICAO Regions are already requiring ACAS II (Version 7.0), however, the economic and aircraft engineering impact directly related to this rule will be minimal.

RVSM is currently applied only in certain major oceanic airspace outside the U.S.—the NAT and Pacific. As detailed above, requirements for TCAS II, Version 7.0 have already been established for operators and aircraft operating outside the US to destinations in Europe, Asia and the Pacific. Since operators will already be required to equip with TCAS II, Version 7.0 to operate in the airspace of most countries in the Pacific and European regions, the effect of requiring TCAS II, Version 7.0 for RVSM operations after March 31, 2002 will be minimal.

Compliance Date for Version 7.0

This amendment requires operators to incorporate Version 7.0 software into TCAS II equipped airplanes used in RVSM operations by March 31, 2002. The following are factors considered in this decision.

First, there have not been adequate numbers of Version 7.0 units and upgrade kits available to operators. TCAS II, Version 7.0 requirement for European airspace was delayed to March 31, 2001 for this reason. To allow time for adequate numbers of Version 7.0 units and upgrade kits to be made available following the European compliance date, the FAA is delaying its TCAS II Version 7.0 requirement for RVSM operations to March 31, 2002. This will allow 12 months after the initial demand for Version 7.0 to meet the European requirement.

Second, incorporation of Version 7.0 in TCAS II unites is not a major aircraft engineering effort. Incorporation of Version 7.0 is a software change. Existing equipment is removed from the aircraft and the Version 7.0 modification is accomplished by an authorized service facility. Considering these factors, the FAA believes establishing a requirement for incorporation of Version 7.0 for operations after March 31, 2002 will provide adequate time for aircraft not affected by the European requirements to comply.

Discussion of Comments

The FAA received comments on the proposed rule from the following 6 organizations:

(1) The Air Traffic Control Association (ATCA).

(2) Aircraft Owners and Pilots Association (AOPA).

(3) Cessna Aircraft Company.

(4) General Aviation Manufacturers Association (GAMA).

(5) The Department of Defense (DOD).

(6) The Coalition of Airlines Pilots Association (CAPA).

1. *ATCA Comments.* ATCA states that it concurs with the proposed rule to implement RVSM in WATRS airspace and also concurs with the requirement that aircraft equipped with TCAS incorporate a version of TCAS that is compatible with RVSM operations. ATCA also states that the rule offers the prospect of greater availability of the most time and efficient tracks and routes as well as increased capacity in the North Atlantic Route System.

FAA Response

ATCA comments support publication of the final rule. No FAA response required.

2. *AOPA Comments.* AOPA states that procedures such as WATRS RVSM will likely have minimal short-term repercussions. AOPA is concerned that the introduction of exclusionary RVSM airspace brings the potential to improve service to participating users at the expense of non-RVSM operators. AOPA's greater concern is that RVSM procedures, and with them new equipment mandates and certification processes, will reduce access afforded to some operators if implemented domestically within the United States.

FAA Response

This rule only affects WATRS airspace, not domestic airspace. The FAA will give careful consideration to AOPA's concern in any future rulemaking.

3. *Cessna Aircraft Company Comments.* Cessna states that it will not have an adequate number of modification kits to be able to meet WATRS RVSM requirements by the compliance dates proposed in the NPRM.

FAA Response

First, aircraft that are not RVSM compliant retain the option to operate above and/or below RVSM airspace. The option for unapproved aircraft to climb through RVSM flight levels to operate above RVSM airspace has been used successfully in both North Atlantic and Pacific operations, and it will be available to WATRS operators. Aircraft that are not RVSM compliant may also operate below WATRS RVSM airspace. Maximum leg lengths across WATRS RVSM airspace are approximately two hours. Fuel consumption at lower altitudes for two hours or less should not provide unacceptable operational limitations.

Second, the FAA provided industry with over 3 years of notice of its intent to implement WATRS RVSM. The FAA announced its intention to implement RVSM in the New York FIR portion of WATRS airspace at the New York Oceanic Capacity Enhancement Task Force on August 28, 1998. The FAA believes it has given the aircraft manufacturers and operator community adequate time to prepare for WATRS RVSM implementation and has made extensive efforts to keep them informed on the progress of implementation plans. RVSM has been implemented for over four years in the North Atlantic and for a year and a half in the PAC. Operators and aircraft manufacturers have been well informed of the planned expansion of RVSM to other airspace.

4. *General Aviation Manufacturers Association (GAMA).* GAMA states that its member companies support the planned implementation of RVSM where airspace is congested. However, it is concerned that the proposed rule to implement RVSM in WATRS on November 1, 2001 may not allow enough time for the fleet to be properly equipped.

FAA Response

The FAA responses to the Cessna comments also apply to the GAMA comments.

Additionally, by November 1, 2001, a significant majority of flights are projected to be conducted by RVSM compliant aircraft. As of May 2001 (six months prior to the planned implementation date), 75 percent of all flights operating at and above FL 290 in WATRS airspace had already been approved for RVSM operations. The FAA has observed a steady increase in the number of RVSM approved aircraft and projects that by November 1 RVSM compliant aircraft will conduct a significant majority of WATRS flights. In addition, business aviation aircraft conduct approximately 7.5 per cent of the flights in WATRS airspace. As of May, 51% of business jets operating above FL 290 in WATRS airspace had already been RVSM approved. The FAA anticipates that this percentage will continue to increase as implementation approaches. The FAA estimates that the percentage of WATRS flights projected to be conducted by unapproved business jets will be 3% or less.

5. *DOD Comments.* DOD is concerned that it would have to separately notify each sector/center in the route of flight when an aircraft is not RVSM approved. DOD requests that the FAA adopt the following guidance: ''For operational purposes, it is the desire of the Department of Defense that filing of a routine flight plan will suffice for advance notification of non-RVSM equipped aircraft and request that the first oceanic center make all subsequent coordination.''

FAA Response

The FAA accepts the DOD's recommendation. Specifically, filing a flight plan for non-RVSM equipped aircraft is adequate advance notice to ATC and no additional notice is required.

6. *CAPA Comments.* CAPA does not object in principle to the concept of reducing vertical separation, as long as safety is not compromised. CAPA states, however, that reducing vertical separation minima without requiring TCAS for all aircraft will jeopardize safety.

FAA Response

The FAA does not agree that reducing separation without requiring TCAS equipage will create a safety problem. The FAA does recognize, however, the significant enhancements to operational safety provided by TCAS. In its comments on this issue below, the FAA discusses the FAA and ICAO initiatives that should lead to increased TCAS equipage in oceanic operations. The FAA does not agree with the CAPA position for the following reasons:

First, 1,000-foot vertical separation has been applied below flight level 290 since the early 1960's (over 40 years) without special aircraft equipage or performance requirements, including TCAS. ICAO Annex 2 (Rules of the Air), Appendix 3 (Table of Cruising Levels) provides for 1,000 ft vertical separation to be applied globally below FL 290.

Second, standardized aircraft altitude-keeping performance and pilot/controller contingency procedures maintain safe RVSM operations. Section 91.706 and Appendix G require that for an aircraft to be approved for RVSM operations, the aircraft altimetry systems, automatic altitude-keeping devices and altitude alerters must meet stringent performance requirements.[1] In addition, pilot and controller procedures in contingencies and emergencies were developed and revised prior to RVSM implementation. Pilot and controller actions in events such as aircraft system malfunctions, turbulence encounters and wake turbulence encounters have proven to be effective over the past four and one half years of RVSM operations.

Third, RVSM has been applied successfully without a TCAS requirement since March 1997 in North Atlantic oceanic airspace and since

[1] Aircraft equipage and performance were developed in the ICAO Review of the General Concept of Separation Panel (RGCSP) and published in ICAO Document 9574 in 1992. Section 91.706 and Appendix G reflect the ICAO requirements.

February 2000 in Pacific airspace. Over that period of time, approximately 1.7 million flights have been conducted in RVSM airspace and approximately 7.2 million hours of RVSM successful flight experience have been accumulated. NAT airspace has the highest traffic density of any oceanic airspace in the world. Between 900 to 1100 flights are conducted each day in the RVSM airspace of the North Atlantic. The busiest route system in the Pacific is the North Pacific Route System (NOPAC) where approximately 175 flights are conducted each day and in the entire Pacific, approximately 440 flights operate per day.

Fourth, monitoring of system safety has shown that the probability of collision in RVSM operations is extremely low when measured against the agreed Target Level of Safety (TLS). The ICAO recommended Target Level of Safety applied in the vertical dimension is five fatal accidents in one billion hours of flight time. Both NAT and Pac RVSM airspace have been assessed against this TLS. When considering the major components of Collision Risk Modeling (CRM), RVSM operations have been shown to meet the TLS.[2]

Applicability of CAPA Comments to TCAS Rulemaking

The FAA believes that the CAPA comments relate more specifically to the benefits of TCAS as a safety net in general operations. We do not believe that the CAPA recommendation for TCAS equipage is relevant to the expansion of 1,000-foot vertical separation above FL 290. The FAA has reviewed incidents where TCAS could have or did contribute to the prevention of an accident. None of these incidents occurred in airspace where RVSM is applied and many of them occurred below FL 290.

Current Rule Projects Related to TCAS Equipage.

There are efforts under way in the United States to revise the regulations related to TCAS equipage. Also, ICAO has published Standards and Recommended Practices (SARPS) that address TCAS eqipage. The status of these efforts is as follows:

Revision of Regulations Related to TCAS Eqipage.

In response to an Independent Pilot Association (IPA) petition for rulemaking, the FAA is developing an NPRM. We believe that the CAPA comments are more applicable to this effort than to RVSM rulemaking.

ICAO Annex 6 (Operation of Aircraft).

In November 1998, Annex 6 Part 1 (International Commercial Transport Airplanes) was amended to require TCAS equipage by January 1, 2003 for aircraft in excess of 15,000 kg (33,000 pounds) takeoff weight or authorized to carry more than 30 passengers. By January 1, 2005, aircraft in excess of 5,700 kg (12,500 pounds) take off weight or authorized to carry more than 19 passengers will be required to be TCAS equipped. In addition, Annex 6 Part II (International General Aviation Airplanes) has been amended to require IGA aircraft eqipage with a pressure altitude reporting transponder by January 1, 2003. This amendment was made to enhance the effectiveness of TCAS operations.

Paperwork Reduction Act

The reporting and recording keeping requirements associated with this rule remain the same as under current rules and have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120–0026. There are no new requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARP) to the maximum extent practicable. The operator and aircraft approval process was developed jointly by the FAA and the Joint Aviation Authorities (JAA) under the auspices of NATSPG. The FAA has determined that this amendment does not present any differences.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, OMB directs agencies to assess the effect of regulatory changes on international trade. And fourth, 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 private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that this rule: (1) Generates benefits that justify its costs and is not ''a significant regulatory action'' as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) does not have a significant impact on a substantial number of small entities; and 94) does not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

This rule amends 14 CFR 91, Appendix G, Section 8 (Airspace Designation) by adding the New York FIR portion of the WATRS airspace to the list of airspace where RVSM would be implemented. It also amends section 2 (Aircraft Approval) by adding a new paragraph that requires any aircraft that are equipped with TCAS II to use Version 7.0, which is RVSM compatible.

This rule will provide operators the following benefits: (1) Permit more operations at fuel/time efficient tracks and altitudes, thereby providing fuel savings, (2) increase the number of available flight levels, and (3) enhance airspace capacity.

In addition to operator fuel savings, many non-quantifiable or value-added benefits will result from the implementation of RVSM in WATRS. Input from air traffic managers, controllers, and operators has identified numerous additional benefits.

These benefits include:

- Enhanced capacity.
- Reduced airspace complexity.
- Decreased operational errors in these regions.
- Reduction of user-requested off course climbs for, altitude changes.
- Improved flexibility for peak traffic demands.
- More options in deviating aircraft during periods of adverse weather.

The operational benefits realized in the NAT and PAC regions are anticipated in WATRS as well.

Specific benefits cited by aircraft operators are:

- Decreased flight delays.
- Improved access to desired flight levels.
- Reduced average flight times.
- Increased availability of step climbs.

[2] The major CRM components are: Traffic density, aircraft altitude-keeping performance and the frequency of large errors attributed to human and aircraft system errors.

• Increased likelihood of receiving a clearance for weather deviations.
• Seamless, transparent, and harmonious operations between the NAT and WATRS regions.
• Consistent procedural environment throughout the entire flight.
• Reduced impact of adverse weather by permitting aircraft deviations to other airways without any efficiency loss.

Implementing RVSM in WATRS should increase user satisfaction. The benefits described in this section are compelling in number and operational impact. These benefits are alos significant in that both air traffic service providers and aircraft operators will enjoy them.

Most of the costs of this rule will be incurred by those operators who choose to participate in WATRS RVSM and, therefore, must upgrade various equipment and altimetry systems to meet requirements. The quantifiable benefits of the rule result from fuel savings to participating operators who may operate at more fuel-efficient altitudes. Significant non-quantifiable benefits are also associated with the rule as previously discussed.

The FAA assumed for the purpose of this analysis that all existing operators in the area would become WATRS RVSM participants. Based on that assumption, the agency's final quantified estimates of the costs and benefits are nearly equal. For the period 2001–2015, estimated undiscounted benefits in fuel savings are $34.2 million, while undiscounted costs are $26.2 million. Discounted benefits, however, are $18.4 million while discounted costs equal $23.4 million. Discounted benefits fall below discounted estimated costs because costs are incurred early in the 15-year analysis period and benefits are distributed more evenly throughout the period.

Although the FAA's quantified estimates of costs and benefits are nearly equal, there are substantial non-quantifiable benefits. Each operator will be free, under this rule, to decide for itself if the benefits to that operator justify the costs to that operator. As stated previously, participating in WATRS RVSM is entirely voluntary. Operators who choose not to participate will still be able to fly above or beneath WATRS RVSM airspace.

The FAA believes that many operators will decide that benefits justify costs and participate in WATRS RVSM. This belief is strengthened by the widespread acceptance of similar RVSM programs recently implemented in the North Atlantic and Pacific regions, and further reinforced by the fact that no comments on the NPRM opposed the rule on economic grounds.

TCAS II Version 7.0 is mandated for any operator who uses TCAS II. There is no economic impact to operators upgrading to TCAS II Version 7.0 due to their upgrading for other international requirements.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulations.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rational for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have significant economic impact on a substantial number of small entities. If the determination is that it will, then the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Operators that met the Small Business Administration (SBA) small entity criteria were extracted from the 44-day traffic sample of ETMS data. These operators were cross-referenced with the Central Monitoring Agency (CMA) and the Asia Pacific Approvals and Monitoring Organization (APARMO) databases to determine if they operated any RVSM-approved aircraft. The small entity operators with RVSM-approved aircraft were not considered further in this impact determination.

The list of potential small entity operators, taken from the traffic sample, was used to identify six operators currently reporting financial data to the FAA Bureau of Transportation Statistics. Revenue information for these small entities for year 1999 was obtained from the *Air Carrier Financial Statistics Quarterly*. The operators were then ranked with respect to their total operating revenue.

The annualized cost of compliance is less than one-half of one percent of annual operating revenues for all but one small entity operator. The FAA does not consider one operator being significantly impacted by this rule to be a substantial number of small operators being significantly impacted. Moreover, the FAA does not mandate these costs. Only operators who choose to participate in the RVSM program and WATRS will incur costs. The FAA therefore certifies that this rule does not have a significant impact on a substantial number of small entities.

International Trade Impact Statement

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statue also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this rule and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Federalism Implications

The regulations proposed 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, in accordance with Executive order 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Unfunded Mandates Reform Act of 1995 Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified as 2 U.S.C. 1501 1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by

elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon state, local, and tribal governments, in the aggregate, of $100 million or more (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental and private sector mandate that exceeds $100 million a year, therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rule qualifies for a categorical exclusion.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and P. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

Immediate Adoption

Expansion of RVSM into WATRS is part of an internationally coordinated plan to expand RVSM in the ICAO North Atlantic Region. Operators have already committed financial and engineering resources and obtained RVSM approval. Because of the efficiencies that RVSM will bring to operations in this area, good cause exists for making this rule effective on publication.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 91 of Title 14 Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

2. In Appendix G, amend section 2 by revising paragraph (g), and adding a new paragraph (h), and in section 8 add a new paragraph (c) to read as follows:

Appendix G to Part 91—Operations in Reduced Vertical Separation Minimum (RVSM) Airspace

* * * * *

Section 2. Aircraft Approval

* * * * *

(g) Traffic Alert and Collision Avoidance System (TCAS) Compatibility With RVSM Operations: All aircraft. After March 31, 2002, unless otherwise authorized by the Administrator, if you operate an aircraft that is equipped with TCAS II in RVSM airspace, it must be a TCAS II that meets TSO C–119b (Version 7.0), or a later version.

(h) If the Administrator finds that the applicant's aircraft comply with this section, the Administrator notifies the applicant in writing.

* * * * *

Section 8. Airspace Designation

* * * * *

(c) *RVSM in the West Atlantic Route System (WATRS).* RVSM may be applied in the New York FIR portion of the West Atlantic Route System (WATRS). The area is defined as beginning at a point 38°30′ N/60°00′W direct to 38°30′N/69°15′ W direct to 38°20′ N/69°57′ W direct to 37°31′ N/71°41′ W direct to 37°13′ N/72°40′ W direct to 35°05′ N/72°40′ W direct to 34°54′ N/72°57′ W direct to 34°29′ N/73°34′ W direct to 34°33′ N/73°41′ W direct to 34°19′ N/74°02′ W direct to 34°14′ N/73°57′ W direct to 32°12′ N/76°49′ W direct to 32°20′ N/77°00′ W direct to 28°08′ N/77°00′ W direct to 27°50′ N/76°32′ W direct to 27°50′ N/74°50′ W direct to 25°00′ N/73°21′ W direct to 25°00′05″ N/69°13′06″ W direct to 25°00′ N/69°07′ W direct to 23°30′ N/68°40′ W direct to 23°30′ N/60°00′ W to the point of beginning.

Issued in Washington, DC on December 4, 2001.

Jane F. Garvey,

Administrator.

[FR Doc. 01–30358 Filed 12–7–01; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Monday,
December 10, 2001

Part VI

The President

Proclamation 7511—National Pearl Harbor Remembrance Day, 2001

Federal Register
Vol. 66, No. 237
Monday, December 10, 2001

Presidential Documents

Title 3—

The President

Proclamation 7511 of December 5, 2001

National Pearl Harbor Remembrance Day, 2001

By The President Of The United States of America

A Proclamation

On the morning of December 7, 1941, America was attacked without warning at Pearl Harbor, Hawaii, by the air and naval forces of Imperial Japan. More than 2,400 people perished and another 1,100 were wounded, triggering our entry into World War II.

Today, we honor those killed 60 years ago and those who survived to fight on other fronts in the four succeeding years of world war. We also remember the millions of brave Americans who answered our country's call to the battlefield, to the factory, and to the farm, remembering Pearl Harbor by their deeds, their devotion to duty, and their willingness to fight for freedom. The attack at Pearl Harbor fired the American spirit with a determination that freedom would not fall to tyranny; and the United States and its allies fought to victory, preserving a world in which democracy could grow. The tragedy of December 7, 1941, remains seared upon our collective national memory, a recollection that serves not just as a symbol of American military valor and American resolve, but also as a reminder of the presence of evil in the world and the need to remain ever vigilant against it.

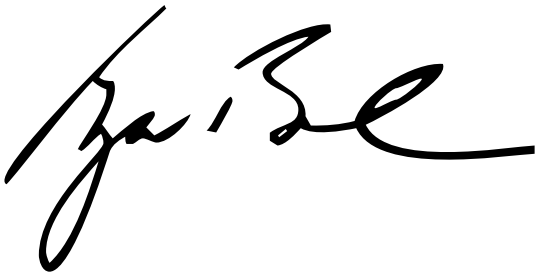
Now, another date will forever stand alongside December 7—September 11, 2001. On that day, our people and our way of life again were brutally and suddenly attacked, though not by a complex military maneuver, but by the surreptitious wiles of evil terrorists who took cruel and heartless advantage of the freedoms guaranteed by our Nation. Their target was not chiefly our military, but innocent civilians. We fight now to defend freedom, secure civilization, and ensure the survival of our American way of life.

As we fight to defend what we believe is right, we remember the sacrifice of those who have gone before us—not only the heroes of Pearl Harbor but all the men and women of the greatest of generations who defeated tyranny. We are grateful for their service, and honor it by pledging to do our best to secure for our children, our grandchildren, and all of posterity the continuing blessings of liberty.

The Congress, by Public Law 103–308, as amended, has designated December 7, 2001, as ''National Pearl Harbor Remembrance Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 7, 2001, as National Pearl Harbor Remembrance Day. I call upon the people of the United States to observe this solemn occasion with appropriate ceremonies and activities. I urge all Federal agencies, interested organizations, groups, and individuals to fly the flag of the United States at half-staff this and every December 7 in honor of those who died as a result of their service at Pearl Harbor.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of December, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–30660
Filed 12–7–01; 8:51 am]
Billing code 3195–01–P

Federal Register

Monday,

December 10, 2001

Part VII

The President

Executive Order 13238—Closing of Federal Government Executive Departments and Agencies on Monday, December 24, 2001

Federal Register
Vol. 66, No. 237
Monday, December 10, 2001

Presidential Documents

Title 3—

The President

Executive Order 13238 of December 5, 2001

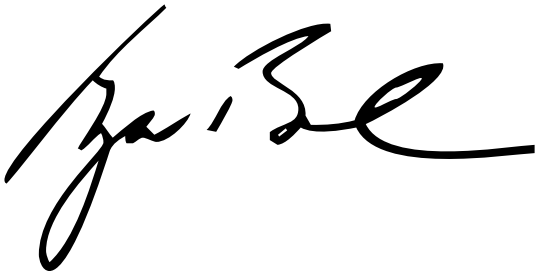
Closing of Federal Government Executive Departments and Agencies on Monday, December 24, 2001

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. All executive branch departments and agencies of the Federal Government shall be closed and their employees excused from duty on Monday, December 24, 2001, the day before Christmas Day, except as provided in section 2 below.

Sec. 2. The heads of executive branch departments and agencies may determine that certain offices and installations of their organizations, or parts thereof, must remain open and that certain employees must report for duty on December 24, 2001, for reasons of national security or defense or other public reasons.

Sec. 3. Monday, December 24, 2001, shall be considered as falling within the scope of Executive Order 11582 of February 11, 1971, and of 5 U.S.C. 5546 and 6103(b) and other similar statutes insofar as they relate to the pay and leave of employees of the United States.



THE WHITE HOUSE,
December 5, 2001.

[FR Doc. 01–30624
Filed 12–7–01; 10:08 am]
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Design-build contracting; comments due by 12-18-01; published 10-19-01 [FR 01-26234]

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Alchohol, tobacco, and other excise taxes:
Tobacco products and cigarette papers and tubes—
Removal from manufacturer's premises for experimental purposes; application requirement eliminated; comments due by 12-17-01; published 10-17-01 [FR 01-25843]

VETERANS AFFAIRS DEPARTMENT
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Acceptable evidence from foreign countries; comments due by 12-18-01; published 10-19-01 [FR 01-26382]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 768/P.L. 107–72
Need-Based Educational Aid Act of 2001 (Nov. 20, 2001; 115 Stat. 648)

H.R. 2620/P.L. 107–73
Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Nov. 26, 2001; 115 Stat. 651)

H.R. 1042/P.L. 107–74
To prevent the elimination of certain reports. (Nov. 28, 2001; 115 Stat. 701)

H.R. 1552/P.L. 107–75
Internet Tax Nondiscrimination Act (Nov. 28, 2001; 115 Stat. 703)

H.R. 2330/P.L. 107–76
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Nov. 28, 2001; 115 Stat. 704)

H.R. 2500/P.L. 107–77

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Nov. 28, 2001; 115 Stat. 748)

H.R. 2924/P.L. 107–78

To provide authority to the Federal Power Marketing Administration to reduce vandalism and destruction of property, and for other purposes. (Nov. 28, 2001; 115 Stat. 808)

Last List November 23, 2001

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–044–00001–6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101)	(869–044–00002–4)	36.00	[1] Jan. 1, 2001
4	(869–044–00003–2)	9.00	Jan. 1, 2001
5 Parts:			
1–699	(869–044–00004–1)	53.00	Jan. 1, 2001
700–1199	(869–044–00005–9)	44.00	Jan. 1, 2001
1200–End, 6 (6 Reserved)	(869–044–00006–7)	55.00	Jan. 1, 2001
7 Parts:			
1–26	(869–044–00007–5)	40.00	[4]Jan. 1, 2001
27–52	(869–044–00008–3)	45.00	Jan. 1, 2001
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210–299	(869–044–00010–5)	56.00	Jan. 1, 2001
300–399	(869–044–00011–3)	38.00	Jan. 1, 2001
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700–899	(869–044–00013–0)	50.00	Jan. 1, 2001
900–999	(869–044–00014–8)	54.00	Jan. 1, 2001
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2000–End	(869–044–00021–1)	43.00	Jan. 1, 2001
8	(869–044–00022–9)	54.00	Jan. 1, 2001
9 Parts:			
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10 Parts:			
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22 Parts:			
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200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
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266–299	(869–044–00156–0)	45.00	July 1, 2001
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CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..